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GENERAL ASSEMBLY

1979

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# STATE OF NORTH CAROLINA

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1979

## SESSION LAWS AND RESOLUTIONS

PASSED BY THE

1979 GENERAL ASSEMBLY

AT ITS

FIRST SESSION

HELD IN THE CITY OF RALEIGH  
BEGINNING ON

WEDNESDAY, THE TENTH DAY OF JANUARY, A.D. 1979

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ISSUED BY  
SECRETARY OF STATE THAD EURE

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PUBLISHED BY AUTHORITY

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# STATE OF NORTH CAROLINA

## PRESIDING OFFICERS OF THE GENERAL ASSEMBLY 1979

JAMES C. GREEN .....	President of the Senate .....	Bladen
CARL J. STEWART, JR. ....	Speaker of the House of Representatives .....	Gaston

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## 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 RANDOLPH INGRAM .....	Commissioner of Insurance .....	Randolph

\*Renders direct services to the General Assembly.

The political affiliation of legislators and members 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.

## GENERAL ASSEMBLY 1979

## SENATE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
JAMES C. GREEN .....	President .....	Clarkton
W. CRAIG LAWING .....	President pro tempore .....	Charlotte
SYLVIA M. FINK .....	Principal Clerk .....	Raleigh
LEROY CLARK, JR. ....	Reading Clerk .....	Wendell
VINSON BRIDGERS, JR. ....	Sergeant-at-Arms .....	Raleigh

## SENATORS

<i>District</i>	<i>Name</i>	<i>County</i>	<i>Address</i>
1	MELVIN R. DANIELS, JR. ....	Pasquotank .....	Elizabeth City
1	JOSEPH J. HARRINGTON .....	Bertie .....	Lewiston
2	JOSEPH E. THOMAS .....	Craven .....	Vanceboro
3	W.D. MILLS .....	Onslow .....	Mayesville
4	BENJAMIN D. SCHWARTZ .....	New Hanover .....	Wilmington
5	HAROLD W. HARDISON .....	Lenoir .....	Deep Run
6	JULIAN R. ALLSBROOK .....	Halifax .....	Roanoke Rapids
6	VERNON E. WHITE .....	Pitt .....	Winterville
7	DALLAS L. ALFORD, JR. ....	Nash .....	Rocky Mount
7	JAMES D. SPEED .....	Franklin .....	Louisburg
8	HENSON P. BARNES .....	Wayne .....	Goldsboro
9	EDWARD RENFROW .....	Johnston .....	Smithfield
10	JOHN T. HENLEY .....	Cumberland .....	Hope Mills
10	JOE B. RAYNOR .....	Cumberland .....	Fayetteville
11	R.C. SOLES, JR. ....	Columbus .....	Tabor City
12	SAM R. NOBLE .....	Robeson .....	Lumberton
13	KENNETH C. ROYALL, JR. ....	Durham .....	Durham
13	WILLIS P. WHICHARD .....	Durham .....	Durham
14	WILLIAM A. CREECH .....	Wake .....	Raleigh
14	I. BEVERLY LAKE, JR. ....	Wake .....	Raleigh
14	ROBERT W. WYNNE .....	Wake .....	Raleigh
15	CONRAD R. DUNCAN, JR. ....	Rockingham .....	Stoneville
15	GEORGE W. MARION, JR. ....	Surry .....	Dobson
16	CHARLES E. VICKERY .....	Orange .....	Chapel Hill
16	RUSSELL G. WALKER .....	Randolph .....	Asheboro
17	JAMES B. GARRISON .....	Stanly .....	Albemarle
17	ROBERT B. JORDAN, III .....	Montgomery .....	Mt. Gilead
18	RALPH H. SCOTT .....	Alamance .....	Haw River
19	WALTER C. COCKERHAM (R) .....	Guilford .....	Greensboro
19	MRS. RACHEL G. GRAY .....	Guilford .....	High Point
19	MRS. KATHERINE H. SEBO .....	Guilford .....	Greensboro
20	ANNE BAGNAL (R) .....	Forsyth .....	Winston-Salem
20	MARVIN WARD .....	Forsyth .....	Winston-Salem
21	JACK CHILDERS .....	Davidson .....	Lexington
21	ROBERT M. DAVIS, JR. ....	Rowan .....	Salisbury
22	FRED D. ALEXANDER .....	Mecklenburg .....	Charlotte
22	CECIL R. JENKINS, JR. ....	Cabarrus .....	Kannapolis
22	W. CRAIG LAWING .....	Mecklenburg .....	Charlotte
22	CAROLYN MATHIS .....	Mecklenburg .....	Charlotte
23	T. CASS BALLENGER (R) .....	Catawba .....	Hickory
23	WILLIAM W. REDMAN, JR. (R) .....	Iredell .....	Statesville
24	JAMES H. EDWARDS .....	Caldwell .....	Granite Falls
24	DONALD R. KINCAID (R) .....	Caldwell .....	Lenoir
25	OLLIE HARRIS .....	Cleveland .....	Kings Mountain
25	MRS. HELEN RHYNE MARVIN .....	Gaston .....	Gastonia
25	MARSHALL A. RAUCH .....	Gaston .....	Gastonia
26	*I.C. CRAWFORD .....	Buncombe .....	Asheville
26	ROBERT STRINGFIELD SWAIN .....	Buncombe .....	Asheville
27	CECIL J. HILL .....	Transylvania .....	Brevard
27	JOE H. PALMER .....	Haywood .....	Clyde

\*Deceased; replaced by Sen. Larry B. Leake, Asheville, January 29, 1979

## HOUSE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
CARL J. STEWART, JR. ....	Speaker .....	Gastonia
H. HORTON ROUNTREE .....	Speaker pro tempore .....	Greenville
MRS. GRACE A. COLLINS .....	Principal Clerk .....	Fuquay-Varina
SAM J. BURROW, JR. ....	Reading Clerk .....	Asheboro
LARRY P. EAGLES .....	Sergeant-at-Arms .....	Tarboro

## REPRESENTATIVES

<i>District</i>	<i>Name</i>	<i>County</i>	<i>Address</i>
1	CHARLES D. EVANS .....	Dare .....	Nags Head
1	VERNON G. JAMES .....	Pasquotank .....	Elizabeth City
2	HOWARD B. CHAPIN .....	Beaufort .....	Washington
3	CHRIS S. BARKER, JR. ....	Craven .....	New Bern
3	JOE L. BRIGHT .....	Craven .....	Vanceboro
3	DANIEL T. LILLEY .....	Lenoir .....	Kinston
4	BRUCE ETHRIDGE .....	Onslow .....	Swansboro
4	G. MALCOLM FULCHER, JR. ....	Carteret .....	Atlantic Beach
4	A.D. GUY .....	Onslow .....	Jacksonville
5	ROBERTS H. JERNIGAN, JR. ....	Hertford .....	Ahoskie
5	J. GUY REVELLE, SR. ....	Northampton .....	Conway
6	GEORGE P. CULLIPHER .....	Martin .....	Williamston
6	GEORGE AUSTIN HUX .....	Halifax .....	Halifax
7	ALLEN C. BARBEE .....	Nash .....	Spring Hope
7	ROGER W. BONE .....	Nash .....	Rocky Mount
7	A. HARTWELL CAMPBELL .....	Wilson .....	Wilson
7	JAMES E. EZZELL, JR. ....	Nash .....	Rocky Mount
8	SAM D. BUNDY .....	Pitt .....	Farmville
8	H. HORTON ROUNTREE .....	Pitt .....	Greenville
9	RICHARD R. GRADY .....	Wayne .....	Seven Springs
9	MARTIN LANCASTER .....	Wayne .....	Goldsboro
10	DOUGLAS A. CLARK .....	Duplin .....	Kenansville
11	TOM B. RABON, JR. ....	Brunswick .....	Winnabow
12	EUGENE MERRITT .....	New Hanover .....	Wilmington
12	S. THOMAS RHODES (R) .....	New Hanover .....	Wilmington
13	JOHN T. CHURCH .....	Vance .....	Henderson
13	THOMAS W. ELLIS, JR. ....	Vance .....	Henderson
13	WILLIAM T. WATKINS .....	Granville .....	Oxford
14	ROBERT H. HOBGOOD .....	Franklin .....	Louisburg
14	BARNEY PAUL WOODARD .....	Johnston .....	Princeton
15	ALLEN ADAMS .....	Wake .....	Raleigh
15	MRS. RUTH E. COOK .....	Wake .....	Raleigh
15	AARON E. FUSSELL .....	Wake .....	Raleigh
15	WILLIAM C. HOLROYD, JR. ....	Wake .....	Raleigh
15	JOSEPH E. JOHNSON .....	Wake .....	Raleigh
15	WILMA WOODARD .....	Wake .....	Garner
16	GEORGE W. MILLER, JR. ....	Durham .....	Durham
16	PAUL PULLEY .....	Durham .....	Durham
16	KENNETH B. SPAULDING .....	Durham .....	Durham
17	EDWARD S. HOLMES .....	Chatham .....	Pittsboro
17	MRS. PATRICIA S. HUNT .....	Orange .....	Chapel Hill
18	BOBBY R. ETHERIDGE .....	Harnett .....	Lillington
18	FLETCHER HARRIS .....	Lee .....	Sanford
19	EDD NYE .....	Bladen .....	Elizabethtown
19	GEORGE RONALD TAYLOR .....	Bladen .....	Elizabethtown
19	RICHARD WRIGHT .....	Columbus .....	Tabor City
20	R.D. BEARD .....	Cumberland .....	Fayetteville
20	WILLIAM E. CLARK .....	Cumberland .....	Fayetteville
20	CHARLES HOLT .....	Cumberland .....	Fayetteville
20	MRS. LURA S. TALLY .....	Cumberland .....	Fayetteville
20	HENRY M. TYSON .....	Cumberland .....	Fayetteville
21	ROBERT E. DAVIS .....	Robeson .....	Maxton
21	HORACE LOCKLEAR .....	Robeson .....	Lumberton
21	DAVID R. PARNELL .....	Robeson .....	Parkton
22	MRS. BERTHA MERRILL HOLT .....	Alamance .....	Burlington
22	JOHN M. JORDAN .....	Alamance .....	Saxapahaw
22	ROBERT L. McALISTER .....	Rockingham .....	Ruffin
22	TIMOTHY H. McDOWELL .....	Alamance .....	Mebane
23	J. HOWARD COBLE (R) .....	Guilford .....	Greensboro
23	RALPH P. EDWARDS .....	Guilford .....	Greensboro

23	HENRY E. FRYE .....	Guilford .....	Greensboro
23	BYRON HAWORTH .....	Guilford .....	High Point
23	MARGARET P. KEESEE (R) .....	Guilford .....	Greensboro
23	JAMES F. MORGAN .....	Guilford .....	High Point
23	MARY P. SEYMOUR .....	Guilford .....	Greensboro
24	HAROLD J. BRUBAKER (R) .....	Randolph .....	Asheboro
24	FRANK REDDING (R) .....	Randolph .....	Asheboro
25	T. CLYDE AUMAN .....	Moore .....	West End
26	FOYLE HIGHTOWER, JR. ....	Anson .....	Wadesboro
27	JOHN W. COVINGTON .....	Richmond .....	Rockingham
28	PORTER C. COLLINS, JR. ....	Alleghany .....	Laurel Springs
28	DAVID H. DIAMONT .....	Surry .....	Pilot Mountain
28	J. WORTH GENTRY .....	Stokes .....	King
29	RICHARD BARNES .....	Forsyth .....	Winston-Salem
29	JUDSON DAVID DERAMUS, JR. ....	Forsyth .....	Winston-Salem
29	TED KAPLAN .....	Forsyth .....	Winston-Salem
29	MARY N. PEGG (R) .....	Forsyth .....	Winston-Salem
29	MRS. MARGARET TENNILLE .....	Forsyth .....	Winston-Salem
30	RAMEY F. KEMP, SR. ....	Davie .....	Mocksville
30	J.E. LAMBETH .....	Davidson .....	Thomasville
30	JOHN W. VARNER .....	Davidson .....	Lexington
31	ROBIE L. NASH .....	Rowan .....	Salisbury
31	A. NEAL SMITH .....	Rowan .....	Woodleaf
32	H. OTHA CARTER (R) .....	Stanly .....	New London
33	AARON W. PLYLER .....	Union .....	Monroe
33	DWIGHT W. QUINN .....	Cabarrus .....	Kannapolis
33	MRS. BETTY DORTON THOMAS ....	Cabarrus .....	Concord
34	JOHN WALTER BROWN (R) .....	Wilkes .....	Elkin
34	GEORGE M. HOLMES (R) .....	Yadkin .....	Hamptonville
34	EUGENE M. WHITE .....	Caldwell .....	Hudson
35	J.P. HUSKINS .....	Iredell .....	Statesville
35	WILLIAM H. MCMILLAN .....	Iredell .....	Statesville
36	MRS. MARILYN R. BISSELL (R) ....	Mecklenburg .....	Charlotte
36	MRS. LOUISE S. BRENNAN .....	Mecklenburg .....	Charlotte
36	MRS. RUTH M. EASTERLING .....	Mecklenburg .....	Charlotte
36	GUS N. ECONOMOS .....	Mecklenburg .....	Charlotte
36	MRS. JO GRAHAM FOSTER .....	Mecklenburg .....	Charlotte
36	H. PARKS HELMS .....	Mecklenburg .....	Charlotte
36	LEROY P. SPOON, JR. (R) .....	Mecklenburg .....	Charlotte
36	BEN TISON .....	Mecklenburg .....	Charlotte
37	J. REID POOVEY (R) .....	Catawba .....	Hickory
37	CARL W. RULLMAN (R) .....	Catawba .....	Hickory
38	E. GRAHAM BELL .....	Gaston .....	Gastonia
38	DAVID W. BUMGARDNER, JR. ....	Gaston .....	Belmont
38	JOHN R. GAMBLE, JR. ....	Lincoln .....	Lincolnton
38	CARL J. STEWART, JR. ....	Gaston .....	Gastonia
39	S.B. LACEY, JR. (R) .....	Avery .....	Newland
39	VAN F. PHILLIPS .....	Mitchell .....	Spruce Pine
40	ROBERT Z. FALLS .....	Cleveland .....	Shelby
40	JOHN J. HUNT .....	Cleveland .....	Lattimore
40	MRS. EDITH L. LUTZ .....	Cleveland .....	Lawndale
41	GLENN A. MORRIS .....	McDowell .....	Marion
42	*RALPH LEDFORD (R) .....	Henderson .....	Hendersonville
43	JAMES MCCLURE CLARKE .....	Buncombe .....	Fairview
43	MARIE W. COLTON .....	Buncombe .....	Asheville
43	GORDON H. GREENWOOD .....	Buncombe .....	Black Mountain
43	MRS. MARY C. NESBITT .....	Buncombe .....	Asheville
44	ERNEST B. MESSER .....	Haywood .....	Canton
44	LISTON B. RAMSEY .....	Madison .....	Marshall
45	JEFF H. ENLOE, JR. ....	Macon .....	Franklin

\*Changed political affiliation to Democratic, April 11, 1979

## LEGISLATIVE SERVICES COMMISSION

SENATOR W. CRAIG LAWING, *Co-Chairman*

SPEAKER CARL J. STEWART, JR., *Co-Chairman*

SEN. CONRAD R. DUNCAN, JR.

SEN. HAROLD W. HARDISON

SEN. MARSHALL A. RAUCH

SEN. JOE B. RAYNOR

SEN. KENNETH C. ROYALL, JR.

SEN. ROBERT S. SWAIN

REP. HENRY E. FRYE

REP. GORDON H. GREENWOOD

REP. EDWARD S. HOLMES

REP. DWIGHT W. QUINN

REP. H. HORTON ROUNTREE

REP. MARGARET TENNILLE

## LEGISLATIVE SERVICES STAFF

JOHN L. ALLEN, JR. .... Legislative Services Officer

TERRENCE D. SULLIVAN .... Director of Research

FRANK R. JUSTICE .... Director of Fiscal Research

CLYDE L. BALL .... Director of Legislative Drafting

GEORGE R. HALL, JR. .... Administrative Officer



OF THE

# State of North Carolina

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## 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 disseized 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 of 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.

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 of 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 co-ordinate 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.

SEC. 9. *Superior Courts.*

(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 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



(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 laborers' 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

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.

## 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 contracted 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 classification 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 purposes, 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 bonds 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 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 III 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.

SEC. 9. *Dual office holding.*

(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 VIII

### 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 confirma-



tion 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. Appointments 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 laborers' 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 1. *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 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 Constitution 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 1 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 applica-

ble 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.

**SESSION LAWS**  
**OF THE**  
**STATE OF NORTH CAROLINA**

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**REGULAR SESSION 1979**

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S. B. 31

**CHAPTER 1**

AN ACT TO AMEND G.S. 20-130.2 RELATING TO THE USE OF AMBER  
EMERGENCY LIGHTING.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-130.2 is hereby amended by changing the period to a comma at the end of the first sentence in line 4 and adding the following: "which light shall be activated when towing a vehicle."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of January, 1979.

H. B. 13

**CHAPTER 2**

AN ACT TO EXPEDITE THE WORKING PROCEDURES OF THE PAROLE  
COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-267 as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by repealing the third paragraph thereof, which reads as follows: "A majority of the full-time members of the commission shall constitute a quorum for the transaction of business." and in lieu thereof, shall be substituted the following:

"With regard to the transaction of the business of the commission the following procedure shall be followed: The chairman shall designate panels of two voting commission members and shall designate a third commissioner to serve as an alternate member of a panel. Insofar as practicable, the chairman shall assign the members to panels in such fashion that each commissioner sits a substantially equal number of times with each other commissioner. Whenever any matter of business, such as the granting, denying, revoking or rescinding of parole, or the authorization of work release privileges to a prisoner, shall come before the commission for consideration and action, the chairman shall refer such matter to a panel. Action may be taken by concurring vote of the two sitting panel members. If there is not a concurring vote of the two panel members, the matter will be referred to the alternate member who shall cast

the deciding vote. However, no person serving a sentence of life imprisonment shall be granted parole or work release privileges except by majority vote of the full commission.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of January, 1979.

## S. B. 120

## CHAPTER 3

AN ACT TO MAKE THE SECRETARY OF THE DEPARTMENT OF CULTURAL RESOURCES A MEMBER OF THE NORTH CAROLINA CAPITAL BUILDING AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 129-40 as the same appears in the 1977 Cumulative Supplement to 1974 Replacement Volume 3B of the General Statutes of North Carolina is amended by inserting on the fifth line after the words "State Treasurer;" the following words:

"Secretary of the Department of Cultural Resources;".

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

In the General Assembly read three times and ratified, this the 2nd day of February, 1979.

## S. B. 29

## CHAPTER 4

AN ACT TO AMEND CHAPTER 102 OF THE GENERAL STATUTES TO REDEFINE THE OFFICIAL SURVEY BASE FOR THE STATE OF NORTH CAROLINA IN RELATION TO THE NORTH AMERICAN DATUM OF 1983.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 102 of the General Statutes is hereby amended by inserting a new section following G.S. 102-1 to be designated as G.S. 102-1.1 to read as follows:

"§ 102-1.1. *Name and description in relation to the 1983 North American Datum.*—From and after the date and time the North Carolina Geodetic Survey Section in the Land Resources Division of the Department of Natural Resources and Community Development receives from the National Geodetic Survey, official notice of a complete, published definition of the North American Datum of 1983 including the State plane coordinate constants applicable to North Carolina, the official survey base for North Carolina shall be a system of plane coordinates to be known as the 'North Carolina Coordinate System of 1983', said system being defined as a Lambert conformal projection of the 'World Reference Ellipsoid' having a central meridian of 79°-00' west from Greenwich and standard parallels of latitude of 34°-20' and 36°-10' north of the equator, along which parallels the scale shall be exact. All coordinates of the system are expressed in metres, the x coordinate being measured easterly along the grid and the y coordinate being measured northerly along the grid. The origin of the coordinates is hereby established on the meridian 79°-00' west from Greenwich at the intersection of the parallels 33°-45' north latitude, such origin being given the coordinates x=600,000 metres, y=0 metres. The precise position of said system shall be as marked on the ground by triangulation or

traverse stations or monuments established in conformity with the standards adopted by the National Geodetic Survey for first- and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of 1983, and whose plane coordinates have been computed on the system defined.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1979.

## H. B. 25

## CHAPTER 5

AN ACT TO PROVIDE THAT THE DAVIE COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE ON DECEMBER FIRST FOLLOWING THEIR ELECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 1242, Session Laws of 1967 is amended by deleting the words: “first Monday in April following their election”, and inserting in lieu thereof the words “first Monday in December following their election.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1979.

## H. B. 49

## CHAPTER 6

AN ACT TO AMEND G.S. 113-87 TO PROVIDE FOR DESIGNATION OF STATE TRAILS OVER FEDERAL LANDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113A-87, as the same appears in 1978 Replacement Volume 3A, Part II of the General Statutes, is hereby amended by insertion on line 4 of the words “or federal agency” after the comma which follows the word “subdivision”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1979.

## H. B. 125

## CHAPTER 7

AN ACT TO REPEAL G.S. 14-37 CONCERNING EXEMPTION OF CERTAIN PERSONS AND SCHOOLS FROM PROHIBITION AGAINST HAZING IN G.S. 14-35.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-37 is repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1979.



## H. B. 157

## CHAPTER 8

AN ACT TO ALLOW STATEMENTS FROM TREATISES TO BE ADMITTED AS EVIDENCE IN DISTRICT AND SUPERIOR COURTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 8-40.1 is amended by deleting the words "superior court" from the first sentence and substituting in lieu thereof the words "district and superior courts."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1979.

## S. B. 68

## CHAPTER 9

AN ACT TO REMOVE THE MAXIMUM AGE LIMIT ON DAY-CARE CENTER EMPLOYEES, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 110-91(7)a.1. is amended by deleting the words "between the ages of 16 and 70 years, inclusive," and inserting in lieu thereof the words, "who is at least 16 years of age".

**Sec. 2.** G.S. 110-91(8) is amended by deleting the words " , nor more than 70 years of age".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of February, 1979.

## H. B. 126

## CHAPTER 10

AN ACT TO POSTPONE THE COMMENCEMENT OF INTEREST ON DELINQUENT PROPERTY TAXES IN BRUNSWICK COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-360 is amended by adding a new subsection (e) to read as follows:

"(e) For county and municipal taxes due under this Subchapter on September 1, 1978, the following interest rates shall apply. If paid:

- (1) on or after the due date and before the fourth day of March thereafter, taxes shall be paid at par or face amount.
- (2) on or after the fourth day of March following the due date and before the first day of April thereafter, there shall be added to the taxes interest at the rate of two percent (2%).
- (3) on or after the first day of April following the due date and before the first day of June thereafter, there shall be added to the taxes, in addition to the two percent (2%) provided in subdivision (e)(2), above, interest at the rate of one and one-half percent (1 1/2%) per month, or fraction thereof.
- (4) on or after the first day of June following the due date, there shall be added to the taxes, in addition to the two percent (2%) and the one and one-half percent (1 1/2%) provided in subdivisions (e)(2) and (3), above,

interest at the rate of three-fourths of one percent (3/4%) per month, or fraction thereof, until the taxes plus penalties and interest have been paid."

**Sec. 2.** Notwithstanding the provisions of G.S. 105-380 and 105-381, the board of county commissioners and the governing boards of municipalities shall refund any interest paid and release any interest accrued prior to March 4, 1979 pursuant to the provisions of G.S. 105-360(a) on taxes due September 1, 1978.

**Sec. 3.** This act is effective upon ratification.

**Sec. 4.** This act shall apply only to Brunswick County and to each municipality and taxing district within Brunswick County for which the county bills and collects property taxes.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 87

### CHAPTER 11

AN ACT TO AMEND G.S. 105-449.49 TO EXTEND FROM 10 DAYS TO 20 DAYS THE PERIOD FOR WHICH THE SECRETARY OF REVENUE MAY AUTHORIZE TEMPORARY EMERGENCY OPERATION OF A VEHICLE BY A CARRIER UNDER ARTICLE 36B OF CHAPTER 105 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-449.49 is amended by deleting therefrom the number "10" and substituting in lieu thereof the number "20".

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of February, 1979.

## H. B. 88

### CHAPTER 12

AN ACT TO REQUIRE LOCAL UNITS OF GOVERNMENT TO PROVIDE THE DEPARTMENT OF REVENUE WITH INFORMATION NEEDED IN DISTRIBUTION OF LOCAL GOVERNMENT SALES TAX REVENUES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-472(2) is amended by adding the following sentence at the end thereof:

"Any county or municipality which fails to provide the Department of Revenue with information concerning ad valorem taxes levied by that county or municipality adequate to permit a timely determination of the appropriate share of that county or municipality of tax proceeds collected under this Article may be excluded by the secretary from each quarterly distribution with respect to which such information was not provided in a timely manner, and such tax proceeds shall then be distributed only to the governmental unit or units whose information was provided in a timely manner."

**Sec. 2.** Chapter 1096 of the 1967 Session Laws is amended by adding the following sentence at the end of Section 9:

"Should Mecklenburg County or any municipality within Mecklenburg County fail to provide the Department of Revenue with information concerning ad valorem taxes levied adequate to permit a timely determination of that



governmental unit's appropriate share of the tax proceeds collected under this Chapter, then that governmental unit may be excluded by the secretary from each quarterly distribution with respect to which such information was not provided in a timely manner, and such tax proceeds shall then be distributed only to the governmental unit or units whose information was provided in a timely manner."

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of February, 1979.

## H. B. 114

## CHAPTER 13

## AN ACT TO EXCLUDE DIESEL POWERED LIGHT-WEIGHT VEHICLES FROM THE REQUIREMENTS OF THE SPECIAL FUELS TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-449.2(7) is amended by adding the following words at the end thereof, after the phrase "private passenger vehicles" and before the period (.): "and other vehicles licensed under the motor vehicle laws at 6,000 pounds or less".

**Sec. 2.** G.S. 105-449.10 is amended by adding the following words at the end thereof, after the phrase "private passenger vehicles" and before the period (.): "and other vehicles licensed under the motor vehicle laws at 6,000 pounds or less".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1979.

## H. B. 139

## CHAPTER 14

## AN ACT TO ABOLISH THE TAX STUDY COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 51A of Chapter 143 of the General Statutes of North Carolina is repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1979.

## H. B. 32

## CHAPTER 15

## AN ACT TO AMEND G.S. 14-130 TO MAKE IT A MISDEMEANOR TO BUILD A BUILDING OR CUT TIMBER ON STATE-OWNED LANDS WITHOUT THE PERMISSION OF THE STATE AND TO ALLOW THE STATE TO RECOVER THREE TIMES THE VALUE OF THE TIMBER WHICH IS CUT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-130 is rewritten to read as follows:

"§ 14-130. *Trespass on public lands.*—If any person shall erect a building on any State-owned lands, or cultivate or remove timber from any such lands, without the permission of the State, he shall be guilty of a misdemeanor. Moreover, the State can recover from any person cutting timber on its land three times the value of the timber which is cut."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1979.

## H. B. 94

## CHAPTER 16

AN ACT TO AMEND G.S. 105-51 WHICH IMPOSES A STATE LICENSE TAX ON THOSE ENGAGED IN SELLING CERTAIN AUTOMATIC MACHINES; TO REPEAL G.S. 105-52 WHICH IMPOSES A STATE LICENSE TAX ON THOSE ENGAGED IN SELLING SEWING MACHINES; AND TO INCLUDE SEWING MACHINES IN G.S. 105-51.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-52 is repealed.

**Sec. 2.** G.S. 105-51 is rewritten to read as follows:

“§ 105-51. *Automatic machines.*—Every person, firm, or corporation engaged in the business of selling, delivering, or renting any of the following types of automatic machines shall apply for and procure from the Secretary of Revenue a State license for each place where such business is transacted in this State, and shall pay for such license a tax of ten dollars (\$10.00):

(1) office machines including, but not limited to, cash registers, typewriters, word processing equipment, addressograph machines, adding or bookkeeping machines, calculators, billing machines, check-writing machines, copying machines, dictating equipment, and data processing equipment; and

(2) home appliances including, but not limited to, washing machines, clothes dryers, refrigerators, freezers, vacuum cleaners, air conditioning units (other than permanently installed units using internal ductwork), and sewing machines; and

(3) burglar alarms, smoke alarms, and other warning devices.

Counties, cities and towns shall not levy a license tax on the business taxed under this section.”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of February, 1979.

## H. B. 104

## CHAPTER 17

AN ACT TO AMEND G.S. 105-164.4 AND G.S. 105-164.6 TO RAISE THE FEE FOR A MERCHANT'S CERTIFICATE OF REGISTRATION LICENSE TO FIVE DOLLARS (\$5.00) AND TO REQUIRE A NEW LICENSE WHEN A MERCHANT GOES OUT OF BUSINESS FOR FIVE YEARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.4(7) is rewritten to read as follows:

“(7) Any person who shall engage or continue in any business for which a privilege tax is imposed by this Article shall immediately after July 1, 1979, apply for and obtain from the secretary upon payment of the sum of five dollars (\$5.00) a license to engage in and conduct such business upon the condition that such person shall pay the tax accruing to the State of North Carolina under the provisions of this Article and he shall thereby be duly licensed and registered to engage in and conduct such business. Except as hereinafter provided, a license

issued under this subsection shall be a continuing license until revoked for failure to comply with the provisions of this Article. However, any person who has heretofore applied for and obtained such license, and such license was in force and effect as of July 1, 1979, shall not be required to apply for and obtain a new license.

Any person who shall cease to be engaged in any business for which a privilege tax is imposed by this Article, and who shall remain continuously out of business for a period of five years shall apply for and obtain a new license from the Secretary upon the payment of a tax of five dollars (\$5.00), and any license previously issued under this section shall be null, void and of no effect. The burden of proof after such period shall be upon the taxpayer to show that he did engage in such activity within the period, and that no new license is required."

**Sec. 2.** G.S. 105-164.6(7) is rewritten to read as follows:

"(7) Every retailer engaged in business in this State selling or delivering tangible personal property for storage, use or consumption in this State shall immediately after July 1, 1979, apply for and obtain from the secretary upon the payment of the sum of five dollars (\$5.00) a license to engage in and conduct such business upon the condition that such person shall pay the tax accruing to the State of North Carolina under the provisions of this Article, and he shall thereby be duly licensed and registered to engage in and conduct such business. Except as hereinafter provided, a license issued under this subsection shall be a continuing license until revoked for failure to comply with the provisions of this Article. However, any person who has heretofore applied for and obtained such license, and such license was in force and effect as of July 1, 1979, shall not be required to apply for and obtain a new license.

Any person who shall cease to be engaged in any business for which a tax is imposed by this Article, and who shall remain continuously out of business for a period of five years shall apply for and obtain a new license from the secretary upon the payment of a tax of five dollars (\$5.00), and any license previously issued under this section shall be null, void and of no effect. The burden of proof after such period shall be upon the taxpayer to show that he did engage in such activity within the period, and that no new license is required."

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of February, 1979.

## H. B. 108

## CHAPTER 18

AN ACT TO AMEND G.S. 105-113.86 AND G.S. 105-113.95 TO CONVERT TO THE METRIC SYSTEM THE INTOXICATING LIQUORS TAX AS IT APPLIES TO UNFORTIFIED AND FORTIFIED WINES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (o) of G.S. 105-113.86 is amended in the first sentence by deleting "sixty cents (60¢) per gallon" and substituting in lieu thereof "fifteen and eighty-five one-hundredths cents (15.85¢) per liter"; subsection (o) is further amended by deleting "five cents (5¢) per gallon" as it appears at the end of the first paragraph of the subsection and substituting in lieu thereof "one and thirty-two one-hundredths cents (1.32¢) per liter".

**Sec. 2.** G.S. 105-113.95 is amended in the first sentence by deleting “seventy cents (70¢) per gallon” and substituting in lieu thereof “eighteen and forty-nine one-hundredths cents (18.49¢) per liter”; G.S. 105-113.95 is further amended by deleting from the end of the section “five cents (5¢) per gallon” and substituting in lieu thereof “one and thirty-two one-hundredths cents (1.32¢) per liter”.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of February, 1979.

## H. B. 124

## CHAPTER 19

### AN ACT TO EXTEND THE EXPIRATION TIME FOR WINE PERMITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-35(d) is amended by deleting the time “6:00 P.M.” and substituting in lieu thereof the time “9:30 P.M.”

**Sec. 2.** G.S. 18A-35(f) is amended by deleting the time “6:00 P.M.” and substituting in lieu thereof the time “9:30 P.M.”

**Sec. 3.** G.S. 18A-27(c) is amended by deleting the time “6:00 P.M.” and substituting in lieu thereof the time “9:30 P.M.”

**Sec. 4.** G.S. 18A-27(e) is amended by deleting the time “6:00 P.M.” and substituting in lieu thereof the time “9:30 P.M.”

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1979.

## H. B. 250

## CHAPTER 20

### AN ACT TO EXTEND TO THE CITY OF SANFORD THE UNIFORM STATE SYSTEM OF MALT BEVERAGE CONTROL.

*The General Assembly of North Carolina enacts:*

**Section 1.** The purpose and intent of this act is to extend to the City of Sanford the provisions of Chapter 18A, which is the present uniform State system of control over the sale, purchase, transportation, manufacture, and possession of intoxicating liquors in North Carolina, in order to insure an even greater degree of uniformity in the control of intoxicating liquors in the State.

**Sec. 2.** Notwithstanding the provisions of Section 4 of Chapter 105, Session Laws of 1961, or any other Public, Special, Local or Private Act to the contrary, the sale of malt beverages, as defined in G.S. 18A-2(5), both “on-premises” and “off-premises”, shall be legal in the City of Sanford. Provided, the sale of malt beverages in the City of Sanford shall be pursuant to the provisions of Chapter 18A of the General Statutes, any other applicable provision of the General Statutes, and the rules and regulations of the State Board of Alcoholic Control.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1979.



## H. B. 18

## CHAPTER 21

## AN ACT TO AMEND G.S. 20-116(e) PERTAINING TO LENGTHS OF VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-116(e) is hereby amended by inserting the following immediately after the word "load:" appearing in line 12 thereof:

"Provided that vehicles designed and used exclusively for the transportation of motor vehicles shall be permitted an overhang tolerance front or rear not to exceed five feet."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 90

## CHAPTER 22

## AN ACT TO AMEND G.S. 105-164.4(3) REGARDING RECEIPTS FROM RENTALS OF RESORT RESIDENCES OCCUPIED FOR PORTIONS OF THE SEASON BY THE OWNER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.4(3) is amended by adding the following two sentences at the end thereof: "The tax shall not apply to rent derived from private residences or cottages designed for single family occupancy located in a resort area when the owner occupies the residence or cottage for part of the season. Persons owning more than one such single family dwelling in a single resort area and occupying each of them for a portion of the season may select one and only one of the residences so occupied to be exempt from this tax."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 118

## CHAPTER 23

## AN ACT TO CHANGE THE FILING RULES FOR UNAFFILIATED CANDIDATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-122(1) is amended by deleting the words "the last Saturday in May", and inserting in lieu thereof the words "12:00 noon on the last Friday in April".

**Sec. 2.** G.S. 163-296 is amended by deleting the words "not later than 21 days", and inserting in lieu thereof the words "not later than 12:00 noon on the Friday preceding the seventh Saturday".

**Sec. 3.** G.S. 163-122 is amended by adding the following language at the end of the section: "A person whose name appeared on the ballot in a primary election is not eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year."

**Sec. 4.** G.S. 163-296 is amended by adding the following language at the end of the section: "A person whose name appeared on the ballot in a primary election is not eligible to have his name placed on the regular municipal election ballot as an unaffiliated candidate for the same office in that year."

**Sec. 5.** G.S. 163-296 is amended by deleting the words “independent or non-partisan”, and inserting in lieu thereof the word “unaffiliated”.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 119

## CHAPTER 24

AN ACT TO REQUIRE THAT PERSONS WHO CHANGE FROM UNAFFILIATED TO A MEMBER OF A PARTY MAKE SUCH CHANGE THE SAME NUMBER OF DAYS BEFORE FILING AS A CANDIDATE AS A PERSON WHO CHANGES FROM ONE PARTY TO ANOTHER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-106(b) is amended by deleting the words “No person who has changed his political party affiliation”, and inserting in lieu thereof the words “No person who has changed his political party affiliation or who has changed from unaffiliated status to party affiliation.”

**Sec. 2.** This act is effective with respect to elections held on or after September 1, 1979.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 165

## CHAPTER 25

AN ACT TO REPEAL CHAPTER 75, SESSION LAWS OF 1975, RELATING TO THE OFFICE OF SHERIFF OF SWAIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 75 of the Session Laws of 1975 is repealed, and the general law governing support by the county commissioners for the office of sheriff is applicable in Swain County.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 178

## CHAPTER 26

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF MARION AND TO MODIFY THE APPLICATION OF EXISTING RETIREMENT LAW TO THE CITY OF MARION.

*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 Marion, 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 Marion 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 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 City of Marion shall:

(a) prior to January 1, 1980, and prior to January 1 in each subsequent calendar year, transfer to the Supplemental Retirement Fund all funds belonging to the Local Firemen's Relief Fund in excess of fifty thousand dollars (\$50,000);

(b) at any time when the amount of funds in the Local Firemen's Relief Fund may, by reason of disbursements authorized by G.S. 118-7, be less than fifty thousand dollars (\$50,000), transfer from the Supplemental Retirement Fund to the Local Firemen's Relief Fund an amount sufficient to maintain in the Local Firemen's Relief Fund the sum of fifty thousand dollars (\$50,000);

(c) as soon as practicable after January 1 of each year, but in no event later than July 1, divide 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. Each retired fireman of the city, whether volunteer or paid, who has previously retired with 20 years service, or more, as a fireman of the City of Marion 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 the following supplemental retirement benefits, one share for each full year of service as a fireman of the City of Marion; provided, in no event may any retired fireman receive in any year an annual supplemental retirement benefit in excess of six hundred dollars (\$600.00)

**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; provided, that 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 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 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 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 may pay the premiums for the bond of the Treasurer from the Supplemental Retirement Fund.

**Sec. 7.** City authorized to make payment. The governing body of the City of Marion is hereby authorized and may at its discretion make appropriations and disburse funds to the Supplemental Retirement Fund.



**Sec. 8.** Severability. If any provision of this act 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 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 its ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 199

## CHAPTER 27

AN ACT TO REQUIRE THAT THE INITIAL EVALUATION REPORTS OF THE NORTH CAROLINA GOVERNMENTAL EVALUATION COMMISSION BE MADE AVAILABLE TO MEMBERS OF THE GENERAL ASSEMBLY BY APRIL 15, 1979.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the last sentence of G.S. 143-34.16(b), as the same appears in 1978 Replacement Volume 3D of the General Statutes, the evaluation reports of the North Carolina Governmental Evaluation Commission concerning programs, functions and statutes scheduled to be terminated July 1, 1979, shall be made available to members of the General Assembly no later than April 15, 1979. This act does not affect the deadline for submission of evaluation reports to the General Assembly in subsequent years.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 218

## CHAPTER 28

AN ACT RELATING TO RAFFLES AND THE GAME OF BINGO IN IREDELL COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful to operate raffles and the game of "bingo" (by whatever name called) for prizes and/or money except as hereinbelow provided. It shall be lawful to operate raffles and the game of "bingo" (by whatever name called) for prizes and/or money if the person or organization operating said game or raffle has prominently displayed a determination letter from the North Carolina Secretary of Revenue (or the equivalent from the Internal Revenue Service) in the specific place or room where said game or raffle is being conducted. The determination letter must indicate that the person or organization conducting said game or raffle has been exempted from income and/or franchise taxes in respect to income derived in the conduct of its exempt activities. Nothing contained in said determination letter shall exempt the person or organization from any unrelated business income taxes received from said raffle or "bingo" game.

**Sec. 2.** All proceeds derived from such games shall inure to the named nonprofit organization. No proceeds shall be deducted for administration, management or any operating expenses other than prizes.

**Sec. 3.** A nonprofit organization may not contract with or compensate any individual or corporation for conducting any “bingo” game.

**Sec. 4.** This act shall apply only in the following county: Iredell.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 225

## CHAPTER 29

## AN ACT TO ABOLISH THE OFFICE OF CORONER IN ALLEGHANY COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The office of Coroner in Alleghany County is abolished.

**Sec. 2.** Chapter 152 of the General Statutes is not applicable to Alleghany County.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## H. B. 26

## CHAPTER 30

## AN ACT TO AMEND PROVISIONS RELATING TO MEMBERSHIP ON THE NORTH CAROLINA ZOOLOGICAL COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-336, as the same appears in 1978 Replacement Volume 3C of the General Statutes, is hereby amended by addition of a comma and the following phrase between the word “Governor” and the period which follows it on line 4:

“one of whom shall be the Chairman of the Board of Directors of the North Carolina Zoological Society.”

**Sec. 2.** Appointment of the Chairman of the Board of the Zoological Society to the council shall take place upon the occurrence of the first vacancy on the council.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

## S. B. 40

## CHAPTER 31

## AN ACT TO MAKE TECHNICAL AMENDMENTS IN G.S. 20-218 CONCERNING THE ISSUANCE OF SCHOOL BUS DRIVERS' CERTIFICATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-218(a) is hereby amended by striking from line 5 thereof the words “from the Highway Patrol of North Carolina, or”.

**Sec. 2.** G.S. 20-218(a) is further amended by striking from line 8 thereof the words “a member of the said Highway Patrol, or”.

**Sec. 3.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

S. B. 177

**CHAPTER 32**

AN ACT TO AMEND CHAPTER 546 OF THE SESSION LAWS OF 1963, TO AUTHORIZE THE GRANITE FALLS ABC BOARD TO CONTRACT WITH THE POLICE DEPARTMENT OF THE TOWN OF GRANITE FALLS FOR LAW ENFORCEMENT SERVICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 546 of the Session Laws of 1963 as amended by Chapter 1054 of the Session Laws of 1973 and as amended by Chapter 32 of the Session Laws of 1977 is amended by striking paragraphs one and two of Section 5 thereof and substituting in lieu thereof the following:

“Section 5. The Town of Granite Falls Board of Alcoholic Beverage Control shall have the authority to contract with the Police Department of the Town of Granite Falls for law enforcement services related to the operation of the alcoholic beverage control store and for such service shall pay into the general fund of the Town of Granite Falls ten percent (10%) of the total profits to be determined by quarterly audits, to be applied by the Town of Granite Falls toward the annual budgeted expenditures of the Granite Falls Police Department. In the enforcement of alcoholic beverage control laws the Granite Falls Police Department and its members shall have the same powers and authorities within Caldwell County as other peace officers.

After deducting the amount required to be expended for enforcement of alcoholic beverage control laws as described herein and retaining sufficient and proper working capital, the amount to be determined by the Board, the Town of Granite Falls Board of Alcoholic Beverage Control shall, on a quarterly basis, pay over to the following named governing bodies, department, boards and agencies amounts equal to the percentages of the net profits which shall be expended by said agencies for the following purposes and none other, as follows:”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1979.

H. B. 216

**CHAPTER 33**

AN ACT TO AMEND THE NORTH CAROLINA CONSUMER FINANCE ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 53-166(a) is amended by striking the words and numerals “fifteen hundred dollars (\$1,500)” in the second line and substituting in lieu thereof the words and numerals “three thousand dollars (\$3,000).”

**Sec. 2.** G.S. 53-173(a) is amended by striking the words and numerals “fifteen hundred dollars (\$1,500)” in the third line and substituting in lieu thereof the words and numerals “three thousand dollars (\$3,000).”

**Sec. 3.** G.S. 53-180(a) is amended by rewriting the first sentence of that subsection to read:

“Except as otherwise provided in this Article, no licensee making a loan pursuant to G.S. 53-173 shall enter into any contract of loan under this Article providing for any scheduled repayment of principal more than 25 months from the date of making the contract if the cash advance is six hundred dollars

(\$600.00) or less; more than 37 months from the date of making the contract if the cash advance is in excess of six hundred dollars (\$600.00) but not in excess of fifteen hundred dollars (\$1,500); more than 49 months from the date of making the contract if the cash advance is in excess of fifteen hundred dollars (\$1,500) but not in excess of two thousand five hundred dollars (\$2,500); or more than 61 months if the cash advance is in excess of two thousand five hundred dollars (\$2,500)."

**Sec. 4.** This act is effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1979.

## H. B. 142

## CHAPTER 34

AN ACT TO AMEND G.S. 138-6 SO AS TO MAKE ITS PROVISIONS APPLICABLE TO EMPLOYEES OF THE NORTH CAROLINA STATE BURIAL ASSOCIATION COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 138-6, as the same appears in the 1978 Interim Supplement to the General Statutes of North Carolina, is amended by striking the last sentence of subsection (a)(3) which reads as follows: "This shall not apply to those employees who are employed by the North Carolina State Burial Association Commission."

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 14th day of February, 1979.

## S. B. 190

## CHAPTER 35

AN ACT TO AMEND THE SOUTHERN GROWTH POLICIES AGREEMENT TO ENLARGE THE EXECUTIVE COMMITTEE AND TO ADD THE VIRGIN ISLANDS AND PUERTO RICO TO THE BOARD'S MEMBERSHIP.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-496(b) is amended in the third line thereof by striking the number "17" and substituting therefor the number "23".

**Sec. 2.** G.S. 143-502(a) is amended by rewriting the last line thereof to read:

"Virginia, West Virginia, the Commonwealth of Puerto Rico, and the Territory of the Virgin Islands, hereinafter referred to as party states."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1979.

## H. B. 75

## CHAPTER 36

AN ACT TO REPEAL PROVISIONS OF G.S. 20-16 CONCERNING THE AUTHORITY OF THE DIVISION OF MOTOR VEHICLES TO SUSPEND A LICENSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-16(a) is hereby amended by deleting subdivisions (1), (2), (3), and (4).

**Sec. 2.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 15th day of February, 1979.

## H. B. 144

## CHAPTER 37

AN ACT TO ELIMINATE THE RESTORATION FEE FOR THOSE WHOSE LICENSES WERE REVOKED FOR MEDICAL OR HEALTH REASONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-7(il) is hereby amended by adding a sentence at the end thereof to read as follows:

“This restoration fee shall not be required for any licensee whose license was suspended, cancelled, or revoked for medical or health reasons following a medical evaluation pursuant to this Chapter.”

**Sec. 2.** This act shall become effective 15 days after ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1979.

## H. B. 188

## CHAPTER 38

AN ACT TO RAISE THE MAXIMUM AMOUNT OF A CEMETERY TRUST TO TEN THOUSAND DOLLARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 65-7 is amended by deleting therefrom the phrase “two thousand dollars (\$2,000)” and substituting in lieu thereof the words “ten thousand dollars (\$10,000)”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1979.

## H. B. 201

## CHAPTER 39

AN ACT TO AMEND G.S. 20-4.01(31)c DEFINING PRIVATE HAULER VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-4.01(31)c is hereby amended by striking the word “exclusively” appearing in line 4 immediately after the word “used” and immediately before the word “for”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1979.



## H. B. 403

## CHAPTER 40

AN ACT TO EXTEND THE TIME FOR THE USE OF REGISTRATION PLATES EXPIRING DECEMBER 31, 1978, FROM FEBRUARY 15, 1979, TO AND INCLUDING FEBRUARY 28, 1979.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-65 is hereby amended by striking the word "fifteenth" in line 7 and inserting in lieu thereof the word "twenty-eighth".

**Sec. 2.** This act shall only apply to the operation of vehicles for which the registration expires December 31, 1978.

**Sec. 3.** This act is effective upon ratification and shall expire March 1, 1979.

In the General Assembly read three times and ratified, this the 15th day of February, 1979.

## S. B. 144

## CHAPTER 41

AN ACT TO ENTITLE THE COMMISSION FOR HEALTH SERVICES TO CONTROL VECTORS OF PUBLIC HEALTH SIGNIFICANCE OR OF DISEASE CARRYING POTENTIAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-142(2) is amended by adding the following new subsection to read:

"(k) Regulating vectors of public health significance or of disease carrying potential."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1979.

## S. B. 167

## CHAPTER 42

AN ACT TO AMEND G.S. 143B-312 TO PROVIDE FOR EX OFFICIO REPRESENTATION OF THE TRAILS COMMITTEE ON THE PARKS AND RECREATION COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-312, as the same appears in 1978 Replacement Volume 3C of the General Statutes, is hereby amended by deletion of the number "13" in line 2 and substitution therefor of the number "14" and by deletion of the phrase "shall serve as ex officio member of the Council" in line 14 and substitution therefor of the following phrase: "and a representative of the Trails Committee, as selected by that Committee, shall serve as ex officio members of the Council."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1979.

## H. B. 20

## CHAPTER 43

AN ACT TO AMEND G.S. 146-25.1 TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION TO NEGOTIATE IN THE OPEN MARKET FOR LEASING OF NEEDED LAND WHEN EITHER NO PROPOSAL OR NO ACCEPTABLE PROPOSAL IS RECEIVED IN ACCORDANCE WITH G.S. 146-25.1.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (b) of G.S. 146-25.1 is amended by adding the following sentence at the end thereof:

“In the event either no proposal or no acceptable proposal is received after advertising in accordance with subsection (a) of this section, the department may negotiate in the open market for leasing of the needed land.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 37

## CHAPTER 44

AN ACT TO REINSTATE THE SECRETARY OF ADMINISTRATION ON THE NORTH CAROLINA LAND POLICY COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113A-153(b) is hereby amended by deleting the words and figure, “1. Natural Resources and Community Development”, in line 5 thereof and by inserting in lieu thereof the words and figure, “1. Administration”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 47

## CHAPTER 45

AN ACT TO REQUIRE TAX SUPERVISORS TO NOTIFY THE STATE ABOUT ALL PROPERTIES LISTED IN THEIR COUNTIES IN THE NAME OF “UNKNOWN OWNER”.

*The General Assembly of North Carolina enacts:*

**Section 1.** In order to promote the discovery of “State lands” as defined by G.S. 146-64(6), it shall be the duty of all tax supervisors upon request to furnish the State of North Carolina a report on all properties listed in the name of “unknown owner” pursuant to G.S. 105-302(c)(12) in their respective tax jurisdictions. Such report shall be forwarded to the Secretary of the North Carolina Department of Administration. The report shall contain all information available to the tax supervisor concerning the location and identification of the properties in question.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.



## H. B. 85

## CHAPTER 46

## AN ACT TO AMEND G.S. 105-164.13 REGARDING CERTAIN EXEMPTIONS FROM THE SALES AND USE TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.13(3) is rewritten to read as follows:

“(3) Products of farms, forests and mines in their original or unmanufactured state when such sales are made by the producer in the capacity of producer.”

**Sec. 2.** G.S. 105-164.13(7) is rewritten to read as follows:

“(7) Sales of products of waters in their original or unmanufactured state when such sales are made by the producer in the capacity of producer. Fish and seafoods are likewise exempt when sold by the fisherman in that capacity.”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 89

## CHAPTER 47

## AN ACT TO AMEND G.S. 105-164.14(c) REGARDING REFUNDS OF SALES AND USE TAX PAID BY GOVERNMENTAL UNITS FOR CONSTRUCTION, ERECTION, ALTERATION OR REPAIR OF BUILDINGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.14(c) is amended by deleting from the second sentence the phrase “erected, altered or repaired for such counties,” and substituting in lieu thereof the following phrase:

“erected, altered or repaired which is owned or leased by such counties,”.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 103

## CHAPTER 48

## AN ACT TO AMEND G.S. 105-164.3, 105-164.4, AND 105-164.6 TO CLARIFY THE LIABILITY OF RETAIL DEALERS OF MOTOR VEHICLES TO PAY THE SALES TAX THEREON AND TO MAKE TECHNICAL CHANGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.4(1), as it appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is amended by deleting the second, third and fourth paragraphs and substituting in lieu thereof the following two paragraphs:

“The separate sale of a new motor vehicle chassis and a new motor vehicle body to be installed thereon, whether by the same retailer or by different retailers shall be subject only to the tax herein prescribed with respect to a single motor vehicle. No tax shall be imposed upon a body mounted on the chassis of a motor vehicle which temporarily enters the State for the purpose of having such body mounted thereon by the manufacturer thereof.

The tax levied under this division shall not apply to the sale of a motor vehicle by some person, firm or corporation who or which is not engaged in

business as a retailer of motor vehicles if the tax levied under this Article has previously been paid with respect to said motor vehicle.”

**Sec. 2.** G.S. 105-164.3 is amended by adding a new definition to be numbered (8A), to follow the definition of “Lease or rental” and to read as follows:

“(8A) ‘Motor vehicle’ means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is propelled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment as defined in G.S. 20-4.01, or any vehicle designed primarily for use in work off the highway.”

**Sec. 3.** G.S. 105-164.6 is amended by adding the following sentence at the end of subsection (1) thereof:

“The separate sale of a new motor vehicle chassis and a new motor vehicle body to be installed thereon, whether by the same retailer or by different retailers, shall be subject only to the tax herein prescribed with respect to a single motor vehicle.”

**Sec. 4.** G.S. 105-164.6 is further amended by adding a new subsection to be numbered (3A) immediately following subsection (3) and to read as follows:

“(3A) Every person, firm or corporation that purchases or acquires a motor vehicle for use on the streets and highways of this State shall pay the tax at the rate of two percent subject to a maximum tax of one hundred twenty dollars (\$120.00) per vehicle, on the sales or purchase price of such motor vehicle and said tax shall be paid to the Secretary of Revenue at the time of applying for a certificate of title, or registration and license plate or plates for such vehicle. However, if such person shall furnish to the secretary a certificate from a retailer of motor vehicles engaged in business in this State certifying that such person has paid the tax levied thereon by this Article to the retailer, the liability of such person for the tax shall be extinguished. No certificate of title, or registration and license plate or plates shall be issued for any motor vehicle purchased or acquired for use on the streets and highways of this State unless and until the tax provided for under this Article on motor vehicles has been paid. Nothing herein is intended to relieve any retailer of motor vehicles engaged in business in this State from his liability for collecting and remitting sales or use tax on his sales of motor vehicles for use by the purchasers thereof in this State and no retailer shall be absolved of this liability for his failure to collect the tax from such purchasers.

The tax levied under this division shall not apply to the owner of a motor vehicle who has purchased or acquired said motor vehicle from some person, firm or corporation who or which is not engaged in business as a retailer of motor vehicles if the tax levied under this Article has previously been paid with respect to said motor vehicle.”

**Sec. 5.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 105

## CHAPTER 49

AN ACT TO REPEAL SUBSECTION (a) OF G.S. 105-58 WHICH IMPOSES A STATE LICENSE TAX ON GYPSIES AND TO MAKE A CONFORMING CHANGE IN SUBSECTION (b) OF THAT SECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-58(a) is repealed.

**Sec. 2.** G.S. 105-58(b), as it appears in the 1972 Replacement Volume 2D of the General Statutes, is amended by deleting from the first sentence thereof the following words and punctuation:

“, other than those mentioned in subsection (a) of this section,”.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 122

## CHAPTER 50

AN ACT TO AMEND G.S. 160A-388 TO PERMIT BOARDS OF ADJUSTMENT TO USE PERSONAL SERVICE, REGISTERED MAIL OR CERTIFIED MAIL TO DELIVER DECISIONS TO APPELLANTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-388 as it appears in the 1977 Cumulative Supplement to Volume 3D of the General Statutes of North Carolina is hereby amended by rewriting the last sentence of subsection (e) to read as follows:

“Any appeal to the superior court shall be taken 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 appellant, whichever is later. The decision of the board may be delivered to the appellant either by personal service, or registered mail or certified mail return receipt requested.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 152

## CHAPTER 51

AN ACT TO PERMIT THE SECRETARY OF REVENUE TO GRANT AN EXTENSION OF TIME FOR THE PAYMENT OF NORTH CAROLINA INHERITANCE TAXES FOR REASONABLE CAUSE SHOWN.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-16, as the same appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is hereby amended by rewriting the last sentence of that section to read as follows:

“Provided, that the time for payment and collection of such tax may be extended by the Secretary of Revenue for reasonable cause shown.”

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

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 194

## CHAPTER 52

AN ACT TO EXPAND THE SIZE OF THE HAMLET ABC BOARD FROM THREE TO FOUR.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 982, Session Laws of 1963 is amended by deleting the words "chairman and two other members", and inserting in lieu thereof the words "chairman and three other members", and by deleting the words "one member shall serve for his first term a period of two years", and inserting in lieu thereof the words "two members shall serve for their first term a period of two years".

**Sec. 2.** In order to expand the size of the Hamlet Town Board of Alcoholic Control as provided in this act, the governing body of the town of Hamlet shall upon the ratification of this act appoint a person to serve a term expiring October 15, 1981.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 217

## CHAPTER 53

AN ACT TO CONFER COUNTYWIDE JURISDICTION ON LAW ENFORCEMENT OFFICERS OF THE STATESVILLE ALCOHOLIC BEVERAGE CONTROL BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 534 of the 1965 Session Laws is amended by inserting therein immediately following Section 5 a new section as follows:

"Sec. 5.1. Law enforcement officers employed by the City of Statesville Board of Alcoholic Control shall, after taking the oath prescribed by law for peace officers, have the same powers and authority within Iredell County as other peace officers, and while in hot pursuit of anyone found to be violating the liquor laws or drug laws of North Carolina, may go into any other county of the State and arrest the offender therein, so long as the hot pursuit of the person continues. The common law of hot pursuit is applicable to those offenders and officers."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.



## H. B. 312

## CHAPTER 54

AN ACT AMENDING THE HEALTH CARE FACILITIES FINANCE ACT, THE SAME BEING CHAPTER 131A, AS AMENDED, OF THE GENERAL STATUTES OF NORTH CAROLINA, TO AUTHORIZE THE NORTH CAROLINA MEDICAL CARE COMMISSION TO ENTER INTO LOAN AGREEMENTS WITH PUBLIC OR NONPROFIT AGENCIES TO FINANCE OR REFINANCE THE COST OF HEALTH CARE FACILITIES AND TO ISSUE ITS REVENUE BONDS AND BOND ANTICIPATION NOTES TO ACQUIRE CERTAIN FEDERALLY GUARANTEED SECURITIES AND FEDERALLY INSURED MORTGAGE NOTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 131A-3 is amended by deleting the word “and” at the end of subsection (6) thereof, by deleting the period at the end of subsection (7) thereof and substituting in lieu thereof a semicolon, and by adding to said G.S. 131A-3 the following additional subsections to read as follows:

“(8) ‘Federally guaranteed security’ means any security, investment or evidence of indebtedness issued pursuant to any provision of federal law for the purpose of financing or refinancing the cost of any health care facilities which is insured or guaranteed, directly or indirectly, in whole or in part as to the repayment of principal or interest by the United States of America or any instrumentality thereof; and

(9) ‘Federally insured mortgage note’ means any loan secured by a mortgage or deed of trust on any health care facilities owned by any public or nonprofit agency which is insured or guaranteed, directly or indirectly, in whole or in part as to the repayment of principal and interest by the United States of America or any instrumentality thereof, or any commitment by the United States of America or any instrumentality thereof to so insure or guarantee such a loan secured by a mortgage or a deed of trust.”

**Sec. 2.** G.S. 131A-4 is amended by rewriting subsection (1) thereof to read as follows:

“(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 and mortgages and conveyances to public and nonprofit agencies, persons, firms, corporations, governmental agencies and others;”.

**Sec. 3.** G.S. 131A-4 is further amended by rewriting subsection (5) thereof to read as follows:

“(5) To pledge or assign any money, purchase price payments, rents, loan repayments, charges, fees or other revenues, including any federally guaranteed security and moneys received therefrom whether such securities are initially acquired by the Commission or a public or nonprofit agency, and any proceeds derived by the Commission from sales of property, insurance, condemnation awards or other sources;”.

**Sec. 4.** G.S. 131A-4 is further amended by rewriting subsection (7) thereof to read as follows:

“(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 health care

facilities, to lend money to any public or nonprofit agency to pay all or any part of the cost of health care facilities, to acquire any federally guaranteed security or any federally insured mortgage note, to lend money to any public or nonprofit agency for the acquisition of any federally guaranteed security and to issue revenue refunding bonds;”.

**Sec. 5.** G.S. 131A-4 is further amended by rewriting subsection (9) thereof to read as follows:

“(9) To fix, revise, charge and collect or cause to be fixed, revised, charged and collected purchase price payments, rents, loan repayments, fees, professional contracts and charges for the use of, or services rendered by, any health care facilities;”.

**Sec. 6.** G.S. 131A-4 is further amended by deleting the word “and” immediately following the semicolon at the end of subsection (12) thereof, by deleting the period at the end of subsection (13) thereof and substituting in lieu thereof a semicolon, and by adding thereto a new subsection, to be numbered (14), to read as follows:

“(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 Commission 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 public or nonprofit agency to finance or refinance the cost of any health care facilities.”

**Sec. 7.** G.S. 131A-5 is amended by rewriting subsection (2) to read as follows:

“(2) No health care facilities shall be sold or leased nor any loan made to any public or nonprofit agency 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 operate, repair and maintain at its own expense the health care facilities and to discharge such other responsibilities as may be imposed under the agreement of sale or lease or loan agreement;”.

**Sec. 8.** G.S. 131A-6 is amended to read as follows:

“For the purposes of this Chapter, public agencies are authorized and empowered to enter into contracts and agreements, including loan agreements and agreements of sale or lease, with the Commission to facilitate the financing or refinancing, acquiring, constructing, equipping, providing, operating and maintaining of health care facilities and pursuant to any such loan agreement or agreement of sale or lease to operate, repair and maintain any health care facilities and, subject to the provisions of G.S. 131A-8, to pay the cost thereof and the loan repayments, purchase price payments or rent therefor from any funds available for such purposes.”

**Sec. 9.** G.S. 131A-8 is amended to read as follows:

“§ 131A-8. *Operation of health care facilities; loan agreements; agreements of sale or lease; conveyance of interest in health care facilities.*—All health care facilities 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 Commission may sell or lease any health care facilities to a public or nonprofit agency for operation and maintenance or lend money to any public or nonprofit agency 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 public or nonprofit agency shall, at its own expense, operate, repair and maintain the health care facilities 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 Commission to pay the cost of the health care facilities sold or leased thereunder or to make the loan with respect thereto;

(3) the public or nonprofit agency shall pay all other costs incurred by the Commission in connection with the providing of the health care facilities 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 Commission in connection with the health care facilities covered by any such agreement shall be retired or provision for such retirement shall be made; and

(5) the obligation of the public or nonprofit agency to make loan repayments or purchase price payments or to pay rent shall not be subject to cancellation, termination or abatement by the public or nonprofit agency until the bonds have been retired or provision has been made for such retirement.

All obligations payable by a public agency under a loan agreement or an agreement of sale or lease, including the obligation to make loan repayments or purchase price payments or to pay rent and to pay the costs of operating, repairing and maintaining health care facilities, shall be payable solely from the revenues of the health care facilities being purchased or leased or with respect to which a loan is made or other health care facilities of the health care facilities of the public agency or from any federally guaranteed security and moneys received therefrom and shall not be payable from or charged upon any funds of the public agency other than the revenues pledged to such payment; provided, however, that nothing herein shall restrict the power of any county, city, town or other political subdivision of the State or any hospital district created pursuant to Article 13C of Chapter 131 of the General Statutes to submit to its qualified voters a health care facility maintenance tax under Article 13B of said Chapter 131 for the purposes of financing the cost of operation, equipment and maintenance of any health care facility financed for any public agency under this Chapter and all health care facilities authorized to be financed under this Chapter and leased to public agencies are hereby declared to be included within the definition 'hospital facility' as used in said Article 13B.

Where the Commission has acquired a possessory or ownership interest in any health care facilities which it has undertaken on behalf of a public or nonprofit agency it shall promptly convey, without the payment of any consideration, all its right, title and interest in such health care facilities to

such public or nonprofit agency upon the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the Commission in connection with such health care facilities.”

**Sec. 10.** G.S. 131A-11 is hereby amended by rewriting the second paragraph thereof to read as follows:

“The Commission 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.”

**Sec. 11.** G.S. 131A-12 is amended to read as follows:

“In the discretion of the Commission any bonds or notes issued under the provisions of this Chapter may be secured by a trust agreement by and between the Commission 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 Commission 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 health care facilities and may mortgage any health care facilities. 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 Commission in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the Commission, including any payments in respect of any federally guaranteed security or any federally insured mortgage note, the duties of the Commission with respect to the acquisition, construction, maintenance, repair and operation of any health care facilities, 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 Commission 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 depository 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 Commission. Any such trust agreement or resolution may set off the rights and remedies, including foreclosure of any 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 Commission 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 health care facilities 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 Commission."

**Sec. 12.** G.S. 131A-13 is amended to read as follows:

"(a) The Commission is hereby authorized to fix and to collect fees, loan repayments, purchase price payments, rents and charges for the use of any health care facilities, and any part or section thereof, and to contract with any public or nonprofit agency for the use thereof. The Commission may require that the public or nonprofit agency shall operate, repair or maintain such facilities and shall bear the cost thereof and other costs of the Commission in connection therewith, subject to the provisions of G.S. 131A-8 with respect to a public agency, as may be provided in the agreement of sale or lease or other contract with the Commission, in addition to other obligations imposed under such agreement or contract.

(b) The fees, 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 health care facilities, 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, 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 health care facilities.

(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 Commission 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 Commission, 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 Commission.

(d) The State of North Carolina does pledge to and agree with the holders of any bonds or notes issued by the Commission 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 Commission 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 health care facilities 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 health care facilities, 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. 13.** G.S. 131A-14 is amended by rewriting the first sentence thereof to read as follows:

“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 health care facilities, shall be deemed to be trust funds to be held and applied solely as provided in this Chapter.”

**Sec. 14.** 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.

**Sec. 15.** The foregoing sections 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.

**Sec. 16.** This act, being necessary for the health and welfare of the people of the State of North Carolina, shall be liberally construed to effect the purposes thereof.

**Sec. 17.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## S. B. 19

## CHAPTER 55

AN ACT TO AMEND THE DAM SAFETY LAW TO PROVIDE FOR CERTAIN TECHNICAL AMENDMENTS AND FOR THE CLARIFICATION OF JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS INVOLVING DAM SAFETY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.27(a), as the same appears in 1978 Replacement Volume 3C of the General Statutes, is amended by deleting the word “shall” from line 11 of the subsection and inserting in lieu thereof the word “may”.

**Sec. 2.** G.S. 143-215.33, as the same appears in 1978 Replacement Volume 3C of the General Statutes, is amended by rewriting the section to read as follows:

“§143-215.33. *Administrative hearing, judicial review.*—(a) Any person to whom an order or decision has been issued pursuant to this Part shall be entitled to an administrative hearing before the commission, or its designated hearing officer or officers, to be conducted in the county in which the dam is located, in accordance with Article 3 of Chapter 150A of the General Statutes upon written request by such person within 10 days after notice of the order or

decision has been given to the person, personally or by registered or certified mail.

(b) Any person entitled to a hearing under subsection (a) of this section may appeal the final decision of the commission to the Superior Court in accordance with Article 4 of Chapter 150A of the General Statutes, except that a petition seeking review under G.S. 150A-45 may be filed either in the county where the dam is located or in Wake County."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## S. B. 126

## CHAPTER 56

## AN ACT TO REWRITE THE IMMUNIZATION LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 9 of Chapter 130 of the General Statutes is hereby rewritten to read as follows:

"Article 9.

"North Carolina Immunization Law.

"§ 130-87. *Immunization required.*—(a) Every child present in this State shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola), and rubella, and, in addition, shall be immunized against smallpox upon a determination by the Commission for Health Services that such immunization is in the best interest of the public health. Every parent, guardian, person in *loco parentis* and person or agency, whether governmental or private, with legal custody of a child shall have the responsibility to insure that their child has received the required immunization at the age required by the Commission of Health Services; and, if a child has not received the required immunizations by the specified age, such persons shall have the responsibility to obtain the required immunization for their child as soon as possible after the lack of the required immunization is determined.

(b) Any child who has received immunization for measles prior to his obtaining 12 months of age shall be required to obtain a second measles immunization after the child has obtained 12 months of age in order to satisfy the requirement of subsection (a) with respect to immunization against measles.

(c) The Commission for Health Services shall promulgate and the Department of Human Resources shall enforce rules concerning the implementation of the immunization program. Such rules shall provide for:

(1) the child's age for administering each vaccine;

(2) the number of doses of each vaccine;

(3) exemptions from the immunization requirements where medical practice suggests that immunization would not be in the best health interests of a specific category of children; and

(4) the procedures and practices for administering such vaccine.

(d) Only vaccine preparations may be used which meet the standards of the United States Food and Drug Administration or its successor in licensing vaccines and are approved for use by the Commission for Health Services.

"§ 130-88. *Obtaining immunization.*—The required immunization may be obtained from a physician licensed to practice medicine in this State or from the local health department. The local health department shall administer the

required immunizations without charge. The Department of Human Resources shall provide the necessary vaccines to the local health departments.

“§ 130-89. *Certificate of immunization.*—The physician or local health department who administers the required vaccines shall give a certificate of such immunizations to the person who presented the child for immunization. The certificate shall state the name of the child, the name of the child's parent, guardian, or person responsible for the child obtaining the required immunization, the address of the child and the parent, guardian or responsible person, the date of birth of the child, the sex of the child, the number of doses of the vaccine given, the date the doses were given, and other relevant information which may be required by the Commission for Health Services.

“§ 130-90. *Submission of certificate to day-care facility and school authorities; record maintenance; reporting.*—(a) No child shall attend any school (K-12), whether public, private or religious, or a day-care facility, as defined in G.S. 110-86(3), unless a certificate of immunization indicating that the child has received the immunizations required by G.S. 130-87 is presented to the school or facility. If on the first day of attendance of the child at the school or facility, a certificate of immunization is not presented to the principal of the school or operator of the facility, as defined in G.S. 110-86(7), or if a certificate of immunization indicating that the child has not received the required immunizations is presented, notice of such deficiency shall be given to the parent, guardian or responsible person by the principal or operator. The parent, guardian or responsible person shall have 30 calendar days from the first day of attendance in order to obtain the required immunization for the child. If the administration of vaccine in a series of doses given at medically approved intervals require a period in excess of 30 calendar days, additional days upon certification of a physician may be allowed in order to obtain the required immunization. Upon termination of the 30 calendar day or extended period, the principal or operator shall not permit any child to attend the school or facility unless he is immunized as required by G.S. 130-87.

(b) The school or day-care facility shall maintain on file immunization records for all children attending the school or facility which contain the information required for a certificate of immunization as specified in G.S. 130-89. Such certificates shall be open to inspection by agents of the Department of Human Resources and the local health department during normal business hours. Within 60 calendar days after the commencement of a new school year, the school shall file a report with the Department of Human Resources. The day-care facility shall file the report annually with the Department of Human Resources. The report shall be filed on forms prepared by the department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption.

“§ 130-91. *Medical exemption.*—If a physician licensed to practice medicine in this State certifies that an immunization required by G.S. 130-87 is or may be detrimental to a child's health, the child is not required to receive the specified immunization until the physician certifies that the immunization will not be detrimental to the child's health.



"§ 130-92. *Religious exemption.*—If the *bona fide* religious beliefs of a parent or person in *loco parentis* of a child are contrary to the immunization requirements contained in this Article, the child shall be exempt from such requirements. Upon submission of a written statement of the *bona fide* religious beliefs and their opposition to the immunization requirements, the child may attend the school or facility without presenting a certificate of immunization.

"§ 130-93. *Delayed applicability.*—Notwithstanding the provisions of G.S. 130-90(a), a child who has attended school during the 1978-1979 year shall not be required to receive immunization, not required during such years, in order to attend school during the 1979-1980 year. However, such child shall be required to have received all the immunizations required by G.S. 130-87 before he may attend school during the 1980-1981 year.

"§ 130-93.01. *Enforcement.*—(a) Any person as defined in G.S. 130-87 who violates any provision of this Article or the rules promulgated hereunder shall be guilty of a misdemeanor and upon conviction shall be punished, notwithstanding the provisions of G.S. 130-203, by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six months for each violation.

(b) The Secretary of Human Resources or the local health director may institute a civil action in the superior court of the county in which the defendant in the action resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Article or any rule promulgated hereunder. The provisions of G.S. 130-205 shall be inapplicable to actions instituted pursuant to this section."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of February, 1979.

## H. B. 115

## CHAPTER 57

AN ACT TO PROVIDE FOR AN OPTIONAL METHOD FOR PAYMENT OF THE SOFT DRINK TAX BY RETAIL DEALERS AND TO CLARIFY ELIGIBILITY UNDER G.S. 105-113.56A.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to the General Statutes following G.S. 105-113.56B to be numbered and to read as follows:

"§ 105-113.56C. *Optional method of payment of tax by retail dealers.*—Notwithstanding any other provision of this Article, the excise tax levied upon powders, syrups, base products, bottled soft drinks and all other items subject to the Soft Drink Tax Act, may be paid by retail dealers in the following manner:

Beginning with sales made on and after July 1, 1979, sales reports shall be made to the Secretary on or before the fifteenth day of each succeeding month, accompanied by payment of the tax due. All persons paying the tax in this optional manner shall be subject to such rules and regulations as the Secretary may prescribe, including the requirement that such persons furnish such bond as the Secretary may deem advisable in such amount and upon such conditions as in the opinion of the Secretary will adequately protect the State in the collection of the tax levied by this Article."

**Sec. 2.** G.S. 105-113.56A is amended by adding the following sentence at the end thereof:

“The alternate method set forth in this section shall be available only to those distributors and wholesale dealers liable for payment of the soft drink tax under the provisions of this Article.”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of February, 1979.

## H. B. 100

## CHAPTER 58

AN ACT TO AMEND G.S. 105-113.60 TO MAKE RETAIL DEALERS LIABLE FOR THE SOFT DRINK TAX ON CERTAIN NON-TAXPAID ITEMS IN THEIR POSSESSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The caption to G.S. 105-113.60 is rewritten to read as follows:

“§ 105-113.60. *Manufacturer as well as dealer subject to penalties, retail dealer liable for tax.*”

**Sec. 2.** G.S. 105-113.60 is amended by adding the following paragraph at the end of that section:

“A retail dealer shall be liable for the tax on any items, taxable under this Article, which come into his possession without the tax having been paid. The liability created under this paragraph shall not make the retail dealer eligible for the alternate method of payment of the soft drink tax provided for in G.S. 105-113.56A.”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of February, 1979.

## H. B. 95

## CHAPTER 59

AN ACT TO AMEND CERTAIN PROVISIONS OF THE SOFT DRINK TAX TO CLARIFY THOSE PROVISIONS AND MAKE TECHNICAL AMENDMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-113.43 is rewritten to read as follows:

“§ 105-113.43. *Soft drink license and excise taxes.*—(a) Every person engaging in the business of selling, manufacturing, purchasing, consigning, using, shipping or distributing, for the purpose of sale within this State, soft drinks, base products, powders, simple syrups, or any other items subject to the Soft Drink Tax Act shall, for the privilege of carrying on such business, be subject to the payment of a license tax as set forth in G.S. 105-113.50.

(b) Every person conducting any of the activities set forth in G.S. 105-113.51(b) shall be subject to the excise tax levied in G.S. 105-113.45.”

**Sec. 2.** G.S. 105-113.44(3) is amended by deleting the word “bottled” each time it appears in that subdivision.

**Sec. 3.** G.S. 105-113.51(a) is amended by changing the period at the end of that subsection to a comma (,) and adding the following after the comma:

“unless the tax has been or will be paid according to some other method available under the provisions of this Article.”

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of February, 1979.

## S. B. 59

## CHAPTER 60

AN ACT TO REQUIRE PARTY AFFILIATION TO BE LISTED IN POLLBOOKS IN ALL PARTISAN ELECTIONS, SO AS TO INCREASE THE USEFULNESS OF THE LIST TO OBSERVERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-150(f) is amended in the third sentence by striking the words "In a primary election", and inserting in lieu thereof the words "In an election where observers may be appointed under G.S. 163-45".

**Sec. 2.** This act is effective with respect to all elections held on or after September 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of February, 1979.

## H. B. 44

## CHAPTER 61

AN ACT TO PROVIDE FOR THE EXPUNCTION OF ARREST AND TRIAL RECORDS OF YOUTHFUL OFFENDERS WHEN CHARGES ARE DISMISSED OR WHEN THERE ARE FINDINGS OF NOT GUILTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 15 is amended by adding a new section to read as follows:

"§ 15-223.1. *Expunction of records when charges are dismissed or there are findings of not guilty.*—Except as otherwise provided in G.S. 90-96, if any person is charged with a crime, either a misdemeanor or a felony, and the charge is dismissed, or a finding of not guilty is entered, that person may apply to the court of the county where the charge was brought for an order to expunge from all official records any entries relating to his apprehension or trial. The court shall hold a hearing on the application and, upon finding that at the time any of the proceedings against him occurred the person had not attained the age of 18 years and had not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States, this State, or any other state, the court shall order the expunction. No person as to whom such an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of his failure to recite or acknowledge any expunged entries concerning apprehension or trial. The clerk shall send a copy of the expunction order to any public official known to be a custodian of such entries."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1979.

## H. B. 91

## CHAPTER 62

AN ACT TO REPEAL G.S. 105-76 WHICH IMPOSES A STATE LICENSE TAX ON SHOESHINE PARLORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-76 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 92

## CHAPTER 63

AN ACT TO REPEAL G.S. 105-34 WHICH IMPOSES A STATE LICENSE TAX ON AMUSEMENT PARKS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-34 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 93

## CHAPTER 64

AN ACT TO REPEAL G.S. 105-100 WHICH IMPOSES A STATE LICENSE TAX ON THOSE ENGAGED IN SELLING PATENT RIGHTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-100 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 97

## CHAPTER 65

AN ACT TO REPEAL G.S. 105-63 WHICH IMPOSES A STATE LICENSE TAX ON COTTON COMPRESSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-63 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 99

## CHAPTER 66

AN ACT TO REPEAL G.S. 105-78 WHICH IMPOSES A STATE LICENSE TAX ON NEWS DEALERS ON TRAINS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-78 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 101

## CHAPTER 67

AN ACT TO REPEAL G.S. 105-48 WHICH IMPOSES A STATE LICENSE TAX ON PHRENOLOGISTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-48 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 102

## CHAPTER 68

AN ACT TO REPEAL G.S. 105-93 WHICH IMPOSES A STATE PROCESS TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-93 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 107

## CHAPTER 69

AN ACT TO REPEAL G.S. 105-47 WHICH IMPOSES A STATE LICENSE TAX ON DEALERS IN HORSES AND MULES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-47 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.



## H. B. 109

**CHAPTER 70**

AN ACT TO REPEAL G.S. 105-71 WHICH IMPOSES A STATE LICENSE TAX ON THOSE WHO CONDUCT NEWSPAPER CONTESTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-71 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 112

**CHAPTER 71**

AN ACT TO AMEND G.S. 105-164.3(16) TO PROVIDE FOR A MORE EQUITABLE DEFINITION OF "SALES PRICE" WITH RESPECT TO CERTAIN CONTRACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.3(16), as it appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is amended by rewriting the second sentence which begins on the ninth line of that subdivision with the phrase "Provided, however," to read as follows:

"Provided, however, that where a manufacturer, producer or contractor erects, installs or affixes tangible personal property upon real property pursuant to a construction or performance-type contract with or for the benefit of the owner of such real property, the sales price shall be the cost of such property to the manufacturer, producer or contractor performing the contract."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 116

**CHAPTER 72**

AN ACT TO REPEAL G.S. 105-35 WHICH IMPOSES A STATE LICENSE TAX ON TRAVELING THEATRICAL COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-35 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of February, 1979.

## H. B. 21

**CHAPTER 73**

AN ACT TO AMEND CHAPTER 43 OF THE GENERAL STATUTES TO REQUIRE THAT THE STATE OF NORTH CAROLINA BE MADE A PARTY TO ALL TORRENS ACTIONS AND TO PROVIDE THAT SUCH ACTIONS SHALL NOT BE BINDING ON THE STATE OR ITS AGENCIES UNLESS THE STATE IS MADE A PARTY TO THE ACTION AND PROPERLY SERVED.

*The General Assembly of North Carolina enacts:*



**Section 1.** G.S. 43-8 is hereby amended by adding a new paragraph at the end thereof to read as follows:

“Except when the State of North Carolina is the petitioner, all special proceedings filed pursuant to this Article shall name the State of North Carolina as a respondent to the action. Service of process upon the State shall be made in accordance with G.S. 1A-1, Rule 4(j)(3).”

**Sec. 2.** The next to last sentence of G.S. 43-12 which presently reads “Such decrees shall not be binding on and include the State of North Carolina or the State Board of Education unless notice of said proceeding and copy of petition, etc., as provided in this Chapter, are served on the Governor and on the State Board of Education severally and personally.”, is amended to read as follows:

“Notwithstanding the provisions of G.S. 43-10, such decrees shall not be binding on and include the State of North Carolina or any of its agencies unless the State of North Carolina is made a party to the proceeding and notice of said proceeding and copy of petition, etc., are served upon the State of North Carolina as provided in this Chapter.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1979.

## H. B. 106

## CHAPTER 74

AN ACT TO AMEND G.S. 105-53 TO REQUIRE OPERATORS OF FLEA MARKETS TO PAY THE STATE LICENSE TAX FOR ITINERANT SALESMEN OR MERCHANTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-53 is amended by adding a new paragraph after the first paragraph of subsection (d) to read as follows:

“Any person, firm, or corporation which operates a flea market at which any itinerant salesman or merchant exposes for sale any goods, wares, or merchandise shall apply for in advance and procure a State license from the Secretary of Revenue and shall pay for such license a tax of one hundred dollars (\$100.00) for each county in which such a flea market is operated. No itinerant salesman or merchant shall be required to procure or pay for a separate license under this section to offer merchandise for sale only at a flea market already licensed under this paragraph.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 22nd of February, 1979.

## H. B. 148

## CHAPTER 75

AN ACT TO ALLOW THE SURVIVING SPOUSE OF A DECEDENT TO ELECT TO TAKE THE DEPENDENT'S INHERITANCE TAX EXEMPTIONS IF THE SPOUSE RECEIVES SEVENTY-FIVE PERCENT OR MORE OF THE DECEDENT'S PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-4(b), as the same appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes, is hereby amended by striking out the phrase "all or substantially all" in lines 20 and 21 of that subsection and substituting the phrase "seventy-five percent or more of" therefor.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 22nd day of February, 1979.

## S. B. 52

## CHAPTER 76

AN ACT TO AMEND G.S. 20-183.9 RELATING TO PERMANENT WEIGHING STATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-183.9 is hereby amended by striking the figure "12" appearing in line 3 thereof immediately after the word "than" and immediately before the word "permanent" and inserting in lieu thereof the figure "13".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

## S. B. 84

## CHAPTER 77

AN ACT TO AMEND G.S. 20-183.2 RELATING TO AUTO SAFETY INSPECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-183.2(b) is hereby amended by adding a new subdivision to be numbered subdivision (7) and to read as follows:

"(7) Vehicles which are base plated in North Carolina under the International Registration Plan but which are stationed in another jurisdiction shall be permitted to operate in North Carolina on their initial trip into North Carolina without displaying a valid inspection certificate."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

H. B. 205

**CHAPTER 78**

AN ACT TO AUTHORIZE THE TOWN OF YAUPON BEACH TO CONVEY  
A CERTAIN TRACT OF LAND WITHOUT CONSIDERATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding any other provision of law to the contrary, the Town of Yaupon Beach is authorized to convey, by private negotiation, either with or without monetary consideration, to the Yaupon Beach Volunteer Fire Department, Incorporated, that certain tract of land described as Lots 5, 6 and 7, Block GG, Yaupon Beach, according to a plat recorded in Map Book 4, at Page 40, Brunswick County Registry.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

H. B. 272

**CHAPTER 79**

AN ACT TO APPOINT A MEMBER TO THE BOARD OF EDUCATION FOR  
THE WHITEVILLE CITY SCHOOL ADMINISTRATIVE UNIT TO FILL  
AN UNEXPIRED TERM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Pursuant to Chapter 172 of the 1977 Session Laws, Clyde Williams is hereby appointed to the Board of Education for the Whiteville City School Administrative Unit to fill the unexpired term of Billy Hooks, which will expire on the first Monday in April, 1979.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

H. B. 285

**CHAPTER 80**

AN ACT TO PROVIDE FOR THE APPOINTMENT AND ELECTION OF A  
MEMBER OF THE GATES COUNTY BOARD OF EDUCATION TO  
CORRECT THE FAILURE TO HOLD AN ELECTION IN 1978 FOR THE  
GATESVILLE SCHOOL DISTRICT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Whereas there was an oversight and failure to elect a candidate for the Gatesville School District seat on the Gates County Board of Education in 1978, the General Assembly does hereby appoint Pennie P. Battle to the Gates County Board of Education for the Gatesville School District seat and she shall serve until the regular election in 1980, and until her successor is elected and qualified.

At the election to be held in 1980, a successor shall be elected for the said seat for the Gatesville School District, and the person elected shall serve for a term of two years, and until a successor is elected and qualified.

At the regular election in 1982 and thereafter, the person elected for the Gatesville School District seat shall be elected for a term of four years.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

H. B. 287

## CHAPTER 81

AN ACT AUTHORIZING JOINT ACTIVITY BY THE CITY OF ASHEVILLE WITH PRIVATE BUSINESS CONTRACTS WITH PRIVATE DEVELOPERS TO REDEVELOP LAND IN ADVANCE OF ITS ACQUISITION, AND DISPOSITION OF PROPERTY AT PRIVATE SALE, TO FURTHER THE PURPOSES OF URBAN DEVELOPMENT ACTION GRANTS.

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 severely distressed cities which require increased public assistance and private investment to alleviate physical and economic deterioration; and

Whereas, assistance will be made available for economic revitalization in competing communities throughout this nation with population outmigration or stagnating or declining tax base, and for reclamation of neighborhoods, having excessive housing abandonment or deterioration under this federal program; and

Whereas, the regulations promulgated by the Department of Housing and Urban Development (HUD) for applications require evidence of commitment of both public and private resources which will be available for completing the project; and

Whereas, among the factors to be considered by HUD in funding such projects is whether the private commitment is more firm than for other projects being considered and whether such commitments are legally binding under State and local law (24 CFR 570 G); and

Whereas, the following is enacted for the purpose of enhancing the chances of the city of Asheville in competition with other applicants seeking such funds; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-457, as the same appears in the 1977 Cumulative Supplement to Volume 3D, is amended by deleting the word "and" at the end of the subdivision (2) and adding the following new subsections at the end to read as follows:

"(4) To enter into contracts or agreements with any person, association or corporation to undertake and carry out specified activities in further-ance of the purposes of urban development action grants authorized by the Housing and Community Development Act of 1977 (P.L. 95-128). Such contracts may be negotiated and entered into prior to the actual acquisition or redevelopment of any real property obtained for the purposes authorized by this Part, and such contracts shall be binding legal commitments for accomplishing the purposes set forth therein; and

(5) In addition to the powers granted in subsection (3) above, to convey at private sale to any person, firm, corporation, or governmental unit particular properties with a redevelopment area where it finds the proposed redeveloper is the only known available, qualified and willing redeveloper for the contemplated use and makes one or more of the following findings, which said findings shall be verified and approved by the governing body of the municipality after a public hearing, notice of which shall be given once a week



for two successive calendar weeks in a newspaper published in the municipality and by posting such notice at four public places in the municipality, said notice to be published the first time, or posted, not less than 15 days prior to the date fixed for said hearing:

(a) That the proposed use or redevelopment is necessary in order to facilitate the relocation of persons or firms displaced by an urban development action grant project or other governmental action;

(b) That the proposed use or redevelopment is reasonably necessary in order to assure development which will have the desired beneficial effect upon neighboring property, the project area, and the community as a whole, as contemplated by the redevelopment plan;

(c) That the proposed use or redevelopment will assure that the property will not remain unused for an unduly long period and will result in a return to the local ad valorem tax rolls at a substantially earlier date than uses or redevelopments obtainable by other methods of disposition.

Such conveyance shall be for such consideration as may be agreed upon by the city and the redeveloper and approved by the governing body of the municipality, 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. All conveyances made under the authority of this subsection shall contain restrictive covenants limiting the use of the property so conveyed to the designated purpose for which the conveyance is made, provided, that the disposition of property at private sale as authorized in subsection (5) shall be expressly limited to property used in connection with urban development action grants and for no other purpose under this Part."

**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 the act.

**Sec. 3.** This act shall apply only to the City of Asheville, North Carolina.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

## H. B. 310

## CHAPTER 82

### AN ACT TO PROVIDE FOR THE ELECTION OF THE MAYOR AND BOARD OF COMMISSIONERS OF THE TOWN OF EVERETTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** At the regular municipal election in 1979 and biennially thereafter, the voters of the Town of Everetts shall elect, for two year terms, three commissioners and a mayor.

**Sec. 2.** The Board of Commissioners of the Town of Everetts shall consist of three members.

**Sec. 3.** Elections in the Town of Everetts shall be conducted under the nonpartisan plurality method and the results determined as provided in G.S. 163-292.

**Sec. 4.** Sections 3 and 4 of Chapter 321, Private Laws of 1893 are repealed.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

## H. B. 311

## CHAPTER 83

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF BELVILLE, BRUNSWICK 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 Belville shall call a special 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 Brunswick 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 shall not be necessary, and all qualified voters who are properly registered prior to registration for the election and those who register for the election shall be 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 Belville.

**Sec. 3.** There shall be submitted to the qualified voters of the Town of Belville 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 such stores shall be set up or operated in the Town of Belville 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 Belville 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 Belville 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 Belville Board of Alcoholic Beverage Control. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Belville 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 Belville to be used for any and all purposes for which tax and non-tax revenues may be expended by the town. The Town Council shall expend a sum not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics. The Town Council may expend the remaining net profits for any authorized purpose.

**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 Belville. Thereafter, all public, local, and private laws applicable to the sale of intoxicating beverages within the Town of Belville, 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 Belville 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 number of registered voters in the town that voted in the election for the governing body of the town in the last election, 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 23rd day of February, 1979.

## H. B. 313

## CHAPTER 84

### AN ACT TO MAKE YOM KIPPUR A PUBLIC HOLIDAY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 103-4 is amended by renumbering existing subdivisions (11) through (15) as (12) through (16), respectively, and adding a new subdivision (11) to read:

“(11) Yom Kippur.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

## H. B. 117

## CHAPTER 85

### AN ACT TO REPEAL G.S. 105-101 WHICH IMPOSES A TAX ON THOSE REQUESTING OFFICIAL SEALS ON DOCUMENTS; AND TO AMEND THOSE PROVISIONS AUTHORIZING THE SECRETARY OF STATE TO CHARGE FEES FOR PRODUCING COPIES OF DOCUMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-101 is repealed.

**Sec. 2.** G.S. 147-37 is rewritten to read as follows:

“§ 147-37. *Secretary of State, fees to be collected.*—When no other charge is provided by law, the Secretary of State shall collect such fees for copying any document or record on file in his office which in his discretion bears a reasonable relation to the quantity of copies supplied and the cost of purchasing or leasing and maintaining copying equipment. These fees may be changed from time to time, but a schedule of fees shall be available on request at all times. In addition to copying charges, the Secretary of State shall collect a fee of two dollars (\$2.00) for certifying any document or record on file in his office or for issuing any certificate as to the facts shown by the records on file in his office.”

**Sec. 3.** G.S. 147-38 is repealed.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 23rd day of February, 1979.

## H. B. 214

## CHAPTER 86

### AN ACT TO ALLOW A SOLE PROPRIETOR OR A PARTNER, WHO HAS EMPLOYEES, TO ELECT COVERAGE FOR HIMSELF UNDER THE WORKMEN'S COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-2 is amended by adding the following language at the end of subdivision (2):

“Any sole proprietor or partner of a business whose employees are eligible for benefits under this Article may elect to be included as an employee under the workmen's compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so

included. Any such sole proprietor or partner shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## H. B. 249

## CHAPTER 87

### AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY RIDGE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Holly Ridge is hereby revised and consolidated to read as follows:

#### “THE CHARTER OF THE TOWN OF HOLLY RIDGE.

##### “ARTICLE I.

#### “INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

“Section 1.1. Incorporation. The Town of Holly Ridge, North Carolina in the County of Onslow, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the ‘Town of Holly Ridge’, hereinafter at times referred to as the ‘town’.

“Sec. 1.2. Powers. The Town of Holly Ridge 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 Holly Ridge 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 Holly Ridge shall be those existing at the time of ratification of this charter, as the same are set forth in the original charter and local acts amending same, and on the official map of the town, as the same may be altered from time to time in accordance with the 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.

Sections 1.4 through 1.10 (Reserved.)

##### “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. Board of Commissioners; composition; 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 they shall serve until their successors are elected and qualified.

“Sec. 2.3. Selection of the Mayor; term of office; duties. The mayor shall be elected directly by the voters of the town in the manner provided by Article III

of this charter, for a term of two years; provided, the mayor shall serve until his successor is elected and qualified. The mayor shall be the official head of the town government and shall preside at all meetings of the board of commissioners. He shall have the right to vote only if there is an equal number of votes in the affirmative and the negative on any matter before the board. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him 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 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.

“Sec. 2.5. Meetings of the board. In accordance with the General Statutes, the 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 ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clause of all town ordinances shall be: ‘Be it ordained by the Board of Commissioners of the Town of Holly Ridge’.

“Sec. 2.7. Voting requirements; quorum. Official action of the 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 for any elective office, and the qualifications of board members shall be in accordance with applicable provisions of the General Statutes.

Sections 2.9 through 2.15. (Reserved.)

### “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 board of commissioners shall be elected according to the nonpartisan plurality method of elections as set forth in G.S. 163-279(a)(1) and the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

“Sec. 3.2. Election of the mayor and board of commissioners. At the regular municipal elections in 1979 and biennially thereafter, there shall be elected a mayor and five commissioners to fill the seats of those officers whose terms are then expiring.

Sections 3.3 through 3.10. (Reserved.)

### “ARTICLE IV.



**“ORGANIZATION AND ADMINISTRATION.**

“Sec. 4.1. Form of government. 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. 4.2. 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. It shall be the duty of the town attorney to prosecute and 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 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 board of commissioners; and to perform other duties required by law or as the board of commissioners may direct.

“Sec. 4.3. Town clerk. The board of commissioners 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 other duties required by law or as the board of commissioners may direct.

“Sec. 4.4. Town finance officer. The board of commissioners shall appoint a town finance officer to perform the duties of the finance officer as required by the Local Government Finance Act, N.C.G.S. 159-24.

“Sec. 4.5. Town budget officer. The board of commissioners shall appoint a town budget officer to perform the duties of the budget officer as required by the Local Government Finance Act, N.C.G.S. 159-9.

“Sec. 4.6. Town tax collector. The board of commissioners shall appoint a town tax collector to collect all taxes, licenses, fees, and other monies belonging 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 by municipalities, N.C.G.S. 105-349.

“Sec. 4.7. Consolidation of functions. The board of commissioners may consolidate any two or more positions of town clerk, town tax collector, town budget officer 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 Finance Act, N.C.G.S. 159-1, et. seq.

“Sec. 4.8. Other administrative officers and employees. Consistent with applicable State laws, the board of commissioners may establish 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.

Sections 4.9 through 4.15. (Reserved.)

**“ARTICLE V.****“SPECIAL PROVISIONS.**

“Sec. 5.1. Street improvements; 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 commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of Sections 5.1 through 5.6 herein.



“Sec. 5.2. When petition unnecessary. 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:

- (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 improvement standards established by the town's street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

“Sec. 5.3. 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. 5.4. 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 commissioners 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.

“Sec. 5.5. Assessment procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the board of 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. 5.6. 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.”

Sections 5.7 through 5.15. (Reserved.)

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Holly Ridge 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 Holly Ridge;

(b) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

**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):

(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. 5.** 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. 6.** (a) All existing ordinances and resolutions of the Town of Holly Ridge and all existing rules or regulations of departments or agencies of the Town of Holly Ridge 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 Holly Ridge or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**Sec. 7.** 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. 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 to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

**Sec. 9.** All laws and clauses of laws in conflict with the provision of this act are hereby repealed.

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## H. B. 260

## CHAPTER 88

## AN ACT TO ABOLISH THE DOCTRINE OF WORTHIER TITLE IN ALL OF ITS FORMS 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 thereto a new section to read as follows:

“§ 41-6.2. *Doctrine of worthier title abolished.*—(a) The law of this State does not include: (1) the common-law rule of worthier title that a grantor or testator cannot convey or devise an interest to his own heirs, or (2) a presumption or rule of interpretation that a grantor or testator does not intend, by a grant, devise or bequest to his own heirs or next of kin, to transfer an interest to them. The meaning of a grant, devise or bequest of a legal or equitable interest to a grantor's or testator's own heirs or next of kin, however designated, shall be determined by the general rules applicable to the interpretation of grants or wills.

(b) Subdivision (a)(1) of this section shall apply to all revocable trusts in existence as of the effective date of this section and to all instruments, including revocable trusts, becoming effective after the effective date of this section, and subdivision (a)(2) of this section shall apply to all instruments in existence as of the effective date of this Article and to all instruments becoming effective after the effective date of this section. If the application of this section to any instrument is held invalid, its application to other instruments to which it may validly be applied shall not be affected thereby.”

**Sec. 2.** G.S. 28A-1-2 is hereby repealed.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## H. B. 268

## CHAPTER 89

## AN ACT TO AMEND CHAPTER 126, SESSION LAWS OF 1963, RELATING TO ELECTIONS FOR THE HAYWOOD COUNTY SCHOOL SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 126, Session Laws of 1963, as amended by Chapter 22, Session Laws of 1977, is amended by rewriting the last two sentences of the section, beginning with the words “All candidates for membership” to read:

“All candidates for membership of the consolidated school system for the various districts shall file a notice of such candidacy no earlier than the first Monday in July, and no later than 12:00 noon on the third Friday in August preceding the general election and each candidate shall pay a filing fee of ten dollars (\$10.00) and shall certify in writing the election district for which he is filing and that he is a bona fide resident and qualified voter thereof. The election of members for the consolidated school system shall be held, conducted and supervised by the Haywood County Board of Elections and, except as otherwise provided herein, such election shall be held in accordance with the laws and regulations for the election of county officers. Absentee ballots shall be permitted in the election.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## H. B. 269

## CHAPTER 90

AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF BUNCOMBE COUNTY TO APPROPRIATE FOR THE USE OF ELIADA HOME FOR CHILDREN IN BUNCOMBE COUNTY A SUM NOT IN EXCESS OF TWENTY THOUSAND DOLLARS (\$20,000) PER YEAR.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of County Commissioners of Buncombe County is hereby authorized and empowered to appropriate and pay to the Eliada Home for Children in Buncombe County a sum which shall not be in excess of twenty thousand dollars (\$20,000) per year.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## H. B. 335

## CHAPTER 91

AN ACT TO PERMIT THE CHIEF EXECUTIVE OFFICER OF A CORPORATION TO SIGN SHARE CERTIFICATES IN LIEU OF THE CORPORATION'S PRESIDENT OR VICE-PRESIDENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55-57(b) is amended in its third line by inserting after the word "corporation" and before the word "and," the words "or a person who has been designated as the chief executive officer of the corporation."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## S. B. 17

## CHAPTER 92

AN ACT TO AMEND ARTICLE 10B OF CHAPTER 113 OF THE GENERAL STATUTES TO FURTHER LIMIT THE LIABILITY OF LANDOWNERS TO AUTHORIZED USER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-120.5, as the same appears in the 1978 replacement to Volume 3A, Part II, is hereby amended by adding after the word "use" and before the word "upon" on line 3 thereof the following phrase: "or to collect, gather, cut or remove forest products".

**Sec. 2.** G.S. 113-120.6, as the same appears in the 1978 replacement to Volume 3A, Part II, is hereby amended by adding after the word "use" and before the word "was" on line 5 the words "or to collect, gather, cut, or remove forest products,"; and by adding after the word "use" and before the word "was" on line 8 the words "or to collect, gather, cut or remove forest products".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.



## S. B. 201

## CHAPTER 93

## AN ACT TO AMEND G.S. 20-49(8) RELATING TO INVESTIGATIONS OF MOTOR VEHICLE THEFTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-49(8) is hereby amended by deleting the period and adding the following to the end thereof:  
“and make arrest for thefts thereof.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## S. B. 202

## CHAPTER 94

## AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF REIDSVILLE AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE CITY OF REIDSVILLE.

*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 Reidsville 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 Reidsville 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 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 City of Reidsville shall:

(1) Prior to January 1 in each calendar year, transfer to the Supplemental Retirement Fund funds belonging to the Firemen's Relief Fund in an amount sufficient to pay supplemental retirement benefits in accordance with Section 3 of this act and any expenses related to the administration of the Supplemental Retirement Fund; provided, however, that the amount of funds in the Firemen's Relief Fund shall not be less than fifty thousand dollars (\$50,000) after said transfer.

(2) As soon as practical after January 1 of each year, but in no event later than July 1, divide 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. (a) Each retired fireman of the city whether volunteer or paid, who has previously retired with 20 years service, or more, as a fireman of the City of Reidsville shall be entitled to and shall receive in each calendar year following the calendar year in which he retires the following supplemental retirement benefits: (1) retired full-time fireman, one share for each full year of service as a fireman of the City of Reidsville; (2) retired volunteer fireman, one-half of one share for each full year of service as a volunteer fireman of the City of Reidsville; provided, in no event



shall any retired full-time fireman be entitled to or receive in any year an annual supplemental retirement benefit in excess of eight hundred dollars (\$800.00), and in no event shall any retired volunteer fireman be entitled to or receive in any year an annual supplemental retirement benefit in excess of four hundred dollars (\$400.00).

(b) Any former fireman of the city who is not otherwise entitled to supplemental retirement benefits under 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:

- (1) 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
- (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 such 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, 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; 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 subsequent calendar years.

**Sec. 4.** Investment of funds. The board of trustees is hereby authorized to 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 is hereby directed to invest all of the funds belonging to the Supplemental Retirement Fund in one or more such investments; provided, that 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 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 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 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 is hereby authorized to pay the premiums for the bond of the treasurer from the Supplemental Retirement Fund.

**Sec. 7.** Administrative costs. The board of trustees shall pay from the Local Firemen's Relief Fund the cost of each annual audit and all other necessary expenses incurred in the administration of the fund.

**Sec. 8.** City authorized to make payment. The governing body of the City of Reidsville is hereby authorized and may at its discretion make appropriations and disburse funds to the Supplemental Retirement Fund.

**Sec. 9.** Purpose of act. The purpose of this act is to revise and consolidate certain acts concerning the establishment and operation of a supplemental retirement fund for the firemen of the City of Reidsville and to modify the application of G.S. 118-5, G.S. 118-6, and G.S. 118-7 to the City of Reidsville. 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. 10.** Acts repealed. 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 412, Session Laws of 1969

Chapter 168, Session Laws of 1973

Chapter 1159, Session Laws of 1973.

**Sec. 11.** Rights not affected. 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. 12.** Severability. If any provision of this act 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 act are declared to be severable.

**Sec. 13.** Repealer. All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 14.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1979.

## S. B. 145

## CHAPTER 95

AN ACT TO AMEND THE VITAL STATISTICS LAW REGARDING  
FETAL DEATH REGISTRATION AND BIRTH REGISTRATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-43 is rewritten to read:

“§ 130-43. *Fetal death registration.*—(a) Each spontaneous fetal death occurring in the State of 20 completed weeks gestation or more, as calculated from the first day of the last normal menstrual period until the day of delivery, shall be reported within five days after delivery to the local registrar of the registration district in which the delivery occurred. The report shall be made on a form prescribed and furnished by the State registrar.

(b) When fetal death occurs in a hospital or other medical facility, the person in charge of the facility or his designated representative shall obtain the cause of fetal death and other required medical information over the signature of the attending physician, and shall prepare and file the report with the local registrar.

(c) When a fetal death occurs outside of a hospital or other medical facility, the physician in attendance at or immediately after the delivery shall prepare and file the report. When a fetal death is attended by a physician's assistant or a certified nurse-midwife, the supervising physician shall prepare and file the report. Fetal deaths attended by all other persons shall be treated as deaths without medical attendance as provided for in G.S. 130-46 and the medical examiner shall prepare and file the report.”

**Sec. 2.** G.S. 130-46 is amended by rewriting subsection (c) to read:

“(c) The medical certification shall be completed and signed by the physician in charge of the patient's care for the illness or condition which resulted in death, except when the death falls within the circumstances described in G.S. 130-198. In the absence of the physician or with his approval, the certificate may be completed and signed by an associate physician, the chief medical officer of the hospital or facility in which the death occurred, or a physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the deceased and views the deceased at or after death, and provided further that death is due to natural causes. Indefinite and unsatisfactory terms denoting only symptoms of disease or conditions resulting from disease, will not be held sufficient as a cause of death, and any certificate containing any such indefinite or unsatisfactory terms, as defined by the State registrar, shall be returned to the person making the medical certificate for correction and more definite statement.”

**Sec. 3.** G.S. 130-46 is further amended by rewriting the first sentence of paragraph (d) to read:

“It shall be the duty of the physician or medical examiner making the medical certification as to the cause of death to complete the medical certification no more than three days after death.”

**Sec. 4.** G.S. 130-50 is rewritten to read:

“§ 130-50. *Birth registration.*—(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the district in which the birth occurs within five days after such birth and shall be registered by such registrar if it has been completed and

filed in accordance with this section. Such certificate shall be on the form adopted and furnished by the State registrar.

(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate, and file it with the local registrar. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth within five days after the birth. If the physician or other person in attendance does not certify to the facts of birth within the five-day period, the person in charge of the facility may complete and sign the certificate.

(c) When a birth occurs outside a hospital or other medical facility, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) the physician in attendance at or immediately after the birth, or in the absence of such a person,
- (2) any other person in attendance at or immediately after the birth, or in the absence of such a person,
- (3) the father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(d) When a birth occurs on a moving conveyance and the child is first removed from the conveyance in this State, the birth shall be registered in the registration district where the child is first removed from the conveyance, and such place shall be considered the place of birth.

(e) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child and the surname of the child shall be the same as that of the husband, unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.

(f) If the mother was not married at the time of either conception or birth or between conception and birth, the name of the father shall not be entered on the certificate without the written consent, under oath, of both the father and the mother, in which case, upon written request of both parents, the surname of the child shall be entered on the certificate as that of the father. In all other cases a child born out of wedlock shall take the same surname as that of the mother."

**Sec. 5.** G.S. 130-51 is amended by substituting the words "one year" wherever the words "four years" appear in both the title and the body of the section.

**Sec. 6.** G.S. 130-52 is amended by substituting the words "one year" wherever the words "four years" appear in both the title and the body of the section.

**Sec. 7.** G.S. 130-54 is rewritten to read:

"§ 130-54. *Contents of birth certificate.*—The certificate of birth shall contain, as a minimum, those items recommended by the federal agency responsible for national vital statistics, except as the same may be amended or charged by the State registrar. Information contained in certificates or reports



authorized by this Article may be filed and registered by photographic, electronic or other means as prescribed by the State registrar.”

**Sec. 8.** G.S. 130-56 is rewritten to read:

“§ 130-56. *Persons required to keep records.*—(a) All persons in charge of hospitals or other institutions, public or private, to which persons resort for treatment of diseases or confinement, or to which persons are committed by process of law, shall make a record of personal data concerning each person admitted or confined to such institution. The record shall include such information as required for the certificates of birth and death and the reports of spontaneous fetal death required by this Article. The record shall be made at the time of admission from information provided by the person being admitted or confined, but when it cannot be so obtained, the information shall be obtained from relatives or other persons acquainted with the facts.

(b) When a dead body or dead fetus of 20 weeks gestation or more is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the decedent, date of death, name and address of the person to whom the body or fetus is released, and the date of removal from the institution. If final disposition is made by the institution, the date, place, and manner of disposition shall also be recorded.

(c) A funeral director, embalmer, or other person who removes from the place of death, transports or makes final disposition of a dead body or fetus, in addition to filing any certificate or other report required by this Article or regulations promulgated hereunder, shall keep a record which shall identify the body, and such information pertaining to the receipt, removal, delivery, burial, or cremation of such body as may be required by the State registrar.

(d) Records maintained under this section shall be retained for a period of not less than three years and shall be made available for inspection by the State registrar or his representative upon demand.”

**Sec. 9.** G.S. 130-63(b) is amended to read:

“(b) The State Registrar shall furnish to the register of deeds upon request a copy of each birth and death certificate regarding a resident of such register’s county which was filed in a county other than the county of residence; provided that such copy shall not be furnished in the case of a child born out of wedlock. Such copies shall be forwarded within 90 days, through the local health department, to the register of deeds of the county of residence.”

**Sec. 10.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of February, 1979.

## S. B. 191

## CHAPTER 96

### AN ACT TO REMOVE THE INTEREST RATE CEILING ON RESIDENTIAL LOANS MADE BY STOCK-OWNED SAVINGS AND LOAN ASSOCIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4 of Chapter 54A of the North Carolina General Statutes is amended by rewriting the title of the Article to read as follows: “Deposits.”

**Sec. 2.** G.S. 54A-26 is repealed.

**Sec. 3.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 27th day of February, 1979.

H. B. 74

**CHAPTER 97**

AN ACT TO AMEND UNIFORM LIMITED PARTNERSHIP ACT TO CLARIFY THE MEANING OF THE WORD "PERSONS"

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 59-1, as the same appears in the 1975 Replacement Volume 2B, is hereby amended on line 2 by deleting the word "persons" and inserting in lieu thereof the words "individuals, partnerships, corporations or other associations".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1979.

S. B. 143

**CHAPTER 98**

AN ACT TO REQUIRE THAT PLANS FOR PUBLIC WATER SUPPLY SYSTEMS AND SOME SEWER SYSTEMS BE APPROVED BY THE DEPARTMENT OF HUMAN RESOURCES RATHER THAN THE COMMISSION FOR HEALTH SERVICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-161.1(b)(4), G.S. 130-161.1(c) and G.S. 130-165 are each amended by deleting the words "Commission for Health Services" and inserting in lieu thereof the words "Department of Human Resources".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1979.

H. B. 181

**CHAPTER 99**

AN ACT TO REPEAL G.S. 20-46 RELATING TO THE DISTRIBUTION OF SYNOPSIS OF MOTOR VEHICLE LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-46 is hereby repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1979.

## H. B. 261

## CHAPTER 100

AN ACT TO AUTHORIZE THE SALE OF THE REAL PROPERTY OF AN ABANDONED INCOMPETENT SPOUSE WITHOUT THE JOINDER OF THE ABANDONING SPOUSE AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3 of Chapter 35 is hereby amended by adding a new section thereto to read as follows:

“§ 35-10.1. *Abandoned incompetent spouse.*—(a) A guardian of a married person found incompetent who has been abandoned, whether the guardian was appointed before or after the abandonment, may initiate a special proceeding before a clerk of superior court requesting the issuance of an order authorizing the sale of the ward's separate real property without the joinder of the abandoning spouse.

(b) The special proceeding shall be brought before a clerk of superior court having jurisdiction over the ward under the provisions of G.S. 35-1.8.

(c) The ward's spouse shall be served with notice of the special proceeding in accordance with G.S. 1A-1, Rule 4.

(d) If the clerk finds:

(1) that the spouse of the ward has willfully and without just cause abandoned the ward for a period of more than one year; and

(2) that the spouse of the ward has knowledge of the guardianship, or that the guardian has made a reasonable attempt to notify the spouse of the guardianship; and

(3) that an order authorizing the sale of the separate real property of the ward is in the best interest of the ward,

the clerk may issue such an order thereby barring the abandoning spouse from all right, title and interest in any of the ward's separate real property sold pursuant to such an order.”

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of March, 1979.

## H. B. 7

## CHAPTER 101

AN ACT TO MAKE A LIMITED LEARNER'S PERMIT VALID FOR SIX MONTHS OR UNTIL THE APPLICANT ATTAINS THE AGE OF 16.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (b) of G.S. 20-11, as the same appears in the 1978 Replacement to Volume 1C of the General Statutes, is amended by deleting the second sentence and replacing it with the following:

“The limited learner's permit shall entitle the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways while accompanied by a parent, guardian, or other person approved by the Division, who is licensed under this Chapter to operate a motor vehicle and who is actually occupying a seat beside the driver. The limited learner's permit shall be valid for six months or until the applicant attains the age of 16, whichever period is greater.”

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 2nd day of March, 1979.

H. B. 228

**CHAPTER 102**

AN ACT TO AMEND CHAPTER 159B OF THE GENERAL STATUTES TO AUTHORIZE MUNICIPALITIES WHICH ARE MEMBERS OF A JOINT MUNICIPAL POWER AGENCY TO APPOINT AN ALTERNATE COMMISSIONER TO THE POWER AGENCY TO ACT IN LIEU OF THEIR REGULARLY APPOINTED COMMISSIONER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159B-9(c) is amended by adding at the end the following:

“The governing boards of the municipalities may appoint one alternate commissioner to act in lieu of its appointed commissioner when the appointed commissioner is unable for any reason to attend meetings of the board of commissioners or any committee thereof. Each alternate commissioner shall serve at the pleasure of the governing board by which he is appointed and shall take, subscribe to and file an oath in the same manner as prescribed for regularly appointed commissioners. Such alternate commissioner when acting in lieu of the regularly appointed commissioner shall be deemed to be the commissioner of such municipality, and shall have the rights, powers and authority of the regularly appointed Commissioner, including any committee function of said commissioner, other than such commissioner's position as an officer pursuant to paragraph (d) of this G.S. 159B-9.”

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

In the General Assembly read three times and ratified, this the 2nd of March, 1979.

S. B. 21

**CHAPTER 103**

AN ACT TO AMEND CHAPTER 105 TO REQUIRE THE INCLUSION OF A TAXPAYER'S SOCIAL SECURITY NUMBER OR FEDERAL TAX IDENTIFICATION NUMBER AS WELL AS THE TAXPAYER'S FULL NAME FOR THE PURPOSES OF IDENTIFICATION WITH REGARD TO LEVYING FOR DELINQUENT TAXES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-242(b) as it appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended by rewriting line 30 to read as follows:

“(1) The name of the taxpayer, and if known his Social Security number or federal tax identification number and his address;”.

**Sec. 2.** G.S. 105-242(b) as it appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes is further amended by deleting the eighth line of the last paragraph and substituting in lieu thereof the following:

“the head or chief fiscal officer of the department, agency, instrumentality or”.

**Sec. 3.** G.S. 105-368(b) is hereby amended by rewriting line 10 to read as follows:

“(1) The name of the taxpayer, and if known his Social Security number or federal tax identification number and his address.”

## CHAPTER 103                      Session Laws—1979

**Sec. 4.** G.S. 105-368(h) is hereby amended by deleting the fifth line and substituting in lieu thereof the following:

“shall be served upon him and upon the head or chief fiscal officer of the department.”

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1979.

## S. B. 86                                      CHAPTER 104

AN ACT TO MAKE A TECHNICAL CHANGE IN THE PROVISIONS OF  
G.S. 20-4.20.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-4.20(c) is hereby amended by deleting therefrom the word “shall” and inserting in lieu thereof the word “may”.

**Sec. 2.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 2nd day of March, 1979.

## S. B. 250                                      CHAPTER 105

AN ACT TO MAKE GENERAL STATUTES CHAPTER 90, ARTICLE 1C,  
RELATING TO PHYSICIANS AND HOSPITAL REPORTS, APPLY TO  
CABARRUS COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-21.21 is amended by inserting in line 2 immediately following the word “Buncombe,” the word “Cabarrus,”.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 2nd day of March, 1979.

## H. B. 82                                      CHAPTER 106

AN ACT TO AMEND G.S. 20-67 RELATING TO NOTICE TO THE  
DIVISION OF MOTOR VEHICLES OF CHANGE OF ADDRESS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-67(a) is hereby amended by striking the figure “10” appearing in line 5 and inserting in lieu thereof the figure “30”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1979.

## H. B. 265

## CHAPTER 107

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. 15A-711(a) as the same appears in Volume 1C of the General Statutes is amended on line 4 by deleting the word “solicitor” and inserting in lieu thereof the word “prosecutor”.

**Sec. 2.** G.S. 29-16(b)(4) as the same appears in Volume 2A of the General Statutes is rewritten to read as follows:

“(4) Great-grandnephews and great-grandnieces.—To determine the share of each surviving child of a deceased grandnephew or grandniece of the intestate, divide equally among the great-grandnephews and great-grandnieces of the intestate any property not taken under the preceding subdivisions of this subsection.”

**Sec. 3.** G.S. 29-16(c)(3) as the same appears in Volume 2A of the General Statutes is rewritten to read as follows:

“(3) Grandchildren of uncles and aunts.—To determine the share of each surviving child of a deceased child of a deceased uncle or aunt of the intestate, divide equally among the grandchildren of uncles or aunts of the intestate any property not taken under the preceding subdivisions of this subsection.”

**Sec. 4.** G.S. 31-18.1(a)(2)d. as the same appears in the 1977 Cumulative Supplement to Volume 2A is amended by deleting the period at the end thereof and adding the punctuation and word “;or”, and; G.S. 31-18.1(a)(3)b. as the same appears in the 1977 Cumulative Supplement to Volume 2A is amended by deleting the period at the end thereof and adding the punctuation and word “;or”.

**Sec. 5.** G.S. 31A-14 as the same appears in Volume 2A of the General Statutes is amended by deleting the words and numbers “G.S. 28-161.1 through G.S. 28-161.7” and inserting in lieu thereof the words and numbers “G.S. 28A-24-1 through G.S. 28A-24-7”.

**Sec. 6.** G.S. 48-4(e) as the same appears in Volume 2A of the General Statutes is amended on line 3 by deleting the number “21” and inserting in lieu thereof the number “18”.

**Sec. 7.** G.S. 48-5(c) and (d) as the same appear in the 1977 Cumulative Supplement to Volume 2A are amended after the citation to “G.S. 7A-288” by adding the following “or Article 24B of Chapter 7A”.

**Sec. 8.** G.S. 90-8 as the same appears in the 1977 Cumulative Supplement to Volume 2C is amended on line 1 by deleting the word “may” and inserting in lieu thereof the words “are empowered to”.

**Sec. 9.** G.S. 114-2(4) as the same appears in Volume 3A, Part II of the General Statutes is amended by deleting the word “solicitors” and inserting in lieu thereof the word “prosecutors”.

**Sec. 10.** G.S. 143B-183 as the same appears in Volume 3C of the General Statutes is amended in the fifth unnumbered paragraph by deleting the words and figures “G.S. 120-3.1(b) and (c)” and inserting in lieu thereof the citation “G.S. 120-3.1(a)”.



**Sec. 11.** G.S. 143B-479(a)(10) as the same appears in Volume 3C of the General Statutes is amended by deleting the citation "G.S. 143B-339" and inserting in lieu thereof the citation "G.S. 143B-480".

**Sec. 12.** G.S. 160A-234 as the same appears in Volume 3D of the General Statutes is amended in subsection (a) by deleting the words "pro rata by the tenant and the remaindermen after the life estate, or the owner in fee after the expiration of the tenancy for years according to their respective interests in the land calculated as provided in G.S. 37-13" and by inserting in lieu thereof the words "in accordance with G.S. 37-36(b)"; and is further amended by deleting subsection (b).

**Sec. 13.** G.S. 160A-399.8 as the same appears in Volume 3D of the General Statutes is amended on line 6 by deleting the words and figures "G.S. 160-200(1), (2), (4) and (5)" and inserting in lieu thereof the citation "G.S. 160A-11"; and on line 7 by deleting the words and figures "G.S. 153-2(2), (3), and (4) and by G.S. 153-9(13) and (14)" and inserting in lieu thereof the citation "G.S. 153A-11"; and on line 13 by deleting the citation "G.S. 160-200(40)" and inserting in lieu thereof the citation "G.S. 160A-488".

**Sec. 14.** G.S. 163-227.2(a) as the same appears in the Cumulative Supplement to Volume 3D is amended on line 4 by deleting the words and figures "G.S. 163-227(a)(2) or G.S. 163-227(a)(4)" and inserting in lieu thereof the words and figures "G.S. 163-226(a)(2) or G.S. 163-226(a)(4)".

**Sec. 15.** G.S. 163-278.12 as the same appears in Volume 3D of the General Statutes is amended on line one by deleting the citation "G.S. 163-278.16(e)" and inserting in lieu thereof the citation "G.S. 163-278.16(f)".

**Sec. 16.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1979.

## H. B. 57

## CHAPTER 108

### AN ACT TO REVISE THE NUMBER, TERMS, AND NOMINATING AUTHORITY OF MEMBERS OF THE STATE BOARD OF CHIROPRACTIC EXAMINERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-139 is rewritten as follows:

"§ 90-139. *Creation and membership of Board of Examiners.*—The State Board of Chiropractic Examiners is created, to consist of six practicing doctors of chiropractic of integrity and ability, who are residents of this State and who have actively practiced chiropractic in the State for at least the ten consecutive years immediately preceding their appointments. No more than three members of the Board may be graduates of the same college or school of chiropractic. In addition, the Governor shall appoint a seventh member who is not a licensed chiropractor."

**Sec. 2.** G.S. 90-140 is rewritten as follows:

"§ 90-140. *Appointment; term; nomination.*—Each year at the time of the regular annual meeting of the licentiates of the State Board of Chiropractic Examiners, or as soon thereafter as practicable, the Governor shall appoint two members of the Board for terms of three years from a list of not less than five qualified nominees recommended by the licentiates. The Board shall serve as the elections committee of the licentiates in making the nominations. Members

of the Board shall serve until their successors have been appointed and qualified.”

**Sec. 3.** Schedule. As soon as practicable after the ratification of this act, the Governor shall appoint two members to the State Board of Chiropractic Examiners for terms of one year, two members for terms of two years, and two members for terms of three years, and one non-health-related member for a term of four years, all terms to begin at the close of the next regular annual meeting of the licentiates of the Board held after ratification of this act. The terms of Board members serving at the time of ratification of this act shall terminate when the Governor makes the appointments authorized in this section. As the terms of the seven members appointed pursuant to this section expire, successors shall be appointed as provided in Section 2 of this act.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1979.

## H. B. 213

## CHAPTER 109

AN ACT AMENDING CHAPTER 159C OF THE GENERAL STATUTES OF NORTH CAROLINA, AS ENACTED BY CHAPTER 800 OF THE 1975 SESSION LAWS OF NORTH CAROLINA, AS AMENDED, WHICH AUTHORIZES COUNTIES TO CREATE AUTHORITIES TO ISSUE BONDS TO FINANCE INDUSTRIAL AND POLLUTION CONTROL PROJECTS, TO REVISE THE PROVISIONS THEREOF TO PERMIT THE USE OF LOAN AGREEMENTS AND SALE AGREEMENTS IN ADDITION TO LEASE AGREEMENTS, TO PROVIDE THAT ARTICLE 9 OF THE NORTH CAROLINA UNIFORM COMMERCIAL CODE, WHICH RELATES TO SECURED TRANSACTIONS, SHALL APPLY TO TRANSACTIONS UNDER CHAPTER 159C, AND TO PERMIT THE SECRETARY OF THE DEPARTMENT OF COMMERCE TO APPROVE A PROJECT WHERE THE OPERATOR THEREOF PAYS AN AVERAGE WEEKLY MANUFACTURING WAGE NOT LESS THAN TEN PERCENT ABOVE THE AVERAGE WEEKLY MANUFACTURING WAGE PAID IN THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 159C of the General Statutes of North Carolina, enacted as Chapter 159A by Chapter 800 of the 1975 Session Laws of North Carolina, as amended, is hereby further amended as follows:

(a) G.S. 159C-3(6) is hereby amended to read as follows:

“‘Financing agreement’ shall mean a written instrument establishing the rights and responsibilities of the authority and the operator with respect to a project financed by the issuance of bonds. A financing agreement may be in the nature of a lease, a lease and leaseback, a sale and leaseback, a lease purchase, an installment sale and purchase agreement, a conditional sales agreement, a secured or unsecured loan agreement or other similar contract and may involve property in addition to the property financed with the bonds.”

(b) Wherever the term “lease agreement” appears in G.S. 159C-3(7), (12) and (13), G.S. 159C-5(6), G.S. 159C-6, G.S. 159C-8 and G.S. 159C-12, the same shall be amended to read “financing agreement”.

(c) G.S. 159C-11 is hereby amended to read as follows:

"Financing agreements. Every financing agreement shall provide that:

- (1) the amounts payable under the financing agreement shall be sufficient to pay all of the principal of and redemption premium, if any, and interest on the bonds that shall be issued by the authority to pay the cost of the project as the same shall respectively become due;
- (2) the obligor shall pay all costs incurred by the authority in connection with the financing and administration of the project, except as may be paid out of the proceeds of bonds or otherwise, including, but without limitation, insurance costs, the cost of administering the financing agreement and the security document and the fees and expenses of the fiscal agent or trustee, paying agents, attorneys, consultants and others;
- (3) the obligor shall pay all the costs and expenses of operation, maintenance and upkeep of the project; and
- (4) the obligor's obligation to provide for the payment of the bonds in full shall not be subject to cancellation, termination or abatement until such payment of the bonds or provision therefor shall be made.

The financing agreement, if in the nature of a lease agreement, shall either provide that the obligor shall have an option to purchase, or require that the obligor purchase, the project upon the expiration or termination of the financing agreement subject to the condition that payment in full of the principal of, and the interest and any redemption premium on, the bonds, or provision therefor, shall have been made.

The financing agreement may provide the authority with rights and remedies in the event of a default by the obligor thereunder including, without limitation, any one or more of the following:

- (1) acceleration of all amounts payable under the financing agreement;
- (2) reentry and repossession of the project;
- (3) Termination of the financing agreement;
- (4) leasing or sale or foreclosure of the project to others; and
- (5) taking whatever actions at law or in equity may appear necessary or desirable to collect the amounts payable under, and to enforce covenants made in, the financing agreement.

The authority's interest in a project under a financing agreement may be that of owner, lessor, 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.

The authority may assign all or any of its rights and remedies under the financing agreement to the trustee or the bondholders under a security document.

Any such financing agreement may contain such additional provisions as in the determination of the authority are necessary or convenient to effectuate the purposes of this Chapter."

(d) 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 Commerical Code, being G.S. 25-9-101 to G.S. 25-9-607, inclusive, shall apply to transactions under G.S. Chapter 159C 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.

(e) G.S. 159C-7(1)a(ii) is hereby revised to read as follows:

“(ii) which is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and”.

**Sec. 2.** The creation, formation and organization of all authorities heretofore purported to have been created, formed and organized under the provisions of this Chapter are hereby ratified, confirmed and validated.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1979.

## S. B. 205

## CHAPTER 110

### AN ACT TO ENACT FOR NORTH CAROLINA THE UNIFORM CHILD CUSTODY JURISDICTION ACT AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby added a new Chapter of the General Statutes to be designated Chapter 50A and to read as follows:

#### “CHAPTER 50A.

#### “Uniform Child Custody Jurisdiction Act.

“§ 50A-1. *Purposes of Chapter; construction of provisions.*—(a) The general purposes of this Chapter are to:

- (1) avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;
- (2) promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;
- (3) assure that litigation concerning the custody of a child takes place ordinarily in the state with which the child and the child's family have the closest connection and where significant evidence concerning the child's care, protection, training, and personal relationships is most readily available, and that courts of this State decline the exercise of jurisdiction when the child and the child's family have a closer connection with another state;
- (4) discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;
- (5) deter abductions and other unilateral removals of children undertaken to obtain custody awards;
- (6) avoid re-litigation of custody decisions of other states in this State insofar as feasible;
- (7) facilitate the enforcement of custody decrees of other states;
- (8) promote and expand the exchange of information and other forms of mutual assistance between the courts of this State and those of other states concerned with the same child; and
- (9) make uniform the law of those states which enact it.

(b) This Chapter shall be construed to promote the general purposes stated in this section.



“§ 50A-2. *Definitions.*—As used in this Chapter:

(1) ‘Contestant’ means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.

(2) ‘Custody determination’ means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person.

(3) ‘Custody proceeding’ includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings.

(4) ‘Decree’ or ‘custody decree’ means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.

(5) ‘Home state’ means the state in which the child immediately preceding the time involved lived with the child’s parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period.

(6) ‘Initial decree’ means the first custody decree concerning a particular child.

(7) ‘Modification decree’ means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.

(8) ‘Physical custody’ means actual possession and control of a child.

(9) ‘Person acting as parent’ means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody; and

(10) ‘State’ means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

“§ 50A-3. *Jurisdiction.*—(a) A court of this State authorized to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

- (1) this State (i) is the home state of the child at the time of commencement of the proceeding, or (ii) had been the child’s home state within six months before commencement of the proceeding and the child is absent from this State because of the child’s removal or retention by a person claiming the child’s custody or for other reasons, and a parent or person acting as parent continues to live in this State; or
- (2) it is in the best interest of the child that a court of this State assume jurisdiction because (i) the child and the child’s parents, or the child and at least one contestant, have a significant connection with this State, and (ii) there is available in this State substantial evidence relevant to the child’s present or future care, protection, training, and personal relationships; or
- (3) the child is physically present in this State and (i) the child has been abandoned or (ii) it is necessary in an emergency to protect the child because the child has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or



(4) (i) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (1), (2), or (3), or another state has declined to exercise jurisdiction on the ground that this State is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that this court assume jurisdiction.

(b) Except under paragraphs (3) and (4) of subsection (a), physical presence in this State of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this State to make a child custody determination.

(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

“§ 50A-4. *Notice and opportunity to be heard.*—Before making a decree under this Chapter reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child.

“§ 50A-5. *Service of notice.*—The notice required by G.S. 50A-4 shall be given in a manner reasonably calculated to give actual notice and shall be served in the same manner as the manner of service of process set out in G.S. 1A-1, Rule 4. Proof of the service of the notice required by G.S. 50A-4 shall be made in the same manner as the manner to prove the service of process set out in G.S. 1A-1, Rule 4.

“§ 50A-6. *Simultaneous proceedings in other states.*—(a) If at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this Chapter, a court of this State shall not exercise its jurisdiction under this Chapter, unless the proceeding is stayed by the court of the other state because this State is a more appropriate forum or for other reasons.

(b) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under G.S. 50A-9 and shall consult the child custody registry established under G.S. 50A-16 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(c) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with G.S. 50A-19 through G.S. 50A-22. If a court of this State has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

“§ 50A-7. *Inconvenient forum.*—(a) A court which has jurisdiction under this Chapter to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient

forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(b) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian *ad litem* or other representative of the child.

(c) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

- (1) if another state is or recently was the child's home state;
- (2) if another state has a closer connection with the child and the child's family or with the child and one or more of the contestants;
- (3) if substantial evidence relevant to the child's present or future care, protection, training, and personal relationships is more readily available in another state;
- (4) if the parties have agreed on another forum which is no less appropriate; and
- (5) if the exercise of jurisdiction by a court of this State would contravene any of the purposes stated in G.S. 50A-1.

(d) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(e) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate such party's consent and submission to the jurisdiction of the other forum.

(f) The court may decline to exercise its jurisdiction under this Chapter if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this State, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(h) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(i) Any communication received from another state informing this State of a finding of inconvenient forum because a court of this State is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this State shall inform the original court of this fact.

“§ 50A-8. *Jurisdiction declined by reason of conduct.*—(a) If the petitioner for an initial decree has wrongfully taken the child from another state or has

engaged in similar reprehensible conduct the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

(b) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(c) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

“§ 50A-9. *Information under oath to be submitted to the court.*—(a) Every party in a custody proceeding in such party's first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath whether:

- (1) such party has participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the same child in this or any other state;
- (2) such party has information of any custody proceeding concerning the child pending in a court of this or any other state; and
- (3) such party knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(b) If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(c) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which such party obtained information during this proceeding.

“§ 50A-10. *Additional parties.*—If the court learns from information furnished by the parties pursuant to G.S. 50A-9 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of such person's joinder as a party. Such person shall be served with process or otherwise notified in accordance with G.S. 50A-5.

“§ 50A-11. *Appearance of parties and the child.*—(a) The court may order any party to the proceeding to appear personally before the court. If that party has physical custody of the child, the court may order that such party appear personally with the child.

(b) The court may order that the notice given under G.S. 50A-5 include a statement directing that party to appear personally with or without the child

and declaring that failure to appear may result in a decision adverse to that party.

(c) If a party to the proceeding who is outside this State is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

“§ 50A-12. *Binding force and res judicata effect of custody decree.*—A custody decree rendered by a court of this State which has jurisdiction under G.S. 50A-3 binds all parties who have been served or notified in accordance with G.S. 50A-5 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those parties, the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this Chapter.

“§ 50A-13. *Recognition of out-of-state custody decrees.*—The courts of this State shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this Chapter or which was made under factual circumstances meeting the jurisdictional standards of this Chapter, so long as that decree has not been modified in accordance with jurisdictional standards substantially similar to those of this Chapter.

“§ 50A-14. *Modification of custody decree of another state.*—(a) If a court of another state has made a custody decree, a court of this State shall not modify that decree unless (1) it appears to the court of this State that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this Chapter or has declined to assume jurisdiction to modify the decree and (2) the court of this State has jurisdiction.

(b) If a court of this State is authorized under subsection (a) and G.S. 50A-8 to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with G.S. 50A-22.

“§ 50A-15. *Filing and enforcement of custody decree of another state.*—(a) An exemplified copy of a custody decree of another state may be filed in the office of the clerk of any superior court of this State. The clerk shall treat the decree in the same manner as a custody decree of a court of this State. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this State.

(b) A person violating a custody decree of another state which makes it necessary to enforce the decree in this State may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or such party's witnesses.

“§ 50A-16. *Registry of out-of-state custody decrees and proceedings.*—The clerk of each superior court shall maintain a registry in which he shall enter the following:

- (1) exemplified copies of custody decrees of other states received for filing;
- (2) communications as to the pendency of custody proceedings in other states;
- (3) communications concerning a finding of inconvenient forum by a court of another state; and



(4) other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this State or the disposition to be made by it in a custody proceeding.

“§ 50A-17. *Certified copies of custody decree.*—The clerk of a superior court of this State, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

“§ 50A-18. *Taking testimony in another state.*—In addition to other procedural devices available to a party, any party to the proceeding or a guardian *ad litem* or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

“§ 50A-19. *Hearings and studies in another state; orders to appear.*—(a) A court of this State may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state; and to forward to the court of this State certified copies of the transcript of the record of the hearing, and the evidence otherwise adduced. The cost of the services may be assessed against the parties in the discretion of the court.

(b) A court of this State may request the appropriate court of another state to order a person notified under the provisions of G.S. 50A-4 in a custody proceedings pending in the court of this State to appear in the proceedings, and if that person has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

“§ 50A-20. *Assistance to courts of other states.*—(a) Upon request of the court of another state the courts of this State which are authorized to hear custody matters may order a person in this State to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this State or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the clerk of the court to the requesting court.

(b) A person within this State may voluntarily give testimony or a statement in this State for use in a custody proceeding outside this State.

(c) Upon request of the court of another state a competent court of this State may order a person in this State to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that state travel and other necessary expenses will be advanced or reimbursed.

“§ 50A-21. *Preservation of documents for use in other states.*—In any custody proceeding in this State the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, and other pertinent documents until the child reaches 18 years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.



“§ 50A-22. *Request for court records of another state.*—If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this State, the court of this State upon taking jurisdiction of the case may request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in G.S. 50A-21.

“§ 50A-23. *International application.*—The general policies of this Chapter extend to the international area. The provisions of this Chapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

“§ 50A-24. *Short title.*—This Chapter may be cited as the ‘Uniform Child Custody Jurisdiction Act’.

“§ 50A-25. *Emergency orders.*—Nothing in this Chapter shall be interpreted to limit the authority of the court to issue an interlocutory order under the provisions of G.S. 50-13.5(d)(2); or an immediate custody order under the provisions of G.S. 7A-284.”

**Sec. 2.** Severability. If any provisions of this act or the application thereof to any person or circumstance is held invalid, its 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. 3.** G.S. 6-21, as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by adding a new subdivision (11) thereto to read as follows:

“(11) In custody proceedings under Chapter 50A of the General Statutes.”

**Sec. 4.** G.S. 7A-279, as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by adding a new sentence at the end thereto to read as follows:

“Provided that, the court has jurisdiction to issue a custody decree under the provisions of G.S. 7A-286 only in accordance with the provisions of Chapter 50A of the General Statutes.”

**Sec. 5.** G.S. 7A-286, as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended on line one of the fifth unnumbered paragraph by deleting the word “The” and inserting in lieu thereof the words “Subject to the applicable provisions of Chapter 50A in regard to custody decrees the”.

**Sec. 6.** G.S. 7A-289.22, as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended in subdivision (3) by deleting the following: “; and to that end this Article should be liberally construed”; and is further amended by adding a new subdivision (4) thereto to read as follows: “(4) This Article shall not be used to circumvent the provisions of Chapter 50A, the Uniform Child Custody Jurisdiction Act.”

**Sec. 7.** G.S. 7A-289.23, as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by adding a new sentence to the end thereof to read as follows:

“Provided that, before exercising jurisdiction under this Article the court shall find that it would have jurisdiction to make a child custody determination under the provisions of G.S. 50A-3.”

**Sec. 8.** G.S. 7A-289.25, as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended at the end thereof by adding a new subdivision (7) thereto to read as follows:

“(7) That the petition has not been filed to circumvent the provisions of Chapter 50A, the Uniform Child Custody Jurisdiction Act.”

**Sec. 9.** G.S. 33-2, as the same appears in the 1977 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended on line three by deleting the words “disposition of the custody and tuition of” and inserting in lieu thereof the words “a guardian for”; and is further amended on lines nine and ten by deleting the words “court in awarding custody in the absence of a surviving parent, subject to the provisions of G.S. 50-13.1 through 50-13.8,” and inserting in lieu thereof the words “clerk of superior court in appointing a guardian in the absence of a surviving parent”; and is further amended on line 13 by deleting the words “the custody and tuition” and inserting in lieu thereof the words “to be the guardian”.

**Sec. 10.** G.S. 33-7, as the same appears in the 1978 Interim Supplement to the General Statutes, is hereby amended on line three thereof by deleting the words “custody and”.

**Sec. 11.** G.S. 50-11.2, as the same appears in the 1976 Replacement Volume 2A, is hereby amended by adding at the end thereof a new sentence to read as follows: “The jurisdictional requirements of G.S. 50A-3 shall apply in regard to a custody decree.”

**Sec. 12.** G.S. 50-13.5, as the same appears in the 1976 Replacement Volume 2A, is hereby amended as follows:

1. In subsection (a) by deleting the second sentence thereof.

2. In subsection (b) by deleting subdivision (2) thereof.

3. In subsection (c) by rewriting subdivision (2) thereof to read as follows: “(2) The courts of this State shall have jurisdiction to enter orders providing for the custody of a minor child under the provisions of G.S. 50A-3.”; and is further amended in subsection (c) by deleting subdivisions (3), (4), (5) and (6).

4. In subsection (d) by rewriting subdivision (1) thereof to read as follows: “(1) Service of process in civil actions for the custody of minor children shall be as in other civil actions. Motions for support of a minor child in a pending action may be made on five days notice to the other parties and compliance with G.S. 50-13.5(e). Motions for custody of a minor child in a pending action may be made on 10 days notice to the other parties and after compliance with G.S. 50A-4.”

5. In subsection (e) on line one by deleting the word “Custody” and inserting in lieu thereof the word “Support”; and also in subsection (e) in lines 6 and 8 of subdivision (1) by deleting the word “custody” and inserting in lieu thereof the word “support”; and also in subsection (e) in line two of subdivision (4) by deleting the word “custody” and inserting in lieu thereof the word “support”.

**Sec. 13.** G.S. 50-13.7 as the same appears in the 1976 Replacement Volume 2A is hereby rewritten to read as follows:

“§ 50-13.7. *Modification of order for child support or custody.*—(a) An order of a court of this State for support of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested. Subject to the provisions of G.S. 50A-3, an order of a court of this State for custody of a minor child may be modified or

vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested.

(b) When an order for support of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and upon a showing of changed circumstances, enter a new order for support which modifies or supersedes such order for support. Subject to the provisions of G.S. 50A-3, when an order for custody of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and a showing of changed circumstances, enter a new order for custody which modifies or supersedes such order for support."

**Sec. 14.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 6th day of March, 1979.

## S. B. 275

## CHAPTER 111

## AN ACT TO REWRITE G.S. 28A-12-3, PUBLIC ADMINISTRATOR'S QUALIFICATION AND BOND.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 28A-12-3 is rewritten to read as follows:

"§ 28A-12-3. *Qualification and bond.*—The public administrator shall qualify and give bond with regard to each estate administered by him as provided in Article 8 of this Chapter, at the expense of such estate."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1979.

## S. B. 170

## CHAPTER 112

## AN ACT TO ALLOW NOTARIES PUBLIC TO CERTIFY A DECLARATION OF RIGHT TO A NATURAL DEATH.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-321(c)(4) is amended by deleting the words "clerk or assistant clerk of superior court" and inserting in lieu thereof the words "clerk or assistant clerk of superior court, or a notary public".

**Sec. 2.** G.S. 90-321(d) is amended by deleting the words "clerk or the assistant clerk", and in each place those words appear inserting in lieu thereof the words "clerk or the assistant clerk, or a notary public".

**Sec. 3.** G.S. 90-321(d) is amended by deleting the words "Clerk (Assistant Clerk) of Superior Court", in the four places those words appear and inserting in lieu thereof the words "Clerk (Assistant Clerk) of Superior Court or Notary Public (circle one as appropriate)" in each place.

**Sec. 4.** G.S. 90-321 is amended by adding a new subsection (i) to read: "(i) Any certificate in the form provided by this section prior to July 1, 1979, shall continue to be valid."

**Sec. 5.** G.S. 90-321(d)(2)c. is amended by deleting the words "clerk or assistant clerk of the superior court" and inserting in lieu thereof the words "clerk or assistant clerk of the superior court, or a notary public".

**Sec. 6.** G.S. 90-321(d)(3) is amended by deleting the words “clerk or assistant clerk”, and inserting in lieu thereof the words “clerk or assistant clerk, or a notary public”.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1979.

H. B. 164

## CHAPTER 113

AN ACT TO REPEAL G.S. 20-7(h).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-7(h) is hereby repealed.

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

In the General Assembly read three times and ratified, this the 8th day of March, 1979.

H. B. 202

## CHAPTER 114

AN ACT TO REPEAL SEVERAL OUTDATED STATUTES RELATING TO THE MAINTENANCE OF WATER MILL AND RAILROAD BRIDGES OVER PUBLIC ROADS AND DRAW BRIDGES OVER NAVIGABLE WATERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 136 of the General Statutes is hereby amended by repealing the following sections: G.S. 136-73, G.S. 136-74, G.S. 136-75, and G.S. 136-77.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1979.

H. B. 254

## CHAPTER 115

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF HARRISBURG, CABARRUS 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 Harrisburg may on its own motion, and shall upon receipt of a petition signed by qualified voters of the town equal in number to fifteen percent (15%) of the votes cast for mayor in the most recent regular town election, call a special 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 Cabarrus 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 shall not be necessary, and all qualified voters who are properly registered prior to registration for the election and those who register for the election shall be 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 Harrisburg.

**Sec. 3.** There shall be submitted to the qualified voters of the Town of Harrisburg 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 such stores shall be set up or operated in the Town of Harrisburg 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 Harrisburg 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 Harrisburg 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 Harrisburg Board of Alcoholic Beverage Control. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Harrisburg 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 Harrisburg to be used for any and all purposes for which tax and nontax revenues may be expended by the town. The



Town Council shall expend a sum not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics. The Town Council may expend the remaining net profits for any authorized purpose.

**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 Harrisburg. Thereafter, all public, local, and private laws applicable to the sale of intoxicating beverages within the Town of Harrisburg, 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 Harrisburg 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 qualified voters of the Town of Harrisburg equal in number to fifteen percent (15%) of the votes cast for mayor in the last regular town election, 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 8th day of March, 1979.

H. B. 320

## CHAPTER 116

### AN ACT REGARDING AUDITS AND LAW ENFORCEMENT OF THE HIGHLANDS BOARD OF ALCOHOLIC CONTROL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 611, Session Laws of 1977, is amended by adding the following sentence to the end of Section 5:

"G.S. 18A-17(14) does not apply to the Town of Highlands Board of Alcoholic Control."

**Sec. 2.** Chapter 611, Session Laws of 1977, is amended by deleting the word "quarterly" from line 6 of Section 6 and substituting in lieu thereof the word "annual".

**Sec. 3.** Chapter 611, Session Laws of 1977, is amended by adding the following sentence to the end of Section 6:

"The Town Board of Alcoholic Beverage Control may enter into a contract or agreement with a local law enforcement agency to provide for enforcement of the alcoholic beverage control laws with the territorial jurisdiction of that local law enforcement agency."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1979.

## H. B. 84

## CHAPTER 117

AN ACT TO CLARIFY THE PROCEDURE FOR APPOINTMENTS TO THE CAROLINA BEACH AIRPORT AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 1141, Session Laws of 1977 (Second Session, 1978) is amended by rewriting the first sentence to read:

"The Airport Authority shall consist of five members, who shall reside within the zoning jurisdiction of the Town of Carolina Beach; all members shall be appointed by the Mayor of Carolina Beach subject to the approval of the Carolina Beach Town Board of Commissioners."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 174

## CHAPTER 118

AN ACT TO ALLOW THE CITY OF WILMINGTON TO ENTER THE LOCAL GOVERNMENT EMPLOYEES RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 9 of Chapter 526, Session Laws of 1945, is amended by deleting the words "the City of Wilmington;"

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 236

## CHAPTER 119

AN ACT TO ALLOW THE CABARRUS COUNTY ANIMAL CONTROL OFFICER TO APPOINT DEPUTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 67-30 is amended by adding the following new language at the end:

"The county board of commissioners may by resolution authorize the animal control officer to appoint and remove deputy animal control officers."

**Sec. 2.** This act is effective in Cabarrus County only.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 316

## CHAPTER 120

AN ACT TO ALLOW THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS TO CHANGE THEIR FORM OF GOVERNMENT BY REFERENDUM AND THEN ADOPT THE COUNTY MANAGER PLAN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Buncombe County is subject to Article 4 of Chapter 153A of the General Statutes, and may change its form of government as provided in that Article.

**Sec. 2.** If Buncombe County alters the structure of the board of commissioners, as provided under G.S. 153A-58(4)a., so that the board shall elect a chairman from among its membership, then effective on the first Monday of December following the next election for members of the board of commissioners, Buncombe County is subject to Article 5 of Chapter 153A of the General Statutes.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 319

## CHAPTER 121

AN ACT TO ALLOW THE PAMLICO COUNTY COMMISSIONERS TO PROVIDE ABC LAW ENFORCEMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first paragraph of G.S. 18A-17(14) shall not apply to the Pamlico County Alcoholic Beverage Control Board.

**Sec. 2.** The Pamlico County Alcoholic Beverage Control Board 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 Pamlico County Treasury, and the Pamlico County Commissioners shall utilize those funds exclusively to provide for more effective law enforcement pertaining to alcoholic beverage control in Pamlico County.

**Sec. 3.** This act shall become effective on April 1, 1979.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 385

## CHAPTER 122

AN ACT TO ALLOW MEMBERS OF THE ROCKINGHAM COUNTY AIRPORT AUTHORITY TO BE COMPENSATED FOR THEIR SERVICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The last sentence of Section 1, Chapter 622 of the Session Laws of 1963 is amended to read:

“The members of the authority may receive reasonable compensation, per diem or otherwise for services rendered and shall be allowed and paid actual expenses incurred in the transaction of business at the instance of the said authority.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 427

## CHAPTER 123

## AN ACT TO ENLARGE THE SIZE OF THE WINSTON-SALEM TRANSIT AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 1259, Session Laws of 1967, is amended by deleting the words "It shall consist of three, five or seven members as determined by the Board of Aldermen of the City of Winston-Salem", and inserting in lieu thereof the words "It shall consist of eight members."

**Sec. 2.** The member appointed as a result of this act shall serve a term to expire March 31, 1982. Subsequent terms shall be for three years.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 496

## CHAPTER 124

## AN ACT TO AUTHORIZE THE BOARD OF COMMISSIONERS OF MCDOWELL COUNTY TO ESTABLISH A COUNTY ZOO.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any county by action of its Board of County Commissioners is authorized to establish a county zoo. The board may accept gifts, grants, donations, bequests, or devise of real or personal property for the county zoo, and such may be accepted and held subject to any reasonable terms or conditions that may be imposed by the grantor or trustor.

**Sec. 2.** This act applies to McDowell County only.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## S. B. 238

## CHAPTER 125

## AN ACT TO AMEND CHAPTER 368 OF THE 1957 SESSION LAWS RELATING TO EXPENDITURE OF FUNDS FOR INDUSTRIAL DEVELOPMENT IN NASH COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 368 of the 1957 Session Laws, as amended, is rewritten to read:

"Section 1. The Board of Commissioners of Nash County may appropriate and set apart annually a fund in an amount which the board in its discretion determines annually to be desirable and necessary to carry out the provisions of this act, not to exceed sixty thousand dollars (\$60,000) annually."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1979.

## H. B. 52

## CHAPTER 126

## AN ACT TO AMEND G.S. 20-81.3 RELATING TO SPECIAL PERSONALIZED REGISTRATION PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-81.3(a) is hereby amended by striking the words “not to exceed one ton manufacturer’s rated capacity” appearing in line 4 thereof.

**Sec. 2.** G.S. 20-81.3(f) is hereby amended by striking the words and figures “one dollar (\$1.00)” and inserting in lieu thereof the words and figures “five dollars (\$5.00)”.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 177

## CHAPTER 127

## AN ACT TO ALLOW THE CITY MANAGER TO SETTLE ADDITIONAL CLAIMS AGAINST THE CITY OF WILMINGTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 29.3 of the Charter of the City of Wilmington, as it appears in Section 1 of Chapter 495, Session Laws of 1977, is rewritten to read:

“Sec. 29.3. Settlement of claims by city manager. The city manager may settle claims against the city for (1) personal injury for damages to property when the amount involved does not exceed the sum of five hundred dollars (\$500.00), and does not 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 one thousand dollars (\$1,000), and does not exceed the actual loss sustained. Settlement of 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’s office.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 180

## CHAPTER 128

## AN ACT TO EXTEND THE TOWN LIMITS OF THE TOWN OF ROBBERSONVILLE IN MARTIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The town limits of Robersonville in Martin County are hereby extended by the incorporation within the said town limits of the following described property:

BEGINNING at a concrete monument in the existing Robersonville Town Limits Line where same intersects with the lands of R. B. Nelson and Layton Cochran; thence with Nelson and Cochran line North 54 degrees 00 minutes



East 341.32 feet to a concrete monument in the line of Kenneth Roberson; thence with Nelson and Roberson line North 48 degrees 00 minutes West 233.53 feet to a concrete monument in the existing Town Limits Line; thence with existing Town Limits Line South 16 degrees 06 minutes West 371.87 feet to a concrete monument, the point of beginning; containing 0.89 acre, as shown by map surveyed November 1, 1975 and drawn by B. R. Leggett on December 9, 1975 under supervision of L. S. Manning, R. L. S. L-632, and of record in Map Book 10, page 36, in the office of Register of Deeds of Martin County, North Carolina.

**Sec. 2.** Real and personal property in the territory annexed pursuant to this act is subject to municipal taxes according to the provisions of G.S. 160A-58.10.

**Sec. 3.** This act shall become effective June 30, 1979.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 187

## CHAPTER 129

AN ACT EXEMPTING FROM THE PROVISIONS OF ARTICLE 12, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA, THE COUNTY OF PASQUOTANK AND THE CITY OF ELIZABETH CITY AS TO LEASES OR SALES OF REAL ESTATE OWNED OR HEREAFTER OWNED BY THEM FOR THE USE AND BENEFIT OF THEIR JOINT AGENCY, THE INDUSTRIAL DEVELOPMENT COMMISSION, OR BY SUCH COMMISSION ITSELF.

*The General Assembly of North Carolina enacts:*

**Section 1.** The County of Pasquotank and the City of Elizabeth City are hereby 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 them for and on behalf of their joint agency, the Industrial Development Commission, both as to real estate now owned or hereafter owned by them for the use and benefit of said Commission or by said Commission itself.

**Sec. 2.** This act is effective with respect to a sale or lease only if such lease or sale is given prior approval by a Resolution of the Board of County Commissioners of the County of Pasquotank and by the City Council of the City of Elizabeth City 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. It is the intent hereof that leases and sales may be negotiated and consummated without further formality other than the required Resolutions by the aforesaid respective Boards all on terms as negotiated.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 277

## CHAPTER 130

## AN ACT TO ANNEX CERTAIN TERRITORY TO THE TOWN OF FALLSTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** The corporate limits of the Town of Fallston are extended by the incorporation within the town limits of the following described property:

BEGINNING on a point in the West edge of the right of way of North Carolina Highway No. 18 North of Fallston, in the line of Douglas Tysinger, said point being on the radius of a circle 3960 feet from the point of intersection of the center of said Highway No. 18 with the center of North Carolina Highway No. 182, and runs thence with the radius of said circle as it curves to the Southeast to a point where the same intersects the Northwest line of E. D. Kendrick; thence with Kendrick's line, North 44 East 340 feet to a new corner in said line; thence a new line, South 46 East 830 feet to a stake, a new corner; thence continuing with Kendrick's line, South 48 - 30 West 200 feet to a point in the radius of the circle aforesaid; thence with the radius of said circle as it continues South (crossing said Highway No. 182) to the point said radius intersects the North line of M. H. Wellmon; thence with his line (crossing his corner at 240 feet) and continuing with the line of Clemmie Wellmon South 80 East 808.2 feet to a stake, Clemmie Wellmon's corner; thence due South 412.5 feet to a pine; North 67 West 165 feet to a post oak; South 39 - 15 West 214.5 feet to an iron; North 21 West 470 feet to an iron and South 69 West 544 feet to a point on the radius of said circle aforesaid; thence continuing with said radius as it curves South and West to its point of intersection with the R. M. Beam line; thence with said line, South 26 East 500 feet to a stake; South 52 West 350 feet and North 11 - 30 West 540 feet to a point on the said radius; thence continuing with the radius as it curves South and West to an iron, a corner of the A. A. Lackey, Jr. property; thence with his line, South 2 West 183.5 feet to a stake and North 88 - 25 West 248.5 feet to a point on the West side of said Highway No. 18, South of Fallston; thence with J. T. Spangler's line, South 85 - 30 West 158.5 feet and North 5 - 30 East 50 feet to a stake, a new corner; thence a line North 87 West (and 230 feet from and parallel with the center of State Road No. 1800) 2,340 feet to a point in the line of Acie Upton and Eloise R. Martin; thence with said line, North 3 East 200 feet to a point in the South edge of the right of way of State Road No. 1800; thence with the right of way, North 87 West 910 feet to a point in the right of way; thence North 86 - 10 West 530 feet to a point, a new corner in the line of Thomas R. Laughlin; thence (crossing the W. E. Carroll Subdivision) North 8 - 36 East 1091 feet to a point in the line of LFO, Inc.; thence with said line, North 86 - 10 West 133 feet to an iron, a corner of Sunbelt Industrial Park, Inc.; thence with said line, North 86 - 24 West 666.57 feet to a stone; thence North 5 - 36 East 314.46 feet to an iron, corner of Shadowline, Inc.; thence with said line as follows: North 6 - 10 East 865.8 feet; North 3 - 45 East 324 feet; North 77 - 30 East 323 feet and South 89 - 30 East 590 feet to an iron, C. L. Hoyle corner; thence with his line, North 5 - 36 East 612.65 feet to an iron in the South edge of the right of way of said Highway No. 182, aforesaid; thence with the right of way, South 86 - 46 West 120 feet to the point of intersection of said right of way with the radius of the circle aforesaid; thence with said radius as it curves to the Northeast to its point of intersection with the Southwest line of P. E. Swink; thence with three of his

lines as follows: South 34 - 25 East 100 feet; North 65 - 30 East 320.4 feet and North 34 - 25 West 150 feet to an iron, Richard's corner; thence with his line, North 65 - 30 East 330 feet and North 39 - 45 West 320 feet to the point of intersection of said line with the radius of the circle aforesaid; thence with the radius of said circle as it curves to the Northeast to its point of intersection with the West line of A. A. Wright, thence with said line, North 11 - 59 West 180 feet; North 78 - 01 East 405.5 feet and South 11 - 59 East 75 feet to the point of intersection of said line with the radius of the circle aforesaid; thence with the radius of said circle as it curves to the Northeast to its intersection with the line of Stough A. Willis; thence with his line, North 57 - 15 East 420 feet to a stake, Tysinger's corner; thence with three of his lines: North 58 - 13 East 75 feet; North 71 East 364 feet (to the West edge of the right of way of said Highway 18) and (with the right of way) South 1 West 320 feet to the place of BEGINNING, according to a survey and plat by T. D. Kendrick, Consulting Engineer dated December 1978.

**Sec. 2.** Real and personal property in the territory annexed pursuant to this act is subject to municipal taxes according to the provisions of G.S. 160A-58.10.

**Sec. 3.** This act shall become effective June 30, 1979.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 278

## CHAPTER 131

## AN ACT TO AMEND G.S. 105-75 WHICH PLACES A STATE LICENSE TAX ON BARBERSHOPS AND BEAUTY PARLORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-75 is rewritten to read as follows:

“§ 105-75. *Barbershops and beauty parlors.*—Every person, firm, or corporation engaged in the business of conducting a barbershop, beauty shop or parlor, or other shop of like kind shall apply for and procure from the Secretary of Revenue a State license for the privilege of conducting such business, and shall pay for such license a tax at the rate of two dollars and fifty cents (\$2.50) for each barber, manicurist, cosmetologist, beautician, or other operator employed in such barbershop or beauty shop or parlor.

Counties shall not levy a license tax on the businesses taxed under this section, but cities and towns may levy a license tax not in excess of that levied by the State.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 343

## CHAPTER 132

AN ACT CREATING A BIRD SANCTUARY IN LONGBEACH ESTATES,  
NEW HOPE TOWNSHIP, PERQUIMANS COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is created a bird sanctuary in Longbeach Estates, New Hope Township, Perquimans County. The bird sanctuary shall embrace all of the lands described in and as designated on plat number 3, recorded on April 11, 1961 on page 163 of the Deed Book in the Public Registry of Perquimans County.

**Sec. 2.** The intent and purpose of this act is to establish a bird sanctuary for the preservation and protection of birds in Longbeach Estates.

**Sec. 3.** The Longbeach Property Owners Association is authorized to contract with the Department of Transportation for the erection and maintenance of signs, at all major entrances to Longbeach Estates, stating that the area is a bird sanctuary.

**Sec. 4.** It is unlawful to trap, hunt, shoot or otherwise kill or to attempt to trap, hunt, shoot or otherwise kill within the bird sanctuary established by this act, any bird. Violation of this section is a misdemeanor punishable by imprisonment for not more than 30 days, by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), or both.

**Sec. 5.** The provisions of this act are enforceable by the officers of the Wildlife Resources Commission, the Highway Patrol, the officers of the Perquimans County Sheriff's Department, and any other State and County officers who have the power of arrest.

**Sec. 6.** This act is effective upon ratification and Sections 4 and 5 are enforceable only after bird sanctuary signs have been erected.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 356

## CHAPTER 133

AN ACT TO VALIDATE THE ELECTION OF COMMISSIONERS OF SOUL  
CITY SANITARY DISTRICT AND TO RATIFY ACTIONS OF THE  
COMMISSIONERS OF SOUL CITY SANITARY DISTRICT IN WARREN  
COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The election of Mrs. E. W. McKissick, Mr. Lewis H. Myers and Mr. James Groom to the Board of Commissioners of the Soul City Sanitary District at a nonpartisan election conducted on November 2, 1976, is hereby ratified and confirmed and said officers shall serve until their successors are elected and qualified at the general election to be conducted on November 6, 1979, by the Warren County Board of Elections pursuant to authority specified in G.S. 163-284.1.

**Sec. 2.** All proceedings and actions heretofore taken by the Commissioners of Soul City Sanitary District in connection with their lawful responsibilities are hereby ratified, approved, confirmed and in all respects validated.

**Sec. 3.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 12th day of March, 1979.

H. B. 360

**CHAPTER 134**

AN ACT TO PROVIDE THAT WEAPON PERMITS IN CLAY COUNTY WILL BE ISSUED BY THE SHERIFF.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 276 of the Session Laws of 1969 is repealed.

**Sec. 2.** On and after the effective date of this act, weapon permits in Clay County will be issued by the sheriff of that county pursuant to Chapter 14, Article 52A of the General Statutes of North Carolina.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

H. B. 389

**CHAPTER 135**

AN ACT TO ALLOW VOTERS TO CHANGE ADDRESS WITHIN A COUNTY BY MAIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-72(c) is repealed.

**Sec. 2.** Chapter 163 of the General Statutes is amended by adding a new section to read:

“§ 163-72.2. *Change of address within a county.*—(a) No registered voter shall be required to reregister upon moving from one precinct to another in the same county.

(b) In lieu thereof, the voter may in person, or by returnable first class mail, file a written report with the county board of elections, signed in his own hand, setting forth:

- (1) his full name,
- (2) his former residence address,
- (3) his new residence address, and
- (4) the date he moved to the new address.

The voter shall sign his name himself and shall not cause or allow his signature to be signed by any other person unless he is unable to sign his name himself.

(c) If the request is in proper form, and the board is satisfied as to the facts asserted and the signature, it shall immediately transfer the voter's registration to his new precinct, and notify the voter in person or by returnable mail of his new voting place and precinct. The board shall also correct his registration for municipal elections, if necessary.

(d) If a written report is submitted but does not contain sufficient information, the board shall request further information before acting.

(e) No report filed under this section shall be effective for a primary or election unless received by the Board of Elections on or before the twenty-first day (excluding Saturdays and Sundays) before the primary or election, except that if the report is submitted before the deadline but more information is requested, such report shall be effective for the primary or election if sufficient information is received more than 14 days before the primary or election.



(f) For the purpose of this section, a report in person shall be considered filed with the county board of elections if filed with any election official of that county authorized to register voters under G.S. 163-80.

(g) A county board of elections may make available printed forms containing spaces for the information required by this section."

**Sec. 3.** G.S. 163-274 is amended by adding a new subdivision (13) to read:

"(13) Except as authorized by G.S. 163-72.2(b), for any person to provide false information, or sign the name of any other person, to a written report under G.S. 163-72.2."

**Sec. 4.** This act shall become effective September 1, 1979.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## S. B. 43

## CHAPTER 136

AN ACT TO CLARIFY THE RESPONSIBILITY OF THE DEPARTMENT OF ADMINISTRATION IN LETTING CONTRACTS FOR DESIGN OF STATE CONSTRUCTION PROJECTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-341(3)c. is hereby rewritten to read as follows:

"c. To supervise the letting of all contracts for the design, construction or renovation of all State buildings."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## S. B. 14

## CHAPTER 137

AN ACT TO AMEND G.S. 20-81.1 RELATING TO AMATEUR RADIO OPERATORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-81.1(a) is hereby amended by striking the words "which is primarily used for pleasure or communication purposes" appearing in lines 2 and 3 and by striking the words and figures "of four dollars (\$4.00)" appearing in line 6 and inserting in lieu thereof the words "as required by G.S. 20-81.3(b) for special personalized licensed plates".

**Sec. 2.** G.S. 20-81.1(b) is amended by striking the figure "60" appearing in line 5 and inserting in lieu thereof the figure "90".

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## S. B. 228

## CHAPTER 138

AN ACT TO REVISE CONTRACT INTEREST RATES ON LOANS, REPEAL CERTAIN INSTALLMENT LOAN RATE PROVISIONS AND SIMPLIFY THE PROVISION THAT CERTAIN LOANS TO CORPORATIONS ORGANIZED FOR PROFIT NOT BE SUBJECT TO A CLAIM OR DEFENSE OF USURY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 24-1.1 is rewritten to read as follows:

“§ 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 may contract in writing for the payment of interest not in excess of:

(1) twelve percent (12%) per annum where the principal amount is twenty-five thousand dollars (\$25,000) or less; 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.”

**Sec. 2.** G.S. 24-1.2(2) is amended by deleting the words and figures “three hundred thousand dollars (\$300,000)” in lines 1 and 2 and inserting therein the words and figures “twenty-five thousand dollars (\$25,000)”.

**Sec. 3.** G.S. 24-1.2(3) and G.S. 24-1.2(4) are repealed.

**Sec. 4.** G.S. 24-1.2(5) is renumbered as G.S. 24-1.2(3).

**Sec. 5.** G.S. 24-9 is rewritten to read as follows:

“§ 24-9. *Loans to corporations organized for profit not subject to claim or defense of usury.*—Notwithstanding any other provision of this Chapter or any other provision of law, any foreign or domestic corporation substantially engaged in commercial, manufacturing or industrial pursuits for pecuniary gain may agree to pay, and any lender may charge and collect from such corporation, interest at any rate which such corporation may agree to pay in writing, and as to any such transaction the claim or defense of usury by such corporation and its successors or anyone else in its behalf is prohibited.”

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1979.

## H. B. 40

## CHAPTER 139

AN ACT TO AMEND G.S. 20-57(b) TO INCREASE FEE FOR ADDITIONAL REGISTRATION CARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-57(b) is hereby amended by striking the words and figures “fifty cents (50¢)” appearing in line 8 and inserting in lieu thereof the words and figures “one dollar (\$1.00)”.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 13th day of March, 1979.

## H. B. 53

## CHAPTER 140

AN ACT TO ALLOW ABSENTEE VOTING IN ALCOHOLIC BEVERAGE, BEER AND WINE, SOIL CONSERVATION DISTRICT, AND SANITARY DISTRICT ELECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-226(b) is amended by deleting the words “ABC elections conducted under authority of G.S. 18A-51 or 18A-52 or in sanitary district elections or in fire district elections or soil and water conservation district elections”, and inserting in lieu thereof the words “fire district elections”.

**Sec. 2.** G.S. 18A-51(a) is amended by deleting the words “absentee ballots or”.

**Sec. 3.** G.S. 18A-52(f) is amended by deleting the words “absentee ballots or”.

**Sec. 4.** This act shall be effective with respect to elections held on or after October 1, 1979.

In the General Assembly read three times and ratified, this the 13th day of March, 1979.

## H. B. 271

## CHAPTER 141

AN ACT TO REPEAL G.S. CHAPTER 104B, ARTICLE 3, PROTECTION OF SAND DUNES ALONG OUTER BANKS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. Chapter 104B, Article 3 is hereby repealed.

**Sec. 2.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 13th day of March, 1979.

## H. B. 463

## CHAPTER 142

AN ACT TO AUTHORIZE THE SALISBURY CITY BOARD OF EDUCATION TO SELL WITHOUT CONSIDERATION AND AT A PRIVATE SALE TO THE SALISBURY OPTIMIST CLUB CERTAIN PROPERTY NO LONGER NECESSARY FOR PUBLIC SCHOOL PURPOSES.

Whereas, the Salisbury City Board of Education has determined that certain used stadium lights and wooden poles are no longer necessary for public school purposes; and

Whereas, the Salisbury Optimist Club, a private nonprofit organization, has offered to remove these stadium lights and wooden poles without cost to the board of education; and

Whereas, the Salisbury Optimist Club will use these stadium lights and wooden poles to illuminate a "little league" baseball field for use of the children in the Salisbury City area; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 115-126, the Salisbury City Board of Education is hereby authorized and empowered to sell to the Salisbury Optimist Club without consideration and at a private sale certain used stadium lights and wooden poles which the Salisbury City Board of Education has determined are no longer necessary for public school purposes.

**Sec. 2.** This act is effective upon ratification and expires December 31, 1979.

In the General Assembly read three times and ratified, this the 13th day of March, 1979.

## S. B. 41

## CHAPTER 143

AN ACT TO REPEAL G.S. 136-55 WHICH REQUIRES THE POSTING OF A MAP AT THE COURTHOUSE OF SEGMENTS OF ROADS ABANDONED OR RELOCATED BY THE DEPARTMENT OF TRANSPORTATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 136 of the General Statutes is hereby amended by repealing G.S. 136-55.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1979.

## S. B. 132

## CHAPTER 144

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 1977 Cumulative Supplement to Volume 1B, is amended in line 2 by substituting the words and figures "eight hundred dollars (\$800.00)" for the words and figures "five hundred dollars (\$500.00)".

**Sec. 2.** G.S. 7A-219, as found in the 1977 Cumulative Supplement to Volume 1B, is amended in line 3 by substituting the words and figures "eight hundred dollars (\$800.00)" for the words and figures "five hundred dollars (\$500.00)".

**Sec. 3.** G.S. 7A-273(8), as found in the 1977 Cumulative Supplement to Volume 1B, is amended in lines 3 and 4 by substituting the words and figures "four hundred dollars (\$400.00)" for the words and figures "three hundred dollars (\$300.00)".

**Sec. 4.** G.S. 42-28 is amended in line 8 by substituting the words and figures "eight hundred dollars (\$800.00)" for the words and figures "five hundred dollars (\$500.00)".

**Sec. 5.** G.S. 42-30 is amended in line 8 by substituting the words and figures "eight hundred dollars (\$800.00)" for the words and figures "five hundred dollars (\$500.00)".

**Sec. 6.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 13th day of March, 1979.

## H. B. 16

## CHAPTER 145

AN ACT TO AMEND G.S. 20-58, 20-58.1, and 20-58.5 RELATING TO  
SECURITY INTERESTS IN MOTOR VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-58(2) is hereby rewritten to read as follows:

"(2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party. If there is an existing certificate of title issued by this or any other jurisdiction in the possession of a prior secured party, the application for notation of the security interest shall in addition contain the name and address of such prior secured party."

**Sec. 2.** G.S. 20-58(3) is amended by adding the following sentence at the end thereof:

"The security interest perfected herein shall be subject to the provisions set forth in G.S. 20-58.5."

**Sec. 3.** G.S. 20-58.1(a) is hereby amended by striking the following words and punctuation: "the amount of each security interest,".



**Sec. 4.** G.S. 20-58.5 is hereby rewritten to read as follows:

“§ 20-58.5. *Duration of security interest in favor of corporations which dissolve or become inactive.*—Any security interest recorded in favor of a corporation which, since the recording of such security interest, has dissolved or become inactive for any reason, and which remains of record as a security interest of such corporation for a period of more than three years from the date of such dissolution or becoming inactive, shall become null and void and of no further force and effect.”

**Sec. 5.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 15th day of March, 1979.

## H. B. 395

## CHAPTER 146

AN ACT TO EXTEND THE RACCOON HUNTING SEASON IN THE COUNTIES OF RUTHERFORD, CLEVELAND AND POLK.

*The General Assembly of North Carolina enacts:*

**Section 1.** The open season for taking raccoons with guns or dogs is from October 1 to March 1.

**Sec. 2.** This act applies only to the counties of Rutherford, Cleveland and Polk.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1979.

## H. B. 415

## CHAPTER 147

AN ACT PROVIDING FOR EXCHANGE OF PATIENT INFORMATION BETWEEN TREATMENT FACILITIES.

Whereas, it is in the best interest of the mentally impaired client that those who provide treatment are knowledgeable of the past treatment of the client; and

Whereas, clients in need of mental health treatment are often treated in multiple facilities during the course of their illness; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-8.1 as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by adding subsection (c) to read as follows:

“(c) Further, notwithstanding the provisions of subsection (a), any treatment facility as defined by G.S. 122-36(g) or by G.S. 122-56.2(b) shall furnish information in its possession regarding any present or former resident or patient of that treatment facility to any other such treatment facility upon request from the latter treatment facility if the resident or patient is presently seeking treatment from the requesting treatment facility or has been involuntarily committed to the requesting treatment facility for inpatient or outpatient treatment. In addition, any treatment facility shall furnish information in its possession regarding any present or former resident or patient upon request from the treatment facility which referred or previously referred the resident or patient to it. Under the circumstances described in this subsection, the consent of the patient or resident shall not be required in order for this

information to be so furnished and the information shall be furnished pursuant to such requests despite objection by the patient or resident.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 15th day of March, 1979.

## H. B. 10

## CHAPTER 148

### AN ACT TO AMEND AND CONSOLIDATE LAWS RELATING TO AERONAUTICS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-28.5 is hereby amended by repealing Subsection (b).

**Sec. 2.** G.S. 113-28.6(7) is hereby amended by adding the words “promote aviation safety throughout the State and” immediately preceding the words “conduct such” in line 1.

**Sec. 3.** G.S. 113-28.8(2) is hereby amended by adding after the last sentence, the following sentence: “Further, the Department of Transportation may contract out the maintenance and installation of State-owned navigational aids when necessary and may give or transfer such aids to the Federal Aviation Administration.”

**Sec. 4.** G.S. 113-28.11(a) is hereby amended by adding after the last sentence, the following sentence: “The department shall also have the authority to enter into contracts with the Federal Aviation Administration or its successor agency for aeronautics related purposes.”

**Sec. 5.** Article 1B of Chapter 113 of the General Statutes is recodified as Article 7 of Chapter 63, to be numbered as follows: G.S. 113-28.5 shall become G.S. 63-65; G.S. 113-28.6 shall become G.S. 63-66; G.S. 113-28.7 shall become G.S. 63-67; G.S. 113-28.8 shall become G.S. 63-68; G.S. 113-28.9 shall become G.S. 63-69; G.S. 113-28.10 shall become G.S. 63-70; G.S. 113-28.11 shall become G.S. 63-71; G.S. 113-28.12 shall become G.S. 63-72.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1979.

## H. B. 11

## CHAPTER 149

### AN ACT TO ALLOW STATE AIRPORT GRANT FUNDS TO BE USED FOR MAINTENANCE OF AIRPORTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 63-68 is amended by adding a new subdivision (4) to read:

“(4) Notwithstanding the provisions of this section or G.S. 63-67, the Department of Transportation may allow up to ten percent (10%) of State aviation grant funds to be used for maintenance on General Aviation and Air Carrier Airports having a Department of Transportation approved maintenance plan on a seventy-five percent (75%) local - twenty-five percent (25%) State basis.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1979.

## H. B. 111

## CHAPTER 150

## AN ACT TO PROVIDE FOR A SUNDRIES LICENSE TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Article 2 of Chapter 105 of the General Statutes to be numbered and to read as follows:

“§ 105-65.2. *Sundries license tax.*—(a) Every person, firm, or corporation engaged in any of the businesses listed in subsection (b) of this section shall apply for and procure from the Secretary of Revenue a State ‘sundries license’ for the transacting of such business. The tax for each license shall be sixteen dollars (\$16.00) and one license shall be obtained for each location at which any of the businesses enumerated in subsection (b) are engaged in; however, only one sundries license shall be required for any one location regardless of the number of enumerated businesses being engaged in at that location.

(b) The sundries license shall be procured and the tax paid by persons, firms, or corporations engaged in any one or more of the following business activities:

- (1) the sale of sandwiches in drug stores, service stations, or any other stands or places not licensed and taxed as a restaurant under G.S. 105-62; however, as used in this subdivision, the word ‘sandwiches’ shall not be interpreted or construed to include crackers or cookies in combination with any food filling;
- (2) operating, maintaining or placing on location any of the following types of dispensers or machines:
  - (i) dispensers of cigarettes or other tobacco products;
  - (ii) dispensers of soft drinks;
  - (iii) dispensers of food or other merchandise, or
  - (iv) weighing machines;
- (3) operating a soda fountain or soft drink stand; or
- (4) retailing or jobbing cigarettes, cigars, chewing tobacco, snuff or any other tobacco products.

(c) Counties shall not levy any license tax on the businesses taxed under this section, but cities and towns may, except as provided in subsection (g) of this section, levy a license tax not in excess of one fourth the tax levied by the State.

(d) The word ‘dispenser’ as used in this section shall include any machine or mechanical device through the medium of which any of the merchandise referred to in this section is purchased, distributed or sold.

(e) The provisions of this section shall not apply to the sale, through dispensers or otherwise, of milk, milk drinks, dairy products, or newspapers, or to dispensers dispensing merchandise for five cents (5¢) or less.

(f) No tax shall be levied under this section, for the privilege of operating vending machines or the sale of any commodity through such machines, against any vending machine operator, licensed under G.S. 105-65.1 and required thereby to pay a gross receipts tax.

(g) In lieu of the tax of sixteen dollars (\$16.00) imposed in subsection (a) of this section, a tax of five dollars (\$5.00) shall be required for a sundries license for those persons licensed as vending machine operators under G.S. 105-65.1 but not required by that section to pay a gross receipts tax when such persons are liable for payment of the sundries tax. Cities and towns shall not levy any license taxes on persons taxed at the five dollar (\$5.00) rate under this subsection.”

**Sec. 2.** G.S. 105-62(b) is repealed.

**Sec. 3.** Subdivisions (3) and (4) of subsection (b) of G.S. 105-65.1 are repealed.

**Sec. 4.** G.S. 105-79 is repealed.

**Sec. 5.** G.S. 105-84 is repealed.

**Sec. 6.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of March, 1979.

## H. B. 334

## CHAPTER 151

AN ACT TO REPLACE THE SECRETARY OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT ON THE TRYON PALACE COMMISSION WITH THE SECRETARY OF CULTURAL RESOURCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-72, as the same appears in 1978 Replacement Volume 3C of the General Statutes of North Carolina, is hereby amended on the fourth line thereof by deleting the words "Natural Resources and Community Development" and inserting in lieu thereof the words "Cultural Resources".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1979.

## S. B. 305

## CHAPTER 152

AN ACT TO REPEAL G.S. 35-3 OF THE GENERAL STATUTES WHICH PROVIDES FOR THE APPOINTMENT OF A GUARDIAN BASED ON THE CERTIFICATE OF THE SUPERINTENDENT OF A STATE HOSPITAL FOR THE MENTALLY ILL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 35-3 is hereby repealed.

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of March, 1979.

## H. B. 247

## CHAPTER 153

AN ACT TO AMEND SECTION 143B-340 ET SEQ. OF THE GENERAL STATUTES OF NORTH CAROLINA TO CONFORM TO THE REQUIREMENTS OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978 (PUBLIC LAW 95-524).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-340 as the same appears in 1978 Replacement Volume 3C of the General Statutes is amended by rewriting subsections (2) and (4) as follows:

"(2) To review continuously the plans and programs of agencies operating federally funded programs related to employment and training and of other agencies providing employment and training-related services in the State." and

"(4) To conduct studies, prepare reports including an annual report to the Governor which shall be a public document, and to provide such advisory



services as may be authorized or directed by the Governor or the Secretary of Natural Resources and Community Development.”

**Sec. 2.** G.S. 143B-341 as the same appears in 1978 Replacement Volume 3C of the General Statutes is amended as follows:

By rewriting the first paragraph of the section to read as follows:

“The North Carolina Employment and Training Council shall be appointed by the Governor in a manner consistent with federal law and regulations governing State employment and training councils. The council shall serve at the pleasure of the Governor. The Governor shall appoint a public member as chairperson consistent with federal requirements.”

and by deleting the word “three” from line 7 of the section and substituting in lieu thereof the word “five”.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1979.

## H. B. 384

## CHAPTER 154

### AN ACT TO ADOPT THE TURTLE AS THE OFFICIAL STATE REPTILE FOR THE STATE OF NORTH CAROLINA.

Whereas, the turtle is a most useful creature who serves to control harmful and pestiferous insects, and acts as one of nature’s clean-up crew, helping to preserve the purity and beauty of our waters; and

Whereas, the turtle is derided by some who have missed the finer things of life, but in some species has provided food that is a gourmet’s delight; and

Whereas, the turtle, which at a superficial glance appears to be a mundane and uninteresting creature, is actually a most fascinating creature, ranging from species well adapted to modern conditions to species which have existed virtually unchanged since prehistoric times; and

Whereas, the turtle watches undisturbed as countless generations of faster hares run by to quick oblivion, and is thus a model of patience for mankind, and a symbol of this State’s unrelenting pursuit of great and lofty goals; and

Whereas, the woodlands, marshes, and inland and coastal waters of North Carolina are the abode of many species of turtles; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. Chapter 145 is amended by adding a new section as follows:

“§ 145-9. *State reptile.*—The turtle is adopted as the official State reptile of the State of North Carolina, and the eastern box turtle is designated as the emblem representing the turtles inhabiting North Carolina.”

**Sec. 2.** G.S. Chapter 145 is further amended by rewriting the caption of the Chapter to read:

“State Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone and Reptile.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1979.



## H. B. 401

## CHAPTER 155

AN ACT TO PROVIDE RE-EMPLOYMENT RIGHTS TO MEMBERS OF  
THE NORTH CAROLINA NATIONAL GUARD CALLED TO PERIODS  
OF STATE DUTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Article is added to Chapter 127A to read as follows:

“ARTICLE 16.

“National Guard Re-employment Rights.

“§ 127A-196. *Entitlement.*—Any member of the North Carolina National Guard who, at the direction of the Governor, enters State duty, is entitled, upon honorable release from State duty, to all the re-employment rights provided for in this Article.

“§ 127A-197. *Rights.*—Upon release from State duty, the employee shall make written application to his previous employer for re-employment within five days of his release from duty or from hospitalization continuing after release. If the employee is still qualified for his previous employment, he shall be restored to his previous position or to a position of like seniority, status and salary, unless the employer's circumstances now make the restoration unreasonable. If the employee is no longer qualified for his previous employment, he shall be placed in another position, for which he is qualified, and which will give him appropriate seniority, status and salary, unless the employer's circumstances now make the placement unreasonable.

“§ 127A-198. *Penalties for denial.*—If any employer, public or private, fails or refuses to comply with G.S. 127A-197, the Superior Court for the district of the employer's place of business may, upon the filing of a motion, petition, or other appropriate pleading by the employee, require the employer to comply with G.S. 127A-197 and to compensate the employee for any loss of wages or benefits suffered by reason of the employer's unlawful failure or refusal.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1979.

## H. B. 437

## CHAPTER 156

AN ACT TO CREATE A SALES TAX EXEMPTION FOR SALES OF  
MOTOR VEHICLES TO NONRESIDENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.13 is amended by adding at the end thereof a new subdivision to read as follows:

“(32) Sales of motor vehicles, as defined in G.S. 105-164.3(8A), to nonresident purchasers for immediate transportation to and use in another state in which such vehicles are required to be registered, provided the seller obtains from the purchaser and furnishes to the Secretary of Revenue an affidavit stating the name and address of the purchaser, the state in which the vehicle will be registered and operated, the make, model, and serial number of the vehicle, and such other information as the Secretary may require, and provided further that no exemption shall be allowed unless the affidavit is filed with the seller's sales and use tax report for the month during which the sale is made and such report is timely filed.”

**Sec. 2.** G.S. 105-236 is amended by adding at the end thereof a new subdivision to read as follows:

"(12) Any person required by G.S. 105-164.13(32) to file an affidavit with the Secretary of Revenue who willfully fails to file such affidavit or any person who falsifies or aids or abets another person in falsifying such affidavit shall in addition to other penalties provided by law, be guilty of a misdemeanor, and shall be punished by a fine not to exceed two hundred dollars (\$200.00) or by imprisonment not to exceed six months, or both."

**Sec. 3.** This act shall become effective July 1, 1979, and shall apply to sales made on or after that date.

In the General Assembly read three times and ratified, this the 19th day of March, 1979.

## H. B. 448

## CHAPTER 157

AN ACT TO REPEAL ARTICLE 28A, CHAPTER 106 OF THE GENERAL STATUTES RELATING TO NORTH CAROLINA MILK AND CREAM IMPORT LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106, Section 266.1 through 266.5 is hereby repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1979.

## H. B. 450

## CHAPTER 158

AN ACT TO AMEND G.S. 119-13.1 AND G.S. 119-13.2 RELATING TO REPROCESSED OIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 119-13.1 of the General Statutes is rewritten in its entirety as follows:

"§ 119-13.1. *Definitions.*—As used in this Article:

(1) 'Re-refined or reprocessed oil' means lubricating oil for use in internal combustion engines, which has been re-refined or processed in whole or part from previously used lubricating oils.

(2) 'Specifications' means the minimum chemical properties or analysis as determined by the American Society for Testing Materials (A.S.T.M.) test methods using current ASTM analytical procedures."

**Sec. 2.** G.S. 119-13.2 is rewritten as follows:

"§ 119-13.2. *Labels required on sealed containers; oil to meet minimum specifications.*—It shall be unlawful to offer for sale or sell or deliver in this State re-refined or reprocessed oil, as hereinbefore defined, in a sealed container unless this container be labeled or bear a label on which shall be expressed the brand or trade name of the oil and the words 'made from previously used lubricating oil'; the name and address of the person, firm, or corporation who has re-refined or reprocessed said oil or placed it in the container; the Society of Automotive Engineers (S.A.E.) viscosity number; the net contents of the container expressed in U.S. liquid measure of quarts, gallons, or pints; which label has been registered and approved by the Gasoline and Oil Inspection Division of the Department of Agriculture; and that the oil in each container

shall meet the minimum specifications. The Gasoline and Oil Inspection Board shall adopt minimum quality specifications, the measurement of which shall be accomplished using current A.S.T.M. analytical procedures.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1979.

## S. B. 442

## CHAPTER 159

### AN ACT TO ESTABLISH THE NORTH CAROLINA PORTS RAILWAY COMMISSION, AND TO TRANSFER TO IT ALL OF THE RAILWAY EQUIPMENT AND OPERATIONS OF THE NORTH CAROLINA STATE PORTS AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 143B of the General Statutes is amended by adding a new Part 11 to Article 10 to read:

#### “Part 11.

##### “North Carolina Ports Railway Commission.

“§ 143B-469. *Creation of commission.*—(a) The North Carolina Ports Railway Commission is hereby created. It shall be governed by a board composed of five members appointed by the Governor, and hereby designated as the commission.

(b) Members of the commission shall serve for terms of four years, except that the original members shall be appointed as follows: One shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter, all appointments shall be for terms of four years. Any vacancy occurring in the membership of the board for any cause shall be filled by the Governor for the unexpired term. The Governor shall appoint a chairman from the membership to serve at his pleasure. The board shall elect one of its members as vice-chairman and shall also elect a secretary and a treasurer who need not be a member of the commission. The board shall meet upon the call of its chairman. A majority of its members shall constitute a quorum for the transaction of its business.

(c) Members of the commission shall not be entitled to compensation for their services but shall be reimbursed for actual expenses necessarily incurred in the performance of their duties and shall be compensated as provided in G.S. 138-5(a)(1).

“§ 143B-469.1. *Powers of commission.*—The commission shall be an agency of the State with all the powers of a body corporate including the following:

(1) to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;

(2) to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of all such property, real or personal, as the commission may deem necessary;

(3) to operate, maintain and control all railway equipment and railway operations transferred to it by the State Ports Authority;

(4) to acquire, own, lease, locate, install, construct, equip, hold, maintain, control and operate at harbors and seaports terminal railroads in addition to those transferred to it by the State Ports Authority with necessary sidings, turnouts, spurs, branches, switches, yard tracks, bridges, trestles, and causeways

and in connection therewith shall have the further right to lease, install, construct, acquire, own, maintain, control and use any and every kind or character of motive power and conveyances or appliances necessary or proper to carry goods, wares and merchandise over, along or upon the track of such railway or other conveyance.

(5) to make agreements as to scale of wages, seniority and working conditions with railroad employees, including but not limited to, locomotive engineers, locomotive firemen, switchmen, switch engine foremen and hostlers engaged in the operation and servicing of the terminal railways and their equipment;

(6) to connect with or cross any other railway upon payment of just compensation and to receive, deliver to and transport the freight, passengers and the cars of common carrier railroads as though it were an ordinary common carrier;

(7) to appoint, with the approval of the Governor, a general manager of the commission who shall serve at the pleasure of the board. The salary for the general manager shall be fixed by the Governor with the approval of the Advisory Budget Commission. The general manager shall have the authority to appoint, employ and dismiss such number of employees as may be deemed necessary by the board to accomplish the purposes of this Article. The compensation of such employees shall be fixed by the board;

(8) to establish an office for the transaction of its business at such place or places, as in the opinion of the commission, shall be advisable or necessary in carrying out the purposes of this Part;

(9) to pay all necessary costs and expenses involved in and incident to the formation and organization of the commission, and incident to the administration and operation thereof, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Part;

(10) to apply for and accept loans and grants of money from any federal agency or the State of North Carolina or any political subdivision thereof or from any public or private sources available for any and all of the purposes authorized in this Article, and to expend the same in accordance with the directions and requirements attached thereto, or imposed thereon by any such federal agency, the State of North Carolina, or any political subdivision thereof, or any public or private lender or donor, and to give such evidences or indebtedness as shall be required, provided, however, that no indebtedness of any kind incurred or created by the commission shall constitute an indebtedness of the State, or any political subdivision thereof, and no such indebtedness shall involve or be secured by the faith, credit or taxing powers of the State, or any political subdivision thereof;

(11) to act as agent for the United States of America, or any agency, department, corporation or instrumentality thereof, in any manner coming within the purposes or powers of the commission;

(12) to acquire rights of way and the property necessary for the construction of administration buildings, equipment, servicing facilities, terminal railways and structures, railway crossings, bridges and causeways by purchase, by negotiation or by condemnation, and should the commission elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the commission, and it may proceed in any manner provided for by the general laws of this State;



(13) to do any and all things necessary to carry out and accomplish the purposes of this Article.

“§ 143B-469.2. *Cooperation with Ports Authority.*—It shall be the duty and responsibility of the commission to cooperate with the North Carolina State Ports Authority to insure that the State ports shall operate efficiently and effectively and to insure the orderly and effective development of the State ports.

“§ 143B-469.3. *Commission not required to be a common carrier.*—None of the powers and duties of the commission shall be construed as requiring it to become a carrier subject to the Interstate Commerce Act.”

**Sec. 2.** G.S. 143B-453 is amended by deleting the words “, terminal railroads and facilities”.

**Sec. 3.** G.S. 143B-454(4) is amended by deleting the words “including terminal railroads”, and inserting in lieu thereof the words “excluding terminal railroads”.

**Sec. 4.** G.S. 143B-456 is amended by deleting the words “, terminal railroad”.

**Sec. 5.** G.S. 143B-457 is amended by deleting the words “terminal railroads and”, and by deleting the words “, or by railroad corporations”.

**Sec. 6.** G.S. 143B-458 is amended by deleting the word “railroads,”.

**Sec. 7.** G.S. 143B-459 is amended by deleting the words “terminal railroads,”.

**Sec. 8.** G.S. 143B-460 is repealed.

**Sec. 9.** As soon as practicable, the North Carolina State Ports Authority shall transfer to the North Carolina Ports Railway Commission its railway equipment, railway property, and railway operations. This transfer shall include tracks, yards, equipment, trackage rights, franchises, licenses, and leases connected with the railway operations. The transfer is subject to G.S. 143B-455.

**Sec. 10.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1979.

## H. B. 79

## CHAPTER 160

### AN ACT TO REWRITE G.S. 20-65 RELATING TO VEHICLE REGISTRATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-65 is rewritten to read as follows:

“§ 20-65. *Expiration of registration.*—(a) Every vehicle registration under this Article with the exception of private passenger vehicles and all private hauler vehicles licensed for 4000 pounds gross weight, and every registration card and registration plate issued hereunder shall expire at midnight on the 31st day of December each year: Provided, however, that it shall not be unlawful to continue to operate any vehicle upon the highways of this State after the expiration of the registration of said vehicle, registration card and registration plate during the period between the 31st day of December and the 15th day of February, inclusive, if the license plate is registered to the vehicle on which it is being used prior to the 31st day of December.

(b) All private passenger vehicles and all private hauler vehicles licensed for 4000 pounds gross weight initially registered or re-registered in this State



during July 1 - December 31, 1980, shall be registered so as to expire on June 30, 1981, and be inclusive of the month in which registration takes place. Registration fees will be computed on a monthly basis at a rate of one-twelfth of the applicable annual fee plus driver's education fee of three dollars (\$3.00) per each registration transaction.

(c) Beginning January 1, 1981, all previously registered private passenger vehicles and all private hauler vehicles, licensed for 4000 pounds gross weight scheduled for renewal shall be registered for a period of time so as to equally distribute the subsequent annual registering of these vehicles uniformly throughout the nine months of March, April, May, July, August, September, October, November, and December, expiring the last day of the month for which the monthly sticker is issued. During the initial staggering of registrations, the commissioner may designate registration periods of from 7 to 17 months and charge monthly fees accordingly. Monthly registration fees for implementing staggered registration shall be computed at a rate of one-twelfth of the applicable annual fee to the nearest twenty-five cents (25¢) plus the driver's education fee of three dollars (\$3.00) for each registration transaction. Subsequent renewals of all passenger vehicles and private hauler vehicles licensed for 4000 pounds gross weight shall be for a period of 12 full months. Expiration date shall be the last day of the month for which such monthly sticker is issued. Prorated fees will be eliminated for private passenger vehicles and all private hauler vehicles licensed for 4000 pounds gross weight.

(d) Beginning on January 1, 1981, (for private passenger vehicles and all private hauler vehicles licensed for 4000 pounds gross weight only) all new, out-of-state registrants and reissues shall register for a full 12 months inclusive of the month of registration.

(e) In order to maintain a balanced flow of registration transactions, the commissioner shall have the authority to assign registrants to months with low registration volumes. Registration fees in excess of 12 months may be charged in this case and will be based on monthly rates."

**Sec. 2.** All registrations of private passenger vehicles and private hauler vehicles licensed for 4000 pounds gross weight during the period from January 1, 1980, through June 30, 1980, shall expire at midnight on December 31, 1980, provided, however, that it shall not be unlawful to continue to operate such vehicles upon the highways of this State between January 1, 1981, and February 15, 1981, inclusive if the license plate is registered to the vehicle on which it is being used prior to January 1, 1981.

**Sec. 3.** This act shall become effective July 1, 1980.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

## H. B. 221

## CHAPTER 161

## AN ACT TO CLARIFY THE JURISDICTION OF THE CAPITAL BUILDING AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 129-42.1 is rewritten to read as follows:

“§ 129-42.1. *Agencies and institutions.*—The North Carolina Capital Building Authority shall exercise those powers and duties set forth in G.S. 129-42 for all institutions and agencies of the State of North Carolina except constituent institutions of The University of North Carolina as defined in Chapter 116 of the General Statutes of North Carolina, community colleges, industrial education centers, and technical institutes, as defined in G.S. 115A-2, and public schools, as defined in G.S. 115-6, that are under the supervision of county or city administrative units as provided in General Statutes Chapter 115.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

## H. B. 317

## CHAPTER 162

## AN ACT TO REPEAL G.S. 108-38(b) RELATING TO THE DISREGARD OF CERTAIN CONTRIBUTIONS FOR PURPOSES OF DETERMINING ELIGIBILITY FOR PUBLIC ASSISTANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-38(b) is repealed, and G.S. 108-38(a) is redesignated as G.S. 108-38.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

## H. B. 318

## CHAPTER 163

## AN ACT TO DIRECT THE CLERK OF SUPERIOR COURT TO PAY CLAIMS FOR DOMICILIARY CARE GIVEN TO DECEASED RECIPIENTS OF STATE-COUNTY SPECIAL ASSISTANCE FOR ADULTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 28A-25-6(f) is amended by adding the following sentence at the beginning of the last paragraph thereof:

“Notwithstanding the foregoing provisions of this subsection, the clerk shall pay, out of funds provided the deceased pursuant to Part 6 of Article 2 of Chapter 108 of the General Statutes of North Carolina, any lawful claims for domiciliary care received by the deceased, incurred not more than 90 days prior to his death.”

**Sec. 2.** This act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

## H. B. 443

## CHAPTER 164

## AN ACT TO REPEAL AND AMEND SECTIONS OF ARTICLE 10 OF CHAPTER 122 AFFECTING THE INVOLUNTARY COMMITMENT OF INDIVIDUALS TO PRIVATE HOSPITALS FOR THE MENTALLY DISORDERED.

Whereas, the 1973 Session of the North Carolina General Assembly determined that it is the policy of the State that no person shall be committed to a mental health facility unless he is mentally ill or an inebriate and imminently dangerous to himself or others, or unless he is mentally retarded and, because of accompanying behavior disorder, is imminently dangerous to others; and

Whereas, the General Assembly has determined that such commitment will be accomplished under conditions that protect the dignity and constitutional rights of the person; and

Whereas, since 1903 a section of Article 10 of Chapter 122 (said section not being a part of the public involuntary commitment law passed by the 1973 Session of the General Assembly) has allowed for the involuntary commitment of an individual alleged to be mentally ill or inebriate to a privately operated hospital on the affidavit of a physician and any other person made before a notary public or a clerk of court; and

Whereas, after the filing and approval of said affidavit by the clerk of court, such alleged mentally ill or inebriate person may be confined indefinitely at a privately run hospital without periodic judicial review, without an initial due process hearing, or without any other constitutional or statutory protections provided by law; and

Whereas, the public involuntary commitment law passed by the 1973 Session of the General Assembly provides these constitutional and statutory safeguards that are absent in Article 10; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-75, G.S. 122-77, G.S. 122-78, G.S. 122-79, G.S. 122-80, and G.S. 122-82.2 are hereby repealed.

**Sec. 2.** Article 10 of Chapter 122 of the General Statutes entitled "Private Hospitals for the Mentally Disordered" is hereby amended by adding a new section immediately following G.S. 122-81.1 and immediately preceding G.S. 122-82 to be numbered G.S. 122-81.2 to read as follows:

"§ 122-81.2. *Involuntary commitment to a private hospital.*—(a) All involuntary commitments to private hospitals or private facilities licensed by the Department of Human Resources under this Article shall be accomplished in accordance with the provisions of Article 5A of this Chapter.

(b) As provided in G.S. 122-58.8(b), the district court judge may order treatment of an individual at a private hospital, home, or school for the cure, treatment, or rehabilitation of the mentally ill, mentally retarded, or inebriate persons licensed in accordance with G.S. 122-72.

(c) Whenever any interested person feels that it would be in the best interest of a committed individual that such committed individual be transferred to another mental health facility, that interested person may petition the district court for an order directing such transfer. This petition shall be filed in the district court which issued the last commitment order in the case. The district court judge may in his discretion issue a transfer order if such order is in the

best interest of the committed person and the transfer conforms to the State policy of the least restrictive mode of treatment provided in G.S. 122-58.1. Provided, however, that this subsection shall not apply to transfers between two regional Mental Health Facilities.”

**Sec. 3.** G.S. 122-58.2 is hereby amended by adding new subsections (5), (6), and (7), to read as follows:

“(5) ‘Community Mental Health Center’ or ‘Community Mental Health Facility’ means any mental health center or clinic operated by or under the supervision of an area mental health board or area mental health authority pursuant to Article 2F of this Chapter.

(6) ‘Regional Mental Health Facility’ and ‘Regional Psychiatric Facility’ mean any one of the following: Broughton Hospital in Morganton, John Umstead Hospital at Butner, Dorothea Dix Hospital in Raleigh, or Cherry Hospital in Goldsboro.

(7) ‘Mental Health Facility’ and ‘Treatment Facility’ mean any community mental health center, any regional mental health facility, any private mental health facility licensed or designated by the Department of Human Resources pursuant to Article 10 of this Chapter, or the psychiatric services of Memorial Hospital of The University of North Carolina at Chapel Hill.”

**Sec. 4.** G.S. 122-36(g) is hereby amended by rewriting that subsection to read as follows:

“(g) ‘Treatment Facility’ shall mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or mental retardation, any center or facility operated by the State of North Carolina for the care, treatment, or rehabilitation of inebriates, any community mental health clinic or center operated pursuant to Article 2F of this Chapter, and any private hospital as specified in G.S. 122-72 and G.S. 122-72.1.”

**Sec. 5.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

## H. B. 359

## CHAPTER 165

AN ACT TO AMEND VARIOUS SECTIONS OF ARTICLE 23 OF THE GENERAL STATUTES PERTAINING TO THE STATE EDUCATION ASSISTANCE AUTHORITY, INCLUDING G.S. 116-209.4 TO REMOVE THE LIMITATIONS UPON THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AND OTHER OBLIGATIONS OF THE AUTHORITY THAT MAY BE OUTSTANDING AT ANY ONE TIME.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (b) of G.S. 116-201 is rewritten to read as follows:

“(b) As used in this Article, the following terms shall have the following meanings unless the context indicates a contrary intent:

- (1) ‘Article’ or this ‘Article’ means this Article 23 of the General Statutes of North Carolina, presently comprising G.S. 116-201 through G.S. 116-109.23;
- (2) ‘Authority’ means the State Education Assistance Authority created by this Article or, if the Authority is abolished, the board, body, commission or agency succeeding to its principal functions, or on whom



the powers given by this Article to the Authority shall be conferred by law;

- (3) 'Bond resolution' or 'resolution' when used in relation to the issuance of bonds is deemed to mean either any resolution authorizing the issuance of bonds or any trust agreement or other instrument securing any bonds;
- (4) 'Bonds' or 'revenue bonds' means the obligations authorized to be issued by the Authority under this Article, which may consist of revenue bonds, revenue refunding bonds, bond anticipation notes and other notes and obligations, evidencing the Authority's obligation to repay borrowed money from revenues, funds and other money pledged or made available therefor by the Authority under this Article;
- (5) 'Eligible institution', with respect to student loans, has the same meaning as the term has in Section 1085 of Title 20 of the United States Code;
- (6) 'Eligible institution', with respect to grants and work-study programs, includes all state-supported institutions organized and administered pursuant to Chapter 115A of the General Statutes and all private institutions as defined in subdivision (8) of this subsection;
- (7) 'Student obligations' means student loan notes and other debt obligations evidencing loans to students which the Authority may take, acquire, buy, sell, endorse or guarantee under the provisions of this Article, and may include any direct or indirect interest in the whole or any part of any such notes or obligations;
- (8) 'Private institution' means an institution other than a seminary, Bible school, Bible college or similar religious institution in this State that is not owned or operated by the State or any agency or political subdivision thereof, or by any combination thereof, that offers post-high school education and is accredited by the Southern Association of Colleges and Schools or, in the case of institutions that are not eligible to be considered for accreditation, accredited in those categories and by those nationally recognized accrediting agencies that the Authority may designate;
- (9) 'Reserve Trust Fund' means the trust fund authorized under Section 116-209 of this Article;
- (10) 'State Education Assistance Authority Loan Fund' means the trust fund so designated and authorized by Section 116-209.3 of this Article;
- (11) 'Student' means a resident of the State, in accordance with definitions of residency that may from time to time be prescribed by the Board of Governors of The University of North Carolina and published in the residency manual of the Board, who, under regulations adopted by the Authority, has enrolled or will enroll in an eligible institution for the purpose of pursuing his education beyond the high school level, who is making suitable progress in his education in accordance with standards acceptable to the Authority and, for the purposes of G.S. 116-209.19, who has not received a bachelor's degree, or qualified for it and who is otherwise classified as an undergraduate under those regulations that the Authority may promulgate; and
- (12) 'Student loans' means loans to residents of this State to aid them in pursuing their education beyond the high school level."



**Sec. 2.** The second paragraph of G.S. 116-202 is rewritten to read as follows:

“No bonds, as this term is defined in this Article, are deemed to constitute a debt of the State, or of any political subdivision thereof or a pledge of the faith and credit of the State or of any political subdivision, but are payable solely from the funds of the Authority. All bonds shall contain on their faces a statement to the effect that neither the State nor the Authority is obligated to pay the same or the interest thereon except from revenues of the Authority and that neither the faith and credit nor the taxing power of the State or of any political subdivision is pledged to the payment of the principal of or the interest on the bonds.”

**Sec. 3.** The last three sentences of the second paragraph of G.S. 116-203 are rewritten to read as follows:

“The favorable vote of at least a majority of the members of the board present at any meeting is required for the adoption of any resolution or motion or for other official action. The members of the board are entitled to the travel expenses, subsistence allowances and compensation provided in G.S. 138-5. These expenses and compensation shall be paid from funds provided under this Article, or as otherwise provided.”

**Sec. 4.** G.S. 116-209 is amended by adding the following paragraph at the end:

“The trust fund is designated ‘Reserve Trust Fund’ and shall be maintained by the Authority, except as otherwise provided, pursuant to the provisions of this Article, as security for or insurance respecting any bonds or other obligations issued by the Authority under this Article. The corpus of the Escheat Fund, including all future additions other than the income, are transferred to, and become, a part of the Reserve Trust Fund and shall be accounted for, administered, invested, reinvested, used and applied as provided in G.S. 116A-8, 116A-9 and 116A-10. The Authority may pledge and vest a security interest in all or any part of the Reserve Trust Fund by resolution adopted or trust agreement approved by it as security for or insurance respecting the payment of bonds or other obligations issued under this Article. The Reserve Trust Fund shall be held, administered, invested, reinvested, used and applied as provided in any resolution adopted or trust agreement approved by the Authority, subject to the provisions of this Article and G.S. 116A-8 through 116A-11.”

**Sec. 5.** G.S. 116-209.3 is amended by adding at the end of the first paragraph the following:

“There is also deposited to the credit of the Loan Fund the income derived from the investment or deposit of the Escheat Fund distributed to the Authority pursuant to G.S. 116A-9. The income shall be held, administered and applied by the Authority as provided in any resolution adopted or trust agreement approved by the Authority, subject to the provisions of G.S. 116A-9 and this Article.”

**Sec. 6.** G.S. 116-209.4 is amended by deleting “in an aggregate principal amount outstanding at any time of not exceeding fifty million dollars (\$50,000,000)” from the first sentence and substituting the phrase “in such principal amounts as the Board of Directors shall determine to be necessary.” G.S. 116-209.4 is further amended by deleting the last paragraph and substituting the following:

"The Authority is authorized to provide by resolution or in any trust agreement for the issuance of revenue refunding bonds of the Authority for the purpose of refunding, or advance refunding and paying, any bonds then outstanding, which have been issued under the provisions of this Article, including the payment of any redemption premium and of any interest accrued or to accrue up to the date of redemption of the bonds, and, if deemed advisable by the Authority, for making student loans or acquiring obligations under this Article. The issuance of the revenue refunding bonds, the maturities and other details, the rights of the holders and the rights, duties and obligations of the Authority, shall be governed by the appropriate provisions of this Article relating to the issuance of revenue bonds. Revenue refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this Article. If sold, in addition to any other authorized purpose, the proceeds may be deposited in an escrow or other trust fund and invested, in whole or in part, and with the earnings from the investments, may be applied to the purchase or to the redemption prior to, or to payment at maturity, of outstanding bonds, all as provided by resolution or in trust agreement securing the bonds."

**Sec. 7.** G.S. 116-209.14 is rewritten to read as follows:

"The Authority shall, following the close of each fiscal year, publish an annual report of its activities for the preceding year to the Governor and the General Assembly. Each report shall set forth a complete operating and financial statement covering the operations of the Authority during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by the State Auditor or by certified public accountants."

**Sec. 8.** The last sentence of G.S. 116-209.17 is rewritten to read as follows:

"With respect to grants made pursuant to this Article, no student is eligible to receive benefits under this student assistance program for a total of more than 45 months of full-time, post-high school level education."

**Sec. 9.** The last paragraph of G.S. 116-209.19 is rewritten to read as follows:

"The Authority, in determining the needs of students for grants, may among other factors, give consideration to the amount of other financial assistance that may be available to the students, such as nonrepayable awards under the Basic Educational Opportunity Grant Program, the Health Professions Education Assistance Act or other student assistance programs created by federal law."

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

## S. B. 254

## CHAPTER 166

AN ACT TO AMEND G.S. 90-241 AND G.S. 90-243 RELATING TO THE FEES THAT THE STATE BOARD OF OPTICIANS MAY IMPOSE AND PERMITTING THE BOARD TO REQUIRE THAT CERTAIN INFORMATION FURNISHED IT BE UNDER OATH.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-243 is rewritten to read as follows:

“Upon the request of any person to whom a certificate has been issued, the board shall issue a certified copy thereof. The board shall be entitled to a fee of ten dollars (\$10.00) for the issuance of a certified copy. The board may, by regulation, provide for fees for registering optical places of business and for registering apprentices and interns. Such registration fees shall not exceed twenty dollars (\$20.00). The board may also require that any information furnished to it as required by law or regulation must be furnished under oath.”

**Sec. 2.** G.S. 90-241, as the same appears in the 1975 Replacement Supplement to Volume 2C of the General Statutes, is amended by striking from lines 5 and 6 thereof, the words “five dollars (\$5.00)” and substituting in lieu thereof the words and figures “ten dollars (\$10.00)”.

**Sec. 3.** G.S. 90-241 is amended by deleting the second sentence and substituting in lieu thereof the following:

“Any person holding a certificate or license to practice as a dispensing optician in another state where the qualifications are equal to or stricter than the qualifications required in this State may, upon payment of the same fees as required of other applicants

(a) be licensed without examination, or

(b) be allowed to take the licensure examination as determined by the board. If the board determines that the qualifications of the State in which an applicant is licensed are less strict than the qualifications of this State, the board may allow that applicant to take the licensure examination.”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

## S. B. 326

## CHAPTER 167

AN ACT FIXING THE NUMBER OF MEETINGS OF THE DURHAM COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapter 657, Session Laws of 1975, is amended by deleting the words “not to exceed three meetings per month,” and inserting in lieu thereof the words “not to exceed thirty-six meetings in any calendar year”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

S. B. 367

**CHAPTER 168****AN ACT TO ALLOW A MUNICIPAL GOVERNING BOARD TO SET THE DATE FOR ITS ORGANIZATIONAL MEETING.***The General Assembly of North Carolina enacts:***Section 1.** G.S. 160A-68 is rewritten to read:

“§ 160A-68. *Organizational meeting of council.*—(a) The council may fix the date and time of its organizational meeting. The organizational meeting may be held at any time after the results of the municipal election have been officially determined and published pursuant to Subchapter IX of Chapter 163 of the General Statutes but not later than the date and time of the first regular meeting of the council in December after the results of the municipal election have been certified pursuant to that Subchapter. If the council fails to fix the date and time of its organizational meeting, then the meeting shall be held on the date and at the time of the first regular meeting in December after the results of the municipal election have been certified pursuant to Subchapter IX of Chapter 163 of the General Statutes.

(b) At the organizational meeting, the newly elected mayor and councilmen shall qualify by taking the oath of office prescribed in Article VI, Section 7 of the Constitution. The organization of the council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, but at least a quorum of the members must be present.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

H. B. 238

**CHAPTER 169****AN ACT TO ESTABLISH THE LIMITATION ON ACTIONS BROUGHT UNDER CHAPTER 75 OF THE GENERAL STATUTES.***The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 75 of the General Statutes, as the same appears in 1975 Replacement Volume 2C, is hereby amended by adding thereto a new section 75-16.2 to read as follows:

“§ 75-16.2. *Limitation of actions.*—Any civil action brought under this Chapter to enforce the provisions thereof shall be barred unless commenced within four years after the cause of action accrues.

When any civil or criminal proceeding shall be commenced by the Attorney General or by any of the district attorneys of the State to prevent, restrain or punish a violation of Chapter 75, the running of the period of limitation with respect to every private right of action arising under Chapter 75 and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter; provided that when the running of the period of limitation with respect to a cause of action arising under Chapter 75 shall be suspended hereunder, any action to enforce such cause of action shall be barred unless commenced either within the period of suspension or within four years after the cause of action accrued, whichever is later.”



**Sec. 2.** This act is effective upon ratification but shall not apply to any pending civil action.

In the General Assembly read three times and ratified, this the 21st day of March, 1979.

## S. B. 243

## CHAPTER 170

AN ACT TO AMEND CHAPTER 481 OF THE SESSION LAWS OF 1967, BEING THE CHARTER OF THE CITY OF ASHEBORO IN RANDOLPH COUNTY, CONCERNING THE POWER OF EMINENT DOMAIN.

*The General Assembly of North Carolina enacts:*

**Section 1.** That Article I of the Charter of the City of Asheboro, as set forth in Chapter 481 of the Session Laws of 1967, is hereby amended by adding Section 1.5 as follows:

“Sec. 1.5. Eminent Domain: Powers and Procedures. The City of Asheboro shall have the power of eminent domain and may acquire, either by purchase, gift or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water, or improvements, either within or without the City limits, for any lawful public use or purpose.

In the exercise of the power of eminent domain, the City is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City of Asheboro, and 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 Asheboro 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 Asheboro”, all reference to the “Secretary of Transportation” shall be deemed to mean “City Manager” of the City of Asheboro, all references to “Raleigh” shall be deemed to mean “Asheboro”, 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 Asheboro.

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 21st day of March, 1979.



## S. B. 291

## CHAPTER 171

## AN ACT TO AMEND ARTICLES 3 AND 4 OF CHAPTER 122 TO CLARIFY THE PROCEDURES FOR THE VOLUNTARY ADMISSION OF MINORS TO MENTAL HEALTH FACILITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-56.7 is hereby rewritten to read as follows:

“§ 122-56.7. *Judicial determination.*—(a) A hearing shall be held in district court in the county in which the treatment facility is located within 10 days of the day a minor or a person adjudicated *non compos mentis* is admitted to a treatment facility pursuant to G.S. 122-56.5. No petition shall be necessary; the written application for voluntary admission shall serve as the initiating document for the hearing.

(b) The court shall determine whether such person is mentally ill or an inebriate and is in need of further treatment at the treatment facility. Further treatment at the treatment facility should be undertaken only when lesser measures will be insufficient. If the court finds by clear, cogent, and convincing evidence, that these requirements have been met, the court shall concur with the voluntary admission of the minor or person adjudicated *non compos mentis*. If the court finds that these requirements have not been met, it shall order that the person be released. A finding of dangerousness to self or others is not necessary to support the determination that further treatment should be undertaken.

(c) Mental illness in a minor shall have the meaning provided in G.S. 122-36(d)(2). Mental illness for an adult adjudicated *non compos mentis* shall have the meaning provided in G.S. 122-36(d)(1). The word ‘inebriate’ shall have the meaning provided in G.S. 122-36(c).

(d) When, in the case of a minor, it appears that an extended period of inpatient diagnostic evaluation is necessary before a recommendation can be made to the court, the chief clinical officer or his designee may request hospitalization not to exceed 30 days for diagnosis and evaluation. The following procedures shall apply:

- (1) At least 48 hours in advance of the regularly calendared hearing provided in subsection (a) above, the chief clinical officer or his designee shall give written notice to the clerk of superior court, the respondent, the parent or parents, guardian, or person standing in *loco parentis*, and the attorneys for all parties, that diagnosis and evaluation of the minor cannot be completed prior to the calendared hearing, and that he will request that the court authorize a period of hospitalization not to exceed 30 days for the purpose of diagnosing and evaluating the minor.
- (2) The court will determine whether there exists reasonable grounds to believe: (1) that the minor is probably mentally ill or an inebriate and; (2) that the minor may, upon diagnosis and evaluation, be found to meet the criteria for admission as set out in (b) above; and, (3) that additional time is required to complete the diagnosis and evaluation.
- (3) If the court finds that the criteria set out in subdivision (d)(2) above have been met, it shall authorize a period of hospitalization for diagnosis and evaluation, not to exceed 30 days, and establish a new date for the hearing provided in subsection (a) above, to occur by the end of the specified period. During this period, medical, psychiatric,

psychological, educational, and social evaluation shall be undertaken and reasonable and appropriate medication and treatment administered, consistent with Part 3 of Article 3 of this Chapter, and accepted medical standards.

(4) If the court does not make findings of fact as set out in subdivision (d) (2) above, the minor shall be ordered released.

(e) Unless otherwise provided in 122-56.7, the hearings specified in (b) and (d) above, and all subsequent proceedings shall be governed by the involuntary commitment procedures of Article 5A of Chapter 122 of the General Statutes. In a case involving an indigent respondent located at a regional psychiatric facility for the care and treatment of the mentally ill and inebriate, special counsel authorized by G.S. 122-58.12 shall act as counsel.

(f) After admission, only the court or the treatment facility may release the minor or person adjudicated *non compos mentis* at any time when either determines that such person does not need further hospitalization.

(g) In addition to the notice of hearings and rehearings to the respondent and his counsel required under G.S. 122-58.5 and G.S. 122-11(a) respectively, notice shall be given by the clerk to the person who signed the application for voluntary admission, or his successor, in accordance with the provisions of G.S. 122-58.20. The person who signed the application for voluntary admission, or his successor, may also file a written waiver of his right to receive notice with the clerk of court."

**Sec. 2.** G.S. 122-36(d) is hereby rewritten to read as follows:

"(d) The words 'mental illness' shall mean: (1) when applied to an adult, an illness which so lessens the capacity of the person to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance or control. The words 'mentally ill' shall mean an adult person with a mental illness; or (2) when applied to a minor shall mean a mental condition, other than mental retardation alone, which so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or initiative in the conduct of his activities and social relationships as to make it necessary or advisable for him to be under treatment, care, supervision, guidance or control."

**Sec. 3.** G.S. 122-56.2(b) is hereby amended by rewriting that subsection to read as follows:

"The words 'treatment facility,' as used in this Article, mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or inebriety, any area mental health facility operated pursuant to Article 2F of this Chapter, and any private hospital for the mentally disordered as described in G.S. 122-72 and G.S. 122-72.1."

**Sec. 4.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of March, 1979.

## S. B. 363

## CHAPTER 172

## AN ACT TO CONFIRM CERTAIN PORTIONS OF THE CORPORATE LIMITS AND TO RATIFY ACTIONS OF THE CITY COUNCIL OF THE CITY OF GASTONIA.

*The General Assembly of North Carolina enacts:*

**Section 1.** The corporate limits of the City of Gastonia are hereby declared to include the following described areas:

“ALL THOSE TRACTS OF LAND LYING IN GASTON COUNTY AND BEING contiguous to the presently existing southern boundary of the City of Gastonia, and being in the irregular shaped 17.6971 acre tract, bounded on the north by the City of Gastonia and on the south and west by Catawba and Avon Creeks, which Creeks mark the northern boundary of the lands of S. C. Downey Construction Company, Inc., whose lands are also located within the presently existing boundaries of the City of Gastonia, said 17.6971 acre tract being more particularly described as follows:

BEGINNING at a point in the center of Catawba Creek, the said beginning point being, now or formerly, the common corner of the lands of Fern Forest Land Company as described in Deed Book 524 at Page 522, and the lands of S. C. Downey Construction Company, Inc. as described in Deed Book 1258 at Page 365, both of which deeds are duly recorded in the Gaston County Registry; said beginning point further lying South 04 degrees 50 minutes 05 seconds East 434.99 feet from an iron pin in the southeastern margin of Buckingham Avenue, said iron pin being the northwest corner of Lot No. 11, Block 20, as shown on Plat Book 19 at Page 85 in the Gaston County Registry; thence from said beginning point and with the centerline of Catawba Creek as it meanders in a westerly direction to a point in the center of Avon Creek, which point lies South 88 degrees 54 minutes 55 seconds West 74.62 feet from a concrete monument situated in the southernmost portion of Lot 8 in Block G as shown on that certain map or plat duly recorded in Plat Book 22 at Page 44 of the Gaston County Registry; the traverse calls of the centerline of said Creeks being measured from a concrete monument and control corner which lies North 04 degrees 50 minutes 05 seconds West 70.18 feet from the beginning point in the centerline of Catawba Creek, said concrete monument and control corner also lying South 04 degrees 50 minutes 05 seconds East 364.81 feet from an iron pin in the southern margin of Buckingham Avenue; thence from said concrete monument the traverse lines of said Creeks being more particularly described by the following calls: (1) South 52 degrees 22 minutes 29 seconds West 357.92 feet; (2) South 55 degrees 01 minutes 29 seconds West 306.26 feet; (3) South 55 degrees 07 minutes 41 seconds West 309.68 feet; (4) North 60 degrees 06 minutes 33 seconds West 241.25 feet; (5) North 51 degrees 10 minutes 45 seconds West 266.94 feet; (6) North 69 degrees 45 minutes 19 seconds West 619.72 feet; (7) North 11 degrees 40 minutes 09 seconds West 115.85 feet to a concrete monument situated in the southernmost portion of Lot 8 in Block G as shown on Plat Book 22 at Page 44 in the Gaston County Registry, said concrete monument also lying North 88 degrees 54 minutes 55 seconds East 74.62 feet from the centerline of Avon Creek; thence from the centerline of Avon Creek North 88 degrees 54 minutes 55 seconds East 1878.81 feet to a point which is situated South 04 degrees 50 minutes 05 seconds East 286.10 feet from an iron pin in the southern margin of Buckingham Avenue, the northwest corner of Lot

11 in Block 20 of Plat Book 19 at Page 85, which is recorded in the Gaston County Registry; thence from said point South 04 degrees 50 minutes 05 seconds East 148.89 feet passing a concrete monument at 78.71 feet to a point in the centerline of Catawba Creek, the point and place of BEGINNING, containing a total area of 17.6971 acres more or less.

THE SAME BEING a portion of Lots 8, 9, 9A and all of Lots 10, 11, 12, 13, 14, 15 and 16 in Block G as shown in Plat Book 22 at Page 44 in the Gaston County Registry; all of Lots 1, 2, 3, 4, and a portion of Lots 5, 6, 7 and 8 of Block P; and a portion of Lots 1, 2, 11 and 12 and all of Lot 10 in Block O, all as shown on that certain plat recorded in Plat Book 28 at Page 25 in the Gaston County Registry, together with a portion of Lot 9 in Block H as shown on that certain plat recorded in Plat Book 25 at Page 12 in the Gaston County Registry; also the same being a portion of the lands now owned by Fern Forest Land Company as described in Deed Book 524 at Page 522 in the Gaston County Registry located to the South thereof.

The same being the identical property as shown on that certain map or plat drawn by the Office of the City Engineer for the City of Gastonia entitled 'City Limits Extension Map City Limits Extension at Fern Forest Drive and Buckingham Avenue', dated February 16, 1979, File #79A-84, and recorded in Plat Book 36 at Page 13 of the Gaston County Registry."

**Sec. 2.** (a) Any and all official acts, actions, expenditures and levies of taxes or assessments by the Mayor and City Council of the City of Gastonia since January 1, 1964, with respect to or affecting the territory and properties described in Section 1 of this act are hereby ratified, validated and confirmed.

(b) All elections, and the results thereof, previously held in and for the City of Gastonia are hereby validated.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1979.

## S. B. 365

## CHAPTER 173

AN ACT TO ALLOW THE TOWN OF STONEVILLE TO INCREASE THE TAX LEVY ON MOTOR VEHICLES TO A MAXIMUM OF FIVE DOLLARS (\$5.00).

*The General Assembly of North Carolina enacts:*

**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 Stoneville,".

**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 Stoneville".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1979.



## H. B. 39

## CHAPTER 174

AN ACT TO CLARIFY THE AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION TO LET CONTRACTS FOR PROFESSIONAL AND SPECIALIZED SERVICES IN CONNECTION WITH HIGHWAY CONSTRUCTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 136-28.1(f) is hereby amended by inserting in line 1 following the words "Contracts for professional engineering services" the following: "and other kinds of professional or specialized services necessary in connection with highway construction or repair".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

## H. B. 134

## CHAPTER 175

AN ACT TO REQUIRE LIGHTED HEADLAMPS ON MOTOR VEHICLES WHEN DRIVER MUST ACT TO KEEP WINDSHIELD CLEAR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-129(a) is hereby amended by deleting the number "200" from line 5, and inserting in lieu thereof the number "400".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

## H. B. 136

## CHAPTER 176

AN ACT TO AMEND G.S. 20-81.6 RELATING TO SPECIAL PLATES FOR CLASS D CITIZEN RADIO STATION OPERATORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-81.6(a) is hereby amended by striking the words "which is primarily used for pleasure or communication purposes" appearing in lines 1 and 2.

**Sec. 2.** G.S. 20-81.6(a) is further amended on line 11 after the word "Commission;" by replacing the semicolon with a period and deleting the balance of G.S. 20-81.6(a).

**Sec. 3.** G.S. 20-81.6(b) is hereby amended by striking the figure "60" appearing in line 5 and inserting in lieu thereof the figure "90".

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.



## H. B. 173

## CHAPTER 177

## AN ACT TO ALLOW A SUPERIOR COURT TO CONVENE TWO GRAND JURIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-622(b) is amended by adding thereto a second paragraph to read:

“The senior resident superior court judge of the district may impanel a second grand jury in any county of the district to serve concurrently with the first. The second grand jury shall be impaneled as provided in the first paragraph of this subsection. The court shall continue to have two grand juries until the senior resident superior court judge orders the second grand jury to terminate.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

## H. B. 215

## CHAPTER 178

## AN ACT TO AMEND G.S. 20-37.6 RELATING TO HANDICAPPED PARKING PRIVILEGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-37.6(c) is hereby amended by striking the letter and numbers “D9-6” appearing in lines 3 and 8 thereof and inserting in lieu thereof the letter and numbers “R7-8”.

**Sec. 2.** G.S. 20-7(d) is hereby amended by striking the letter and numbers “D9-6” appearing in line 13 and inserting in lieu thereof the letter and numbers “R7-8”.

**Sec. 3.** G.S. 20-37.6(d) is hereby amended by striking the last sentence and inserting in lieu thereof the following: “The penalty for a violation of this section shall be ten dollars (\$10.00) and whenever evidence shall be presented in any court of the fact that any automobile, truck or other vehicle was found to be parked in a properly designated handicapped parking space contrary to and in violation of the provisions of this section, it shall be *prima facie* evidence in any court in the State of North Carolina that such vehicle was parked and left in such space by the person, firm or corporation in whose name such vehicle is then registered and licensed according to the records of the Division of Motor Vehicles; provided, that no evidence tendered or presented under the authorization contained in this section shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.”

**Sec. 4.** G.S. 20-37.6 is amended by adding a new subsection to be designated subsection “(e)” and to read as follows:

“(e) Notwithstanding any other provision of the General Statutes, the provisions of this section relative to handicapped parking shall be enforced by State, county, city and other municipal authorities in their respective jurisdictions whether on public or private property in the same manner as is used to enforce other parking laws and ordinances by said agencies.”

**Sec. 5.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

H. B. 227

**CHAPTER 179****AN ACT TO MAKE TECHNICAL REVISIONS OF CHAPTER 105 OF THE GENERAL STATUTES PERTAINING TO THE REVENUE LAWS OF NORTH CAROLINA.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Inheritance Tax Article of the Revenue Act, being Article 1 of Subchapter I of Chapter 105 of the General Statutes, is amended by adding thereto a new section, G.S. 105-7.1, to read as follows:

“§ 105-7.1. *Generation skipping transfer tax.*—(a) A tax in addition to any other taxes imposed by this Article or by Article 6 of this Subchapter is hereby imposed upon every generation skipping transfer subject to the tax imposed by Chapter 13 of Subtitle B of the Internal Revenue Code of 1954, as amended, where the original transferor is a resident of this State at the date of said original transfer, in an amount equal to the amount allowable as credit for State inheritance taxes under Section 2602 of the Internal Revenue Code, to the extent such credit exceeds the aggregate amount of all taxes on the same transfer actually paid to the several states of the United States, other than this State.

(b) A tax, in addition to all other taxes imposed by this Article and by Article 6 of this Subchapter, is hereby imposed upon every generation skipping transfer subject to the tax imposed by Chapter 13 of Subtitle B of the Internal Revenue Code of 1954 where the original transferor is not a resident of this State but the transfer includes real or personal property with a situs in this State, in an amount equal to the amount allowable as a credit for State inheritance taxes under Section 2602 of the Internal Revenue Code, reduced by an amount which bears the same ratio to the total State inheritance tax credit allowable for federal generation skipping transfer tax purposes as the value of the transferred property taxable by all other states bears to the value of the gross generation skipping transfer for federal generation skipping transfer tax purposes.

(c) Every person required by the Internal Revenue Code of 1954, as amended, to file a return reporting a generation skipping transfer shall file a duplicate copy of said return with the Secretary of Revenue on or before the last day prescribed for filing the federal return.

(d) The tax herein imposed shall be due upon a taxable distribution or taxable termination as determined under the provisions of the federal generation skipping transfer tax. The person liable for payment of the aforesaid federal tax shall also be liable for the tax imposed herein, and same shall be paid to the Secretary of Revenue on or before the last day allowed for filing the return required hereunder.

(e) If after the filing of the duplicate federal return with the Secretary of Revenue as required by subsection (c) herein, the federal government shall thereafter increase or decrease the amount of the federal generation skipping transfer tax actually due, within 30 days of said increase or decrease, an amended return shall be filed with the Secretary of Revenue reflecting all changes made in the original return, and the amount of increase or decrease in the federal generation skipping transfer tax. Based thereon, and upon such

evidence as he may otherwise acquire, the Secretary of Revenue shall reassess the tax imposed herein, and if he shall determine that there remains due additional tax, he shall thereafter issue a notice of proposed assessment in respect thereof pursuant to G.S. 105-241.1. If the notice required herein of the federal change in tax due is not so furnished, any additional tax which may be owing may be assessed at any time.

(f) The administrative provisions of Article 1 and Article 6, wherever applicable, shall apply to the collection of the tax imposed by this section. To the extent that the same are not in conflict with the provisions of this section, the Secretary of Revenue may adopt such rules and regulations as are or may be promulgated with respect to the estate tax, gift tax, or generation skipping transfer tax provisions of the Internal Revenue Code of 1954, as amended."

**Sec. 2.** The Income Tax Article of the Revenue Act, being Article 4 of Subchapter I of Chapter 105 of the General Statutes, is amended by:

(a) substituting the date "January 1, 1979" for the date "January 1, 1977" in line 5 of G.S. 105-130.3, as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes;

(b) adding to G.S. 105-130.5(b) a new subdivision (11), to read as follows:

"(11) The amount by which the deduction for an ordinary and necessary business expense on the corporation's federal income tax return was reduced or which was not allowed as a deduction because the corporation claimed in lieu of such amount a tax credit against its federal income tax liability for the income year."

(c) rewriting G.S. 105-141(b)(9)a. to read as follows:

"a. The value of meals or lodging furnished for the convenience of the employer to the extent that the value of such meals or lodging is excluded from gross income under the provisions of Section 119 of the Internal Revenue Code of 1954 as amended; and"

(d) adding at the end of G.S. 105-141(b)(17) a new paragraph d., to read as follows:

"d. An amount distributed from an annuity contract described in this subdivision or a custodial account described in this subdivision which qualifies for roll-over treatment as provided in the Internal Revenue Code of 1954 as amended, shall likewise qualify for roll-over hereunder and shall be excluded from gross income to the extent such amount is excluded from gross income as provided in the Internal Revenue Code of 1954 as amended unless such exclusion is contrary to the context and intent of State law."

(e) adding at the end of G.S. 105-141(b) three new subsections (22), (23), and (24), to read as follows:

"(22) In the case of a North Carolina resident any amounts excludable from gross income as income earned by individuals in certain camps under the provisions of Section 911 of the Internal Revenue Code of 1954 as amended and as exemptions for certain allowances received by civilian officers or employees of the government of the United States under the provisions of Section 912 of the Internal Revenue Code of 1954 as amended.

(23) Educational expenses incurred by the employer for educational assistance to the employee to the extent excluded from federal gross income under the provisions of Section 127 of the Internal Revenue Code of 1954 as amended. No deduction or credit shall be allowed under any other section of this division for any amount excluded from income by reason of this section.

(24) In the case of an individual whose principal residence is damaged or destroyed by fire, storm, or other casualty, or who is denied access to his principal residence by governmental authorities because of the occurrence or threat of occurrence of such a casualty, gross income does not include amounts received by such individual under an insurance contract which are paid to compensate or reimburse such individual for living expenses incurred for himself and members of his household resulting from the loss of use or occupancy of such residence. The exclusion provided in this subdivision shall apply to amounts received by the taxpayer for living expenses incurred during any period only to the extent the amounts received do not exceed the amounts by which:

- (1) the actual living expenses incurred during such period for himself and members of his household resulting from the loss of use or occupancy of their residence, exceeds
- (2) the normal living expenses which would have been incurred for himself and members of his household during such period."

(f) deleting from line 8 of G.S. 105-142(d), as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, the symbols and number "(5)", so that said line 8 will read, after amendment, "402(a) of the Internal Revenue Code of 1954 as amended, in the year in which";

(g) rewriting G.S. 105-142(e) to read as follows:

"(e) An individual, who patronizes or owns stock or has membership in a farmers' marketing or purchasing cooperative or mutual, organized under Subchapter 4 or Subchapter 5 of Chapter 54 of the General Statutes of North Carolina, shall include in his gross income for the year in which the allocation is made his distributive share of any savings, whether distributed in cash or credit, allocated by the cooperative or mutual association for each income year; provided, however, that such allocation or distribution shall not be includable in the gross income for the income year if it is excludable from gross income for federal income tax purposes under the provisions of Section 1385 of the Internal Revenue Code."

(h) adding at the end of G.S. 105-144.2(c)(4) a new sentence, to read as follows:

"If a principal residence is sold in a sale to which paragraph (2) of subsection (d) applies within 18 months after the sale of the old residence, for purposes of applying the preceding sentence with respect to the old residence, the principal residence so sold shall be treated as the last residence used during such 18-month period."

(i) rewriting G.S. 105-144.2(d) to read as follows:

"(d) Limitation. (1) Subsection (a) shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of subsection (a).

(2) Paragraph (1) of this subsection shall not apply with respect to the sale of the taxpayer's residence if

- (A) such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and



(B) if the residence so sold is treated as the former residence for purposes of Section 217 of the Internal Revenue Code (relating to moving expenses), the taxpayer would satisfy the conditions of subsection (c) of Section 217 (as modified by the other subsections of such section)."

(j) adding at the end of G.S. 105-144.2 two new subsections (i) and (j), to read as follows:

"(i) Individual whose tax home is outside of United States. The running of any period of time specified in subsection (a) or (c) of this section (other than the 18 months referred to in paragraph (4) of subsection (c)) shall be suspended during the time the taxpayer (or his spouse if the old residence and new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in Section 913 (j)(1)(B) of the Internal Revenue Code) outside of the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date four years after the date of the sale of the old residence.

(j) Statute of limitations. If the taxpayer during the taxable year sells at a gain property used by him as his principal residence, then

(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of three years from the date the secretary is notified by the taxpayer of

(A) the taxpayer's cost of purchasing the new residence which the taxpayer claims results in nonrecognition of any part of such gain,

(B) the taxpayer's intention not to purchase a new residence within the period specified in subsection (a) of this section, or

(C) a failure to make such purchase within such period; and

(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(k) adding at the end of G.S. 105-147(1) a new subsection (f), to read as follows:

"(f) As to a North Carolina resident any amounts deductible as certain expenses of living abroad under the provisions of Section 913 of the Internal Revenue Code of 1954 as amended."

(l) rewriting G.S. 105-147(8) to read as follows:

"(8) In the case of an individual moving from one location to another, moving expenses paid or incurred during the taxable year to the extent allowed or allowable for federal income tax purposes under the provisions of Section 217 of the Internal Revenue Code of 1954 as amended; except, that no individual, other than a resident of North Carolina who qualifies for moving expense deductions under the provisions of subsection (i) of Section 217 of the Internal Revenue Code of 1954 as amended, shall be allowed the deduction for such moving expenses unless the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of this Division for the period of time required under Section 217 of the Internal Revenue Code of 1954 as amended for qualifying for the moving expense deduction for federal income tax purposes and only to the extent allowed or allowable under that section for federal income tax purposes; provided, that if the reimbursement for the moving expenses is reportable for taxation to North Carolina under the provisions of G.S. 105-141(a)(21), the deduction for moving expenses shall be allowed to the extent allowed for federal



income tax purposes; and provided further, that when only a portion of the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of this Division, the moving expense deduction shall be apportioned under rules and regulations prescribed by the Secretary of Revenue. Where joint federal returns are filed by husband and wife for federal income tax purposes, the deduction otherwise allowable under this subsection shall be limited to such amount as would have been allowable if separate federal income tax returns had been filed. The deduction allowed by this subdivision for moving expenses shall be allowed as a business expense deductible from gross income in arriving at adjusted gross income."

(m) deleting from line 5 of G.S. 105-147(9)(e), as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, the word and figures "of 1970", so that said line 5 will read, after amendment, "under the Disaster Relief Act may, at the election of the";

(n) rewriting G.S. 105-158, to read as follows:

"§ 105-158. *Abatement of income taxes of certain members of the armed forces upon death.*—In the case of any individual

(1) who dies

- a. on or after January 1, 1964;
  - b. while in active service as a member of the armed forces of the United States, and
  - c. while serving in a combat zone (as determined under G.S. 105-141(b)(12));
- or

(2) who dies

- a. on or after January 1, 1964; and
- b. as a result of wounds, disease or injury incurred while in active service as a member of the armed forces of the United States, and while serving in a combat zone on or after January 1, 1964.

No individual income tax imposed by the State of North Carolina shall apply with respect to the taxable year in which falls the date of his death, or with respect to any prior taxable year ending on or after the first day he so served in a combat zone; and any tax under this division and under the corresponding provisions of prior revenue laws for taxable years preceding those above specified which is unpaid at the date of his death (including interest, additions to the tax, and additional amounts) shall not be assessed and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment."

**Sec. 3.** The Sales and Use Tax Article of the Revenue Act, being Article 5 of Subchapter I of Chapter 105 of the General Statutes, is amended by rewriting the second sentence in G.S. 105-164.6(4) to read as follows:

"Where a retail sales and use tax is due and has been paid with respect to said tangible personal property in another state by the purchaser thereof for storage, use or consumption in this State, said tax shall be credited upon the tax imposed by this Part."

**Sec. 4.** The Intangible Personal Property Tax Article of the Revenue Act, being Article 7 of Subchapter I of Chapter 105 of the General Statutes, is amended by:

(a) rewriting the first paragraph of G.S. 105-202, to read as follows:

"All bonds, notes, demands, claims, deposits or share accounts in out-of-state building and loan and savings and loan associations and other evidences of debt

however evidenced whether secured by mortgage, deed of trust, judgment or otherwise, or not so secured, having a business, commercial or taxable situs in this State on December 31 of each year shall be subject to an annual tax which is hereby levied, of twenty-five cents (25¢) on every one hundred dollars (\$100.00) of the actual value thereof, except that taxpayers reporting on a fiscal year basis for income tax purposes under the provisions of Article 4 shall report evidences of debt on the last day of such fiscal year ending during the year prior to the December 31 as of which such property would otherwise be reported; provided, that from the actual value of such bonds, notes, demands, claims and other evidences of debt there may be deducted like evidences of debt owed by the taxpayer as of the valuation date of the receivable evidences of debt. The term 'like evidences of debt' deductible under this section shall not include:

(1) accounts payable; provided, however, that accounts payable to security brokers incurred directly for the purchase of bonds, debentures and similar investments taxable under this section shall be deductible;

(2) taxes of any kind owing by the taxpayer;

(3) reserves, secondary liabilities or contingent liabilities except upon satisfactory showing that the taxpayer will actually be compelled to pay the debt or liability;

(4) evidences of debt owed to a corporation of which the taxpayer is parent or subsidiary or with which the taxpayer is closely affiliated by stock ownership or with which the taxpayer is subsidiary of same parent corporation, unless the credits created by such evidences of debt are listed, if so required by law for ad valorem or property taxation, for taxation at the situs of such credits; or

(5) debts incurred to purchase assets which are not subject to taxation at the situs of such assets."

(b) rewriting the first paragraph of G.S. 105-205, to read as follows:

"All funds on deposit with insurance companies on December 31 of each year, belonging to or held in trust for a resident of this State or having acquired a taxable situs in this State, shall be subject to an annual tax, which is hereby levied, of ten cents (10¢) on every one hundred dollars (\$100.00) thereof. The term 'funds on deposit' as used in this section shall mean all funds accrued or accruing by virtue of the death of the insured or the original maturity of a policy contract where the party or parties entitled to receive such funds might withdraw same at their option upon stipulated notice; provided, that in the determination of the tax liability under this section the first twenty thousand dollars (\$20,000) of such funds on deposit or paid over to and held by a bank as trustee shall be disregarded where such funds on deposit are payable wholly and exclusively to the spouse and/or children of the person deceased whose death created such funds on deposit."

(c) repealing G.S. 105-210 in its entirety;

(d) rewriting the fourth paragraph of G.S. 105-212, to read as follows:

"A clerk of any court of this State may, upon written application therefor, obtain from the Secretary of Revenue a certificate relieving a depository bank or stock-owned savings and loan association of such clerk from the duty of collecting the tax levied in this Article or schedule from deposits of said clerk; provided, that such clerk of court shall be liable under his official bond for the full and proper remittance to the Secretary of Revenue under the provisions of this Article or schedule of taxes due on any deposits so handled."

**Sec. 5.** The General Administration Article of the Revenue Act, being Article 9 of Subchapter I of Chapter 105 of the General Statutes, is amended by deleting from line 27 of the third paragraph of G.S. 105-242(b), as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, the statutory citation "G.S. 105-407", and substituting therefor the statutory citation "G.S. 105-267.1".

**Sec. 6.** Section 1 of this act shall be effective for all generation skipping transfers made on and after July 1, 1979. Subsections (a), (b), (d), (e), (f), (g), (k), and (m) of Section 2, and all of Section 4, shall be effective with respect to taxable years beginning on and after January 1, 1979. Subsections (c), (j) and (l) of Section 2 shall be effective with respect to taxable years beginning on and after January 1, 1978. Subsections (h) and (i) of Section 2 shall be effective in respect to sales and exchanges of residences after July 26, 1978. Subsection (n) of Section 2 shall be effective with respect to individuals dying on and after July 1, 1973. Sections 3 and 5 of this act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

## H. B. 262

## CHAPTER 180

AN ACT TO ESTABLISH THE EXTENT OF ALIENABILITY OF BENEFICIAL INTERESTS IN TRUSTS, AND TO REPEAL THE OBSOLETE PROVISIONS OF G.S. 41-9 AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 36A of the General Statutes is hereby amended by adding a new Article 9 thereto to read as follows:

### "Article 9

#### "Alienability of Beneficial Interest; Spendthrift Trust

"§ 36A-115. *Alienability of beneficiary's interest; spendthrift trusts.*—(a) Except as provided in subsection (b) hereof, all estates or interests of trust beneficiaries are alienable either voluntarily or involuntarily to the same extent as are legal estates or interests of a similar nature.

(b) Subsection (a) hereof shall not apply to a beneficiary's estate or interest in any one or any combination of one or more of the trusts described below, in which the beneficiary's estate or interest shall not be alienable either voluntarily or involuntarily.

(1) Discretionary trust. A trust wherein the amount to be received by the beneficiary, including whether or not the beneficiary is to receive anything at all, is within the discretion of the trustee.

(2) Support trust. A trust wherein the trustee has no duty to pay or distribute any particular amount to the beneficiary, but has only a duty to pay or distribute to the beneficiary, or to apply on behalf of the beneficiary such sums as the trustee shall, in his discretion, determine are appropriate for the support, education or maintenance of the beneficiary.

(3) Protective trust. A trust wherein the creating instrument provides that the interest of the beneficiary shall cease if

- a. the beneficiary alienates or attempts to alienate that interest; or
- b. any creditor attempts to reach the beneficiary's interest by attachment, levy, or otherwise; or

c. the beneficiary becomes insolvent or bankrupt.”

**Sec. 2.** G.S. 41-9 is hereby repealed, except as to wills or deed executed prior to the effective date of this act.

**Sec. 3.** This act shall become effective on October 1, 1979 and shall apply to trusts created on or after the effective date.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

## H. B. 717

## CHAPTER 181

### AN ACT TO PROVIDE FOR A REFERENDUM ON THE ELECTION OF MEMBERS OF THE GREENSBORO CITY BOARD OF EDUCATION AND ON THE ESTABLISHMENT OF ELECTORAL DISTRICTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The terms of the current members of the Greensboro City Board of Education shall expire as follows:

1. Dr. Charles Klotzberger on December 3, 1980.
2. Jo Ann Scoggin on December 6, 1982.
3. Dr. Otis L. Hairston on December 3, 1980.
4. James P. Davis on December 6, 1982.
5. Lacy G. Baynes on December 3, 1980.
6. Joanne K. Bluethenthal on December 3, 1980.
7. James E. Betts on December 3, 1980.

Nothing contained in this act shall cause any current member of the Greensboro City Board of Education to lose eligibility to hold office on account of residence until the end of his or her current term, unless he or she ceases to be resident of the Greensboro City School Administrative Unit.

**Sec. 2.** Section 2.2 of Section 4 of Chapter 385 of the 1949 Session Laws, as amended by Chapter 186 of the 1959 Session Laws and Chapter 472 of the 1975 Session Laws, is hereby rewritten to read as follows:

“§ 2.2. *Membership, election and terms of board members.*—(a) At the 1980 general election, seven members shall be elected to the Greensboro City Board of Education. Six members shall be elected from six single member electoral districts established by the Greensboro City Board of Education and one member shall be elected from the Greensboro City Administrative Unit at large. All persons elected shall serve for terms of four years. The board shall be composed of nine members from December 3, 1980 until December 6, 1982. Thereafter, the board shall be composed of seven members.

(b) The nonpartisan primary method of election shall be used and the results of the general election and any primary election shall be determined in accordance with the provisions of G.S. 163-294. The general election and any primary election shall be conducted by the Guilford County Board of Elections.

(c) The general election for members of the board shall be held every four years, beginning in 1980, on the Tuesday after the first Monday in November. All qualified voters residing within the Greensboro City Administrative Unit shall be eligible to vote in the general election for all candidates. Primary elections, if necessary, shall be held every four years, beginning in 1980, on the fourth Tuesday before the general election. A primary shall be held for each electoral district for which more than two candidates file for election. Only the qualified voters residing within the electoral district shall be eligible to vote at



any such primary election. The two candidates with the highest number of votes will be the electoral district nominees. A primary shall also be held if more than two candidates file for election to the at-large seat. All qualified voters residing within the Greensboro City Administrative Unit shall be eligible to vote at the primary for the at-large seat. The two candidates with the highest number of votes for the at-large seat shall be the at-large nominees.

(d) All candidates for election to the board shall file their candidacy in accordance with the provisions of G.S. 163-294.2.

(e) Except as otherwise provided in this Code, the election shall be conducted in accordance with the provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

(f) The Greensboro City Board of Education shall divide the territory within the Greensboro City Administrative Unit into six single member electoral districts within one year following passage of the referendum provided for in Section 6 of this act. The resolution establishing the electoral districts shall, as nearly as possible, follow precinct lines and maintain an equality of voters within each district. Such resolution may be amended after each decennial census, but such amendment shall not affect the eligibility of any member to hold office until the end of that member's term.

(g) District candidates shall reside in the district from which they are elected. At-large candidates shall reside within the Greensboro City Administrative Unit.

(h) Persons elected to the board shall take office on the first Monday in December following their election."

**Sec. 3.** Section 2.3 as it appears in Section 4 of Chapter 385 of the 1949 Session Laws is hereby rewritten to read as follows:

"§ 2.3. *Vacancies.*—If any vacancy occurs in the membership of the board as a result of the death or resignation of a member, or a change in any member's residence from the Greensboro City Administrative Unit, or otherwise, such vacancy shall be filled by majority vote of the remaining members of the Greensboro City Board of Education, after giving notice of the vacancy and requesting nominations from the electorate. The person elected to fill the vacancy shall meet the residency requirements of Section 2.2(g).

A change in a member's residence, during the term of his office, from one electoral district to another electoral district within the Greensboro City Administrative Unit shall not create a vacancy."

**Sec. 4.** Section 2.5 of Section 4 of Chapter 385 of the 1949 Session Laws, as amended by Chapter 186 of the 1959 Session Laws, is hereby amended by deleting therefrom the word "appointed" and inserting in lieu thereof the word "elected".

**Sec. 5.** Section 2.7(a) as it appears in Section 4 of Chapter 385 of the 1949 Session Laws is hereby rewritten to read as follows:

"(a) The members of the board shall at their regular December meeting of each year, elect a chairman and a vice-chairman of the board for a term of one year, beginning upon election. The officers so elected shall serve for a term of one year, or until their successors are elected."

**Sec. 6.** (a) Sections 1 through 5 of this act shall be effective only upon approval by a majority of votes cast by the voters of the Greensboro City Administrative Unit. The referendum shall be held May 22, 1979. The Guilford



County Board of Elections shall give proper notice of the referendum as required by law.

The form of the ballot shall be:

#### BALLOT

Shall an act adopting a change in the method of selecting members of the Greensboro City Board of Education as set forth below be adopted?

"FOR — The board shall consist of seven members who shall

AGAINST — serve for a term of four years. The election of members shall be on a non-partisan basis with a primary method of election. The City School Administrative Unit shall be divided into six electoral districts with one member of the board elected from each district in which such member must reside. Only the qualified voters residing within the electoral district shall be eligible to vote at any such primary election. The two candidates with the highest number of votes will be the electoral district nominees in the general election. There shall be one member of the board elected from the city at-large. All qualified voters within the Greensboro City Administrative Unit shall be eligible to vote at the primary for the at-large seat. The two candidates with the highest number of votes for the at-large seat shall be the at-large nominees in the general election."

(b) In the event that a majority of votes are not cast in favor of the approval of the act, then Sections 1 through 5 of this act shall have no force or effect.

(c) The terms of office of Lacy G. Baynes and Otis Hairston which are scheduled to expire on March 31, 1979, are extended until the first Monday in December, 1980, unless the referendum is defeated in which case the Greensboro City Council may appoint individuals to serve terms expiring March 31, 1983.

**Sec. 7.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

S. B. 37

#### CHAPTER 182

AN ACT TO CHANGE THE THRESHOLD AMOUNT OF PUBLIC CONSTRUCTION PROJECT COST REQUIRING COMPETITIVE BIDDING FROM TEN THOUSAND DOLLARS TO THIRTY THOUSAND DOLLARS AND TO REPEAL THE PROVISION ALLOWING CONTRACTS TO BE AWARDED UPON RECEIPT OF ONLY TWO BIDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-129, as the same appears in 1978 Replacement Volume 3C of the General Statutes, is amended by deleting the words and figures "ten thousand dollars (\$10,000)" appearing in line 3 and inserting in lieu thereof the words and figures "thirty thousand dollars (\$30,000)".

**Sec. 2.** The last paragraph of G.S. 143-132 is repealed.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1979.

## H. B. 182

## CHAPTER 183

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF MEBANE AND TO MODIFY THE APPLICATION OF EXISTING RETIREMENT LAW G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE TOWN OF MEBANE.

*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 Mebane, 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 Mebane 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 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 Mebane shall:

(a) prior to January 1, 1980, and prior to January 1 in each subsequent calendar year, transfer to the Supplemental Retirement Fund all funds belonging to the Local Firemen's Relief Fund in excess of twenty-five thousand dollars (\$25,000);

(b) at any time when the amount of funds in the Local Firemen's Relief Fund is, by reason of disbursements authorized by G.S. 118-7, less than twenty-five thousand dollars (\$25,000), transfer from the Supplemental Retirement Fund to the Local Firemen's Relief Fund an amount sufficient to maintain in the Local Firemen's Relief Fund the sum of twenty-five thousand dollars (\$25,000);

(c) as soon as practical after January 1 of each year, but in no event later than July 1, divide 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. 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 Mebane and has reached the age of 55 years, shall receive in each calendar year following the calendar year in which he retires the following supplemental retirement benefits, one share for each full year of service as a fireman of the Town of Mebane; provided, in no event shall any retired fireman receive in any year an annual supplemental retirement benefit in excess of six hundred dollars (\$600.00).

**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; provided, that 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 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 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 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 may pay the premiums for the bond of the treasurer from the Supplemental Retirement Fund.

**Sec. 7. Town Authorized to Make Payment.** The governing body of the Town of Mebane may make appropriations and disburse funds to the Supplemental Retirement Fund.

**Sec. 8. Effective Date.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

## H. B. 189

## CHAPTER 184

### AN ACT TO ESTABLISH A WILDLIFE PRESERVE AND BIRD SANCTUARY IN ARROWHEAD BEACH, CHOWAN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** A wildlife preserve and bird sanctuary is established in the Arrowhead Beach Subdivision, Chowan County. The preserve and sanctuary embrace all of the lands described in certain plats recorded in the Registry of Deeds of Chowan County and more particularly set out as follows:

Section "A" of Arrowhead Beach, Plat Book 3, Page 77.

Section "B" of Arrowhead Beach, Plat Book 4, Page 18.

Section "C" of Arrowhead Beach, Plat Book 3, Page 69.

Section "D" of Arrowhead Beach, Plat Book 3, Page 72.

Section "E" of Arrowhead Beach, Plat Book 3, Page 79.

Section "F" of Arrowhead Beach, Plat Book 4, Page 7.

Section "G" of Arrowhead Beach, Plat Book 4, Page 17.

Section "H" of Arrowhead Beach, Plat Book 4, Page 38.

Section "J" of Arrowhead Beach, Plat Book 4, Page 26.

Section "K" of Arrowhead Beach, Plat Book 4, Page 19.

Section "L" of Arrowhead Beach, Plat Book 4, Page 27.

Section "M" of Arrowhead Beach, Plat Book 4, Page 33.

Section "EE" of Arrowhead Beach, Plat Book 4, Page 40.

**Sec. 2.** The intent and purpose of this act is to establish a wildlife preserve and bird sanctuary for the preservation and protection of all animals and birds in Arrowhead Beach.

**Sec. 3.** The Arrowhead Beach Property Owners Association is authorized to contract with the Department of Transportation for the erection and maintenance of signs, at all major entrances to Arrowhead Beach, stating that the area is a bird sanctuary.

**Sec. 4.** It is unlawful to trap, hunt, shoot, or otherwise kill or to attempt to trap, hunt, shoot, or otherwise kill within the sanctuary and preserve

established by this act any bird or animal. Violation of this section is a misdemeanor punishable by imprisonment for not more than 30 days, by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), or both.

**Sec. 5.** The provisions of this act are enforceable by officers of the Wildlife Resources Commission, the Highway Patrol, the officers of the Chowan County Sheriff's Department, and any other State and County officers who have the power of arrest.

**Sec. 6.** This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

## H. B. 242

## CHAPTER 185

AN ACT TO APPOINT FOUR MEMBERS TO THE BOARD OF  
EDUCATION FOR THE WHITEVILLE CITY SCHOOL  
ADMINISTRATIVE UNIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Pursuant to Chapter 172, Session Laws of 1977, the following persons are hereby appointed to the Board of Education for the Whiteville School Administrative Unit, and shall serve for a term of two years beginning on the first Monday in April, 1979: Lewis S. Cokley; Harry "Bobby" Jordan; Katie Powell; Derrick Staten.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

## H. B. 259

## CHAPTER 186

AN ACT TO INCREASE THE SHARE OF A SURVIVING SPOUSE OF AN  
INTESTATE DECEDENT AS RECOMMENDED BY THE GENERAL  
STATUTES COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 29-14 is hereby rewritten to read as follows:

"§ 29-14. *Share of surviving spouse.*—(a) If the intestate is survived by only one child or by any lineal descendant of only one deceased child, and the net estate does not exceed fifteen thousand dollars (\$15,000) in value, the share of the surviving spouse shall be the entire net estate; but if the net estate exceeds fifteen thousand dollars (\$15,000) in value, the share of the surviving spouse shall be fifteen thousand dollars (\$15,000) in value plus one-half of the balance of the net estate; or

(b) 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 estate does not exceed fifteen thousand dollars (\$15,000) in value, the share of the surviving spouse shall be the entire net estate; but if the net estate exceeds fifteen thousand dollars (\$15,000) in value, the share of the surviving spouse shall be fifteen thousand dollars (\$15,000) in value plus one-third of the balance of the net estate; or

(c) 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 estate does not exceed twenty-five thousand dollars



(\$25,000) in value, the share of the surviving spouse shall be the entire net estate; but if the net estate exceeds twenty-five thousand dollars (\$25,000) in value, the share of the surviving spouse shall be twenty-five thousand dollars (\$25,000) in value plus one-half of the balance of the net estate; or

(d) If the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, or by a parent, the share of the surviving spouse shall be the entire net estate.

(e) If under subsections (a), (b), or (c) of this section the surviving spouse is not entitled to the entire net estate, the surviving spouse may elect to take his or her share wholly in personal property, wholly in real property, or partly in personal property and partly in real property in such proportions as the surviving spouse may elect. The election of the surviving spouse may be made by written instrument filed with the personal representative within seven months after the issuance of letters testamentary or letters of administration. By agreement between the personal representative and the surviving spouse, or by order of the Clerk of Superior Court upon good cause shown, the seven month period for the surviving spouse's election may be extended. If the surviving spouse is the personal representative, any extension shall be granted by the Clerk of Superior Court. If no election is filed within seven months, and no extension has been agreed to or ordered, the personal representative shall distribute the share of the surviving spouse wholly in personal property, wholly in real property, or partly in personal property and partly in real property in such proportions as the personal representative may determine."

**Sec. 2.** This act shall become effective October 1, 1979 and shall apply to the estates of decedents dying on or after the effective date.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

## H. B. 422

## CHAPTER 187

### AN ACT TO ALLOW THE SCOTLAND COUNTY HISTORIC PROPERTIES COMMISSION TO BECOME A PUBLIC AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-7(b)(10) is amended by adding at the end the following language:

"A Historic Properties Commission established under Part 3B of Chapter 160A of the General Statutes is a public authority if the city or county governing board which established the commission so designates it by ordinance. Such ordinance shall not be effective before it is filed with the Local Government Commission."

**Sec. 2.** This act shall apply only to Scotland County.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.



H. B. 674

**CHAPTER 188**

AN ACT TO AUTHORIZE UNION COUNTY AND THE UNION COUNTY BOARD OF EDUCATION TO DISPOSE OF OR PUT TO DIFFERENT USES CERTAIN REAL PROPERTY OF THE COUNTY AND BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Union County and the Union County Board of Education are hereby authorized to dispose of or put to any entirely different and inconsistent use from that for which it has been used all or any part of either of the following described properties in the City of Monroe, Union County, North Carolina:

(a) Old National Guard property bounded on the North by Efird Street, on the West by Bragg Street, on the South by Sycamore Street, and on the East by Johnson Street, and more particularly described as follows:

All of Lots 1-21 and 64-84 of the John D. Hodges Property as shown on map recorded in Plat Book 1, page 228, Union County Registry, to which reference is made for a more particular description.

(b) School District Maintenance Facilities and Bus Storage property bounded on the North by Efird Street, on the West by Johnson Street, on the South by Pate (Plate) Street, and on the East by Branch Street and more particularly described as follows:

All of Lots 29-56 of the John D. Hodges Property as shown upon a map recorded in Plat Book 1, page 228, Union County Registry, to which reference is made for a more complete description.

**Sec. 2.** If Union County or the Union County Board of Education elects to sell all or any part of either or both of the above-described tracts, then it may use the proceeds from said sale for any entirely different and inconsistent use from that for which the property has been used.

**Sec. 3.** All laws and clauses of laws 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 23rd day of March, 1979.

H. B. 726

**CHAPTER 189**

AN ACT TO AMEND CHAPTER 735 OF THE 1971 SESSION LAWS RELATIVE TO THE AUTOMATIC EXTENSION OF THE MONROE CITY SCHOOL ADMINISTRATIVE UNIT UPON THE EXTENSION OF THE CORPORATE LIMITS OF THE CITY OF MONROE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1(c) of Chapter 735 of the 1971 Session Laws is repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

S. B. 157

**CHAPTER 190**

AN ACT TO AMEND G.S. 20-279.21(f) RELATING TO THE DEFINITION OF AN INSURANCE POLICY - CONTENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-279.21(f)(1) is hereby amended by striking the words "assigned risk bureau" appearing in line 35 thereof and inserting in lieu thereof the words "North Carolina Motor Vehicle Reinsurance Facility", and by striking that portion of the first unnumbered paragraph beginning with the word "The" appearing as the last word in line 35 and going through the word "information" appearing as the last word of the paragraph on line 43.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

S. B. 239

**CHAPTER 191**

AN ACT TO REPEAL THE REQUIREMENT OF A RUBELLA IMMUNITY TEST FOR ISSUANCE OF A MARRIAGE LICENSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 51-9 is hereby amended by deleting the third paragraph.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

S. B. 366

**CHAPTER 192**

AN ACT TO AMEND ARTICLE 8 OF CHAPTER 130 OF THE GENERAL STATUTES PERTAINING TO THE REPORTING OF INFECTIOUS DISEASES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-80 is hereby rewritten to read as follows:

"§ 130-80. *Local health director has quarantine and isolation authority.*—(a) The local health director is empowered to exercise quarantine authority and isolation authority within his jurisdiction.

(b) 'Quarantine authority' means the authority to limit the freedom of movement of persons or animals, which have been exposed or are reasonably suspected of having been exposed to a communicable disease, for a period of time as may be necessary to prevent the spread of that disease. The term also means the authority to limit the freedom of movement of persons who have not received immunizations against a communicable disease listed in G.S. 130-87 when the local health director determines that such immunizations are required to control an outbreak or threatened outbreak of that disease.

(c) 'Isolation authority' means the authority to separate for the period of communicability infected persons from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to other persons who are susceptible or who may spread the agent to others.

(d) 'Communicable disease' means an illness due to an infectious agent or its toxic products which is transmitted directly or indirectly to a well person from

an infected person or animal, through the agency of an intermediate animal, host or vector or through the inanimate environment.

(e) 'Outbreak' means an occurrence of a case or cases of a disease in a locale in excess of the usual number of cases of the disease."

**Sec. 2.** Article 8 of Chapter 130 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 130-82.1. *School principals and day-care operators to report.*—Every principal of a school and operator of a day-care facility, as defined in G.S. 110-86(3), shall notify the local health director of the name and address of any person within his school or day-care facility whom he or his staff has reason to suspect of being afflicted with a disease declared by the Commission for Health Services to be reportable."

**Sec. 3.** G.S. 130-83 is hereby amended: (i) by substituting the numbers "G.S. 130-81, G.S. 130-82 or G.S. 130-82.1" for the numbers "G.S. 130-81 or G.S. 130-82"; (ii) by designating the existing section as subsection (a); and (iii) by adding a new subsection to read as follows:

"(b) The reports in the possession of the local health director or Secretary of Human Resources which contain the names and addresses of persons afflicted or believed or suspected of being afflicted with a disease declared to be reportable shall not be public records as defined in G.S. 132-1."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1979.

## H. B. 9

## CHAPTER 193

### AN ACT TO AMEND G.S. 20-81.5(a) RELATING TO CIVIL AIR PATROL PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-81.5(a) is hereby amended by striking the word "automobile" appearing in line 2, by striking the word "passenger" appearing as the first word in line 6 and by striking the words and figures "of Five Dollars (\$5.00)" appearing in line 10 and inserting in lieu of the words and figures in line 10 the following: "as required by G.S. 20-81.3(b) for special personalized registration plates,".

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 150

## CHAPTER 194

### AN ACT TO CHANGE THE PRESENT INHERITANCE TAX DEDUCTION FOR FUNERAL AND BURIAL EXPENSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-9(3), as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is hereby rewritten to read as follows:

"(3) Reasonable funeral and burial expenses, which shall include bequests and devises in trust, the entire net income from which is to be applied perpetually to the care and preservation of the burial lot or burial grounds within which the decedent is buried, the enclosure thereof and the structures thereon to the

extent to which the value of such bequests and devises does not exceed the smaller of the following amounts: One thousand two hundred fifty dollars (\$1,250), or two per centum (2%) of the amount of the decedent's gross estate."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 151

## CHAPTER 195

### AN ACT TO CHANGE THE PRESENT INHERITANCE TAX DEDUCTION FOR GRAVE MONUMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-9(6), as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is hereby rewritten to read as follows:

"(6) The amount actually expended for monuments not exceeding the sum of two thousand five hundred dollars (\$2,500)."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 341

## CHAPTER 196

### AN ACT TO PERMIT THE BOARD OF MEDICAL EXAMINERS TO INCREASE FEES FOR BIENNIAL REGISTRATION AND EXAMINATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-15, as it appears in the 1975 Replacement Volume 2C, is hereby amended as follows: by striking out the words and figures "one hundred dollars (\$100.00)" appearing in line 4 of said section and inserting in lieu thereof the words and figures "two hundred dollars (\$200.00)".

**Sec. 2.** G.S. 90-15.1, as it appears in the 1975 Replacement Volume 2C, is hereby amended as follows: by striking out the words and figures "ten dollars (\$10.00)" appearing in line 7 of said section and inserting in lieu thereof the words and figures "twenty-five dollars (\$25.00)" and by striking out the words and figures "one hundred dollars (\$100.00)" appearing in line 13, being the last sentence of said section, and inserting in lieu thereof the words and figures "two hundred dollars (\$200.00)".

**Sec. 3.** This act shall become effective September 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.



## H. B. 344

## CHAPTER 197

## AN ACT TO AMEND THE NORTH CAROLINA CREDIT UNION LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 14B of Chapter 54 is amended by adding a section to read as follows:

**“Removal of Officers.**

“§ 54-109.20. (a) The Administrator of Credit Unions shall have the right and is hereby empowered to serve a written notice of his intention to remove from office any officer, director, committeeman or employee of any credit union doing business under Articles 14A through 15 of this Chapter who shall be found to be dishonest, incompetent, or reckless in the management of the affairs of the credit union, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Administrator and/or the State Credit Union Commission.

(b) A notice of intention to remove a director, officer, committee member or employee from office shall contain a statement of the alleged facts constituting the grounds therefor and shall fix a time and place at which a hearing before the Credit Union Commission will be held thereon. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice unless an earlier or a later date is set by the Commission at the request of such director, officer, committee member or employee and for good cause shown. Pending this hearing, the Administrator may remove the alleged violator if he finds that it is essential to the continued well-being of the credit union or the public to do so. Unless, of course, such director, officer, committee member or employee shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal. In the event of such consent, or if upon the record made at any such hearing the Credit Union Commission shall find that any of the grounds specified in such notice has been determined by the greater weight of the evidence, the Commission may issue such orders of removal from office as it may deem appropriate. Any such order shall become effective at the expiration of 30 days after service upon such credit union and the director, officer, committee member or employee concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated or set aside by action of the Credit Union Commission or a reviewing court.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.



## H. B. 346

## CHAPTER 198

## AN ACT TO MAKE CERTAIN TECHNICAL REVISIONS AND ADDITIONS TO THE CREDIT UNION LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first two sentences of G.S. 54-109.12 are rewritten to read as follows:

“§ 54-109.12. In addition to any and all other powers, duties and functions vested in the Administrator of Credit Unions under the provisions of this Article, the Administrator of Credit Unions shall have general control, management and supervision over all corporations organized under the provisions of Article 14A. All corporations organized under the provisions of Article 14A shall be subject to the management, control and supervision of the Administrator of Credit Unions as to their conduct, organization, management, business practices and their financial and fiscal matters.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 362

## CHAPTER 199

## AN ACT TO AMEND G.S. 20-58(2) TO PROVIDE FOR THE NOTATION OF SECURITY INTEREST ON MOTOR VEHICLES'S CERTIFICATE OF TITLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Two sentences are added to the end of G.S. 20-58(2) to read as follows:

“An application for notation of a security interest may be signed by the secured party instead of the debtor when the application is accompanied by documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor and by affidavit of the applicant stating the reason the debtor did not sign the application. In the event the certificate cannot be obtained for recordation of the security interest, when title remains in the name of the debtor, the Division shall cancel the certificate and issue a new certificate of title listing all the respective security interests.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 407

## CHAPTER 200

## AN ACT TO EXEMPT CARGO CONTAINERS AND CONTAINER CHASSIS FROM PROPERTY TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-275 is hereby amended to add a new subparagraph to read as follows:

“(24) Cargo containers and container chassis used for the transportation of cargo by vessels in ocean commerce.

The term ‘container’ applies to those nondisposable receptacles of a permanent character and strong enough for repeated use and specially designed

to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by ocean vessels, without intermediate reloadings and fitted with devices permitting its ready handling particularly in the transfer from one transport mode to another."

**Sec. 2.** This act shall be retroactive to January 1, 1974 and shall apply to all tax years from that date.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 408

## CHAPTER 201

## AN ACT TO EXEMPT FROM SALES TAX PERSONAL PROPERTY OF CONTRACTORS DESTINED FOR USE IN A FOREIGN COUNTRY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.13 is hereby amended by adding a new subdivision as follows:

"(32) Personal property purchased by a contractor from a North Carolina vendor for export to a foreign country for exclusive use and consumption in that foreign country and not to be returned to this State, shall be exempt from the tax levied under this subdivision, if such property is exported within 90 days of purchase.

The purpose of the above clause is to encourage the flow of commerce through North Carolina ports that is now moving through out-of-State ports."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 481

## CHAPTER 202

## AN ACT TO PROTECT AGRICULTURAL OPERATIONS FROM NUISANCE SUITS UNDER CERTAIN CIRCUMSTANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 106 of the General Statutes is hereby amended by adding a new Article as follows:

"ARTICLE 57.

"Nuisance Liability of Agricultural Operations.

"§ 106-700. *Legislative determination and declaration of policy.*—It is the declared policy of the State to conserve and protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations. Many others are discouraged from making investments in farm improvements. It is the purpose of this Article to reduce the loss to the State of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance.

"§ 106-701. (a) No agricultural operation or any of its appurtenances shall be or become a nuisance, private or public, by any changed conditions in or about the locality thereof after the same has been in operation for more than one year, when such operation was not a nuisance at the time the operation began;

provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances.

(b) For the purposes of this Article, 'agricultural operation' includes, without limitation, any facility for the production for commercial purposes of crops, livestock, poultry, livestock products, or poultry products.

(c) The provisions of subsection (a) shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by them on account of any pollution of, or change in condition of, the waters of any stream or on the account of any overflow of lands of any such person, firm, or corporation.

(d) Any and all ordinances of any unit of local government now in effect or hereafter adopted that would make the operation of any such agricultural operation or its appurtenances a nuisance or providing for abatement thereof as a nuisance in the circumstance set forth in this section are and shall be null and void; provided, however, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or any of its appurtenances. Provided further, that the provisions shall not apply whenever a nuisance results from an agricultural operation located within the corporate limits of any city at the time of enactment hereof.

(e) This section shall not be construed to invalidate any contracts heretofore made but insofar as contracts are concerned, it is only applicable to contracts and agreements to be made in the future."

**Sec. 2.** This act does not affect actions commenced prior to the effective date hereof.

**Sec. 3.** If any provisions or clause of this Article or application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

H. B. 482

## CHAPTER 203

### AN ACT TO INCORPORATE THE TOWN OF SOUTHERN SHORES IN DARE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Town of Southern Shores, as described in Section 2 of this act, is incorporated.

**Sec. 2.** The Charter of the Town of Southern Shores is as follows:

#### "CHAPTER I.

##### "Incorporation and Corporate Powers.

"Section 1-1. *Incorporation and Corporate Powers.* The inhabitants of the Town of Southern Shores are a body corporate and politic under the name of the 'Town of Southern Shores'. 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 1. Town Boundaries.

“Sec. 2-1. *Town Boundaries.* Until modified in accordance with law, the boundaries of the Town of Southern Shores are as follows:

Beginning at a point on the North line of U. S. Highway No. 158 in the community of Kitty Hawk, at its intersection with the east shoreline of Ginguite Bay or Creek, and running eastwardly along the North line of said highway and extension of said line eastwardly to the Atlantic Ocean; thence northwardly along the Atlantic Ocean approximately 3-3/4 miles to the South line of property formerly owned by H. C. Hargrave, said line being the North line of that certain subdivision known as Sea Crest Village; thence westwardly along the South line of said Hargrave property to Currituck Sound; thence southwardly along Currituck Sound to the mouth of Ginguite Bay; thence continuing southwardly along Ginguite Bay and Creek to U. S. Highway No. 158, to the point of beginning, EXCEPTING all that certain tract or parcel of land described in that certain deed of trust dated the 5th day of July, 1972 from Outer Banks Recreation Association, Inc., to James O. Buchanan, as Trustee, and the United States of America, as beneficiary, recorded in Book 186, page 714, Dare County Registry, said tract or parcel of land being the same as conveyed to Outer Banks Recreation Association, Inc., by Kitty Hawk Land Company, Inc.

## “CHAPTER III.

## “Governing Body.

“Sec. 3-1. *Structure of Governing Body; Number of Members.* The governing body of the Town of Southern Shores 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 Southern Shores 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 1979 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 1981 and quadrennially thereafter, two members shall be elected. In 1983 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 for a term of two years.

“Sec. 3-5. *Appointment of Initial Town Council and Mayor.* David Stick, A. V. Peterson, Nelson M. Bortz, Helen H. Miller, and Harold F. Via are hereby appointed members of the Town Council to serve until their successors are elected in the 1979 election. David Stick is appointed Mayor of the Town of Southern Shores to serve until his successor is elected at the organizational meeting of the Town Council following the 1979 election of Town Council members.

## “CHAPTER IV.



## “Elections.

“Sec. 4-1. *Conduct of Town Elections.* Town officers shall be elected on a non-partisan basis and the results determined by plurality, as provided by G.S. 163-292.

## “CHAPTER V.

## “Administration.

“Sec. 5-1. *Town to Operate under Mayor-Council Plan.* The Town of Southern Shores operates under the mayor-council plan as provided in G.S. Chapter 160A, Article 7, Part 3.

## “CHAPTER VI.

## “Planning and Regulatory Powers.

“Sec. 6-1. *Extraterritorial Jurisdiction.* The Town of Southern Shores shall exercise those powers granted by G.S. Chapter 160A, Article 19 within a defined area extending not more than one mile beyond its limits, the provisions of G.S. 160A-360(e) notwithstanding.

## “CHAPTER VII.

## “Modification 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 1978-79.

"Sec. 8-1. *Budget for Fiscal Year 1978-79.* The newly incorporated Town of Southern Shores in Dare County is authorized to adopt a budget and levy property taxes for the portion of the 1978-79 fiscal year during which it is incorporated. In adopting the budget and levying taxes late in the fiscal year 1978-79, 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 1978-79.* Property taxes as levied by the Town of Southern Shores as authorized in Section 8-1 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."

**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.** All laws and clauses of laws in conflict herewith are hereby repealed.

**Sec. 5.** Chapter 935, Session Laws of 1963, is repealed.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

H. B. 607

## CHAPTER 204

### AN ACT TO EXEMPT CHARTER BUS OPERATIONS FOR SENIOR CITIZENS GROUPS FROM RATE REGULATION AND ROUTE CERTIFICATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 62-260 is amended by adding a new subdivision (18) to read:

"(18) Charter parties, as defined by this subdivision when such charter party is sponsored or organized by, and used by, any organized senior citizen group whose members are sixty (60) years of age or older. Such charter party shall be subject to subsections (f) and (g) of this section. 'Charter party', for the purpose of this subdivision, means a group of persons who, pursuant to a common purpose and under a single contract, and at a fixed charge for the vehicle, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group from a point of origin to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartering group after having left the place of origin."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## H. B. 704

## CHAPTER 205

### AN ACT TO INCORPORATE THE TOWN OF SEVEN DEVILS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The inhabitants and property of the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the "Town of Seven Devils" and 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. 2.** The corporate boundaries of the Town of Seven Devils shall be as follows until changed in accordance with law:

BEGINNING at a point in the North line of the property described herein, said point of Beginning being at a stake on a large prominent rock in the gap between pinnacles on Four Diamond Ridge in Avery County, and being in the South line of the F.W. VonCannon Estate, North 67° 33' East 3361.25 feet (and crossing from Avery County into Watauga County) to a locust in Lee's Gap; continuing with the VonCannon Estate line (running along Hanging Rock Ridge), North 80° 7' East 1482.20 feet to a Spanish Oak, the Southwest corner of property now or formerly owned by Ben Broyhill; running thence with Broyhill's line the two following courses and distances, namely, North 46° East 200 feet to a stake and North 73° East 2680 feet to a marked 24-inch maple tree, Mark Townsend's corner; running thence with Townsend's East line, North 6° 30' East 1050 feet to a large birch, and old corner and Tom Townsend's Southwest line; running thence with Townsend's South line the following courses and distances, namely, South 86° 30' East 1248 feet to a white thorn on a rock; running thence North 34° East 786 feet and passing an "X" cut in a rock, to a pile of rocks; thence North 32° 30' East 297 feet to a stake; thence North 45° East 132 feet to a large water oak; thence North 35° West 332 feet to a point; thence North 61° East 1605 feet to a water oak stump, a corner with Cicero Townsend; thence North along Townsend's South line, North 54° East 120 feet to a rock; thence North 13° East 66 feet to a locust stump, a corner with Adam Townsend; thence with Townsend's South line the following courses and distances, South 81° East 198 feet to an ash on a rock; thence South 79° 30' East 1345 feet to a Spanish Oak located on the top of Nettle Knob, the Northwest corner of Sidney Harmon; running thence with Sidney Harmon's West line, South 21° East 1655 feet to a Spanish Oak, a Northeast corner of property formerly owned by Lin Aldridge; thence with Aldridge's North line, the following courses and distances: South 61° West 946 feet to a Beadwood; thence South 31° West 297 feet to a painted rock; thence South 52° West 842 feet to an iron stake; thence South 76° West 385 feet to a painted rock; thence South 25° West 266 feet to a pine stump, the Sherwood and Bingham Northeast Corner; running thence with Bingham's North and West lines the following courses and distances: South 70° West 349 feet to

an iron stake; South 48° 30' West 148.5 feet to an oak tree; thence South 81° West 194.10 feet to a point in the South margin of a private road; thence with the margin of said road as follows: South 89° West 80.20 feet South 70-42 West 102.35 feet, South 62-22 West 90.28 feet, South 65-16 West 79.70 feet, South 59-44 West 74-45 feet, South 59-35 West 75.34 feet, South 56-34 West 110.39 feet, South 53-32 West 137.39 feet, South 57-53 West 89.61 feet and South 50-59 West 78.09 feet; thence leaving road South 54-04 East 135.80 feet; thence, South 40-15 East 683.31 feet; thence with Winkler's West line South 45° East 394 feet to a maple tree, the Northeast corner of the Andrew Ellis Property; thence with Ellis's North line, the following courses and distances: South 66° West 312 feet to an iron stake; South 39° West 339 feet to an iron stake; South 60° West 378 feet to an iron stake; and South 47° West 130 feet to a painted rock in Gragg Branch, and a common corner with the Johnson property; running thence with the center of the branch and along the Johnson's East line, the following courses and distances: North 60° West 139 feet to a point; North 65° West 170 feet to a point; North 75° West 278 feet to a point; North 34° West 142 feet to a point; and North 4° West 96 feet to a painted rock; thence continuing with Johnson's North line, South 88° West 247 feet to a chestnut stump; thence South 78° West 115.5 feet to a maple; thence South 66° West 66 feet to a rock; thence South 57° West 470 feet to an iron stake; thence South 34° East 214 feet to a bunch of chestnut oaks; thence South 55° East 625 feet to a poplar; thence South 24° East 206 feet to an iron stake; thence South 25° West 320 feet to an iron stake; thence South 78° West 592 feet to an iron stake; thence South 56° 30' West 297 feet to an iron stake; thence South 83° West 261 feet to an iron stake; thence South 12° 30' East 269 feet to a locust; thence South 7° East 69 feet to a point in the center of Valley Creek, Wagner's North line; thence along the center of Valley Creek following Wagner's North line the following courses and distances: North 67° West 74 feet; North 61° West 118 feet; North 42° West 138 feet; South 85° West 72 feet; North 57° West 37 feet; North 03° 30' West 109 feet; North 41° West 92 feet; South 83° West 46 feet; North 60° 30' West 46 feet; North 54° West 65 feet; North 9° West 90 feet; North 70° West 211 feet; North 67° West 60 feet; North 86° West 187 feet; North 81° 30' West 95 feet; North 89° West 125 feet; South 58° West 108 feet; South 65° West 72 feet; North 80° West 150 feet; North 60° West 125 feet; North 70° West 136 feet; South 62° West 165 feet; South 84° West 145 feet; North 61° West 86 feet; South 88° West 111 feet; South 58° West 181 feet; South 55° West 136 feet; South 70° West 145 feet; South 60° West 112 feet; South 85° West 123 feet; and South 60° West 107 feet to an iron stake, the Northwest corner of the Wagner property; running thence South 1° 30' West 660 feet to an iron stake, the Northwest corner of the Shook Heirs Property; running thence with the Shook Heirs line the following courses and distances: South 02° West 287 feet to a painted rock; thence South 02° West 500 feet to a point; thence South 02° West 1992 feet to a point; thence North 80° West 242 feet to a point; thence due West 326 feet to a point; thence South 80° West 84 feet to a point; thence due West 2,550 feet to a point; thence South 01° 30' West 485 feet to a large white oak; thence North 70° West 66 feet to a chestnut stump; thence South 58° 30' West 690 feet, more or less, to a point; thence North

63° 30' West 109.63 feet to a point; thence North 53° 18' West 64.70 feet to a point; thence North 61° 49' West 71.38 feet to a point; thence North 71° 05' West 162.28 feet to a point; thence North 83° 56' West 86.85 feet to a point; thence South 86° 18' West 125.17 feet to a point; and South 68° 10' West 72.18 feet to a point; thence with the VonCannon Estate, the following courses and distances; North 26° 45' West 1228.14 feet to a point; North 01° East 160 feet to a point; South 70° West 66.70 feet to a point; North 37° West 375.70 feet to a point; thence North 69° 45' West 290.95 feet to an iron stake; North 44° 44' West 426.32 feet to a stake; thence North 58° 44' West 77.1 feet to a stake; thence North 47° 49' West 127.14 feet to a hole in a rock; thence North 04° 12' West 115.78 feet to the top of a rock; thence North 37° 15' East 110.53 feet to a water hole in a rock; thence North 26° East 1161.30 feet to a stake on top of Rock Bluff; thence North 36° 29' East 1138.12 feet to a stake on Rock Ledge; thence North 41° 25' East 1179.41 feet to the place of Beginning, containing 1254.12 acres, more or less.

**Sec. 3.** Until the initial election hereinafter provided for, Ruth L. Greene, Joan St. Louis, and F. Landis Smith are appointed as the Board of Aldermen of the Town of Seven Devils. Robert L. Brown is appointed Mayor. The persons appointed shall exercise the powers granted by law to the Board of Aldermen until the 1979 election of municipal officers when their successors shall be elected and qualified.

**Sec. 4.** The elected officers of the Town shall be a Board of Aldermen composed of four members, and the Mayor shall be elected by and from the Board of Aldermen. The term of the Mayor shall be two years, and after the initial election as provided in Section 5, the terms of aldermen shall be four years.

**Sec. 5.** At the regular municipal election in 1979, the candidates for alderman receiving the largest number of votes and the second largest number of votes shall be elected for four-year terms; the candidates for alderman receiving the third largest number of votes and the fourth largest number of votes shall be elected for two-year terms. In 1981 and quadrennially thereafter, two aldermen shall be elected for four-year terms. In 1983 and quadrennially thereafter, two aldermen shall be elected for four-year terms.

**Sec. 6.** The officers of the Town shall be elected by the nonpartisan plurality method as provided in G.S. 163-292.

**Sec. 7.** 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. 8.** Elections in the Town of Seven Devils shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes.

**Sec. 9.** The Board of Aldermen and Mayor may adopt a budget ordinance for the 1979-80 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.

**Sec. 10.** This act shall become effective June 30, 1979.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.



## S. B. 58

## CHAPTER 206

## AN ACT TO PROVIDE PROFESSIONAL LIABILITY INSURANCE PROTECTION FOR LAW ENFORCEMENT OFFICERS AND PUBLIC OFFICERS AND EMPLOYEES OF THE STATE OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 21 of Chapter 58 of the General Statutes of North Carolina is hereby amended by adding thereto a new Section 58-191.3 to read as follows:

“§ 58-191.3. *Professional liability insurance for officials and employees of the State.*—The Commissioner of Insurance may acquire professional liability insurance covering the officers and employees of any State department, institution or agency upon the request of such State department, institution or agency. Premiums for such insurance coverage shall be paid by the requesting department, institution or agency at rates fixed by the commissioner from funds made available to it for the purpose. The commissioner, in placing a contract for such insurance is authorized to place such insurance through the Public Officers and Employees' Liability Insurance Commission of the Department of Administration, and shall exercise all efforts to place such insurance through the said commission prior to attempting to procure such insurance through any other source.

The commissioner, pursuant to this section, may acquire professional liability insurance covering the officers and employees of a department, institution or agency of State government only if the coverage to be provided by such policy is coverage of claims in excess of the protection provided by Articles 31 and 31A of Chapter 143 of the General Statutes.

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.

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.”

**Sec. 2.** This act shall become effective on July 1, 1980.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.



## S. B. 255

## CHAPTER 207

AN ACT TO AMEND GENERAL STATUTE 131-126.12 TO PERMIT THE DISCLOSURE OF CERTAIN INFORMATION BY THE MEDICAL CARE COMMISSION AND THE DEPARTMENT OF HUMAN RESOURCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 131-126.12, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

“§ 131-126.12. *Information to be disclosed.*—Information received by the North Carolina Medical Care Commission and the Department of Human Resources through filed reports, license applications, or inspections that are required or authorized by the provisions of this Article, may be disclosed publicly except where such disclosure would violate the confidential relationship existing between physician and patient. The department is authorized to adopt rules and regulations to enforce the provisions of this Article.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## S. B. 336

## CHAPTER 208

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF ASHEVILLE AND TO MODIFY THE APPLICATION OF EXISTING RETIREMENT LAW TO THE CITY OF ASHEVILLE.

*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 Asheville, 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 Asheville 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 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 City of Asheville shall:

(a) prior to January 1, 1980, and prior to January 1 in each subsequent calendar year, transfer to the Supplemental Retirement Fund all funds belonging to the Local Firemen's Relief Fund in excess of fifty thousand dollars (\$50,000);

(b) at any time when the amount of funds in the Local Firemen's Relief Fund may, by reason of disbursements authorized by G.S. 118-7, be less than fifty thousand dollars (\$50,000), transfer from the Supplemental Retirement Fund to the Local Firemen's Relief Fund an amount sufficient to maintain in the Local Firemen's Relief Fund the sum of fifty thousand dollars (\$50,000);

(c) as soon as practicable after January 1 of each year, but in no event later than July 1, divide 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. Each retired fireman of the city, whether volunteer or paid, who has previously retired with 20 years service, or more, as a fireman of the City of Asheville 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 the following supplemental retirement benefits, one share for each full year of service as a fireman of the City of Asheville; provided, in no event may any retired fireman receive in any year an annual supplemental retirement benefit in excess of six hundred dollars (\$600.00)

**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; provided, that 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 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 authorized to 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 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 may pay the premiums for the bond of the Treasurer from the Supplemental Retirement Fund.

**Sec. 7.** City authorized to make payment. The governing body of the City of Asheville is authorized and may at its discretion make appropriations and disburse funds to 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 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. 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 26th day of March, 1979.

## S. B. 339

## CHAPTER 209

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF KINGS MOUNTAIN AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6 and 118-7 TO THE CITY OF KINGS MOUNTAIN.

*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 Kings Mountain, 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 Kings Mountain 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 Kings Mountain, 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 Kings Mountain shall:

(1) leave monies on deposit as is and use the interest on the now existing Firemen's Relief Fund plus payment received annually for North Carolina Firemen's Relief Fund to form a Supplemental Retirement Fund;

(2) in each subsequent calendar year, and within 30 days after receipt from the North Carolina Insurance Commissioner 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 when the amount of funds in the Local Relief Fund is, by reason of disbursements authorized by G.S. 118-6, less than twenty thousand dollars (\$20,000) transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund, the sum of twenty thousand dollars (\$20,000);

(4) beginning in July, 1979, and as soon as practical after the first day of each quarter, but in no event later than the fifteenth day of the first month in each quarter, beginning in October of 1979, disburse funds in the Supplemental Retirement Fund as supplemental retirement benefits in accordance with Section 3 of this act. Upon passage of this bill the last quarter interest for the fiscal year 1978-1979 received from the Firemen's Relief Fund and funds received from the Commissioner of Insurance for fiscal year 1978-1979, will be transferred to the Supplemental Retirement Fund.

**Sec. 3.** Supplemental Retirement Receipts. (a) Each fireman of the city (regular or volunteer) who has retired, and all active firemen retiring after July 1, 1979, will receive retirement benefits subject to certain rules and regulations. Any fireman who has attained the age of 55 with 20 years of service will be entitled to and shall receive by the fifteenth of each month of each quarter of the calendar year (October, January, April, July) the following monthly supplemental retirement benefit: Full-time firemen will receive twenty-five dollars (\$25.00) per month; volunteer firemen will receive twenty dollars (\$20.00) per month. In the event a full-time fireman reaches the age of 62 or more and retires with less than 20 years of service, but having 15 years or more,

he shall receive one dollar (\$1.00) per year for each year of service per month; provided, that if, in any calendar quarter, funds in the Supplemental Retirement Fund are not available to pay a benefit equal to the amount set forth in this section, the Board of Trustees shall specify a lesser amount to be paid. After the fund has been in existence for two years and funds are available, the Board of Trustees may determine if a larger monthly retirement can be paid.

(b) Any former fireman of the city who has served 20 years or more as an active fireman, who is not otherwise entitled to supplemental retirement benefits under subsection (3) 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:

(1) 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

(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 such time, unable by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, since the preceding January 1, at least one physician licensed to practice medicine in North Carolina certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman.

**Sec. 4. Investment of Funds.** The Board of Trustees is hereby authorized to invest any funds of the Local Relief Fund in any investment named in or authorized by G.S. 159-30.

**Sec. 4 A. Board of Trustees for Supplemental Retirement Fund Created.** A separate Board of Trustees will administer the Supplemental Retirement Fund. The board is to consist of the Chief of the Kings Mountain Fire Department, the Secretary and Treasurer of the Kings Mountain Local Firemen's Relief Fund, one regular fireman, one building and loan executive, and one city commissioner to be appointed to the board by the Chief of the Kings Mountain Fire Department.

**Sec. 4 B. Investment of Funds.** The Board of Trustees is hereby authorized to invest any funds of the Supplemental Retirement Fund in any investment named in or authorized by G.S. 159-30.

**Sec. 5. 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.

**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 his 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 Supplemental Retirement Fund the premiums on the bond of the treasurer.

**Sec. 7.** If any provision of this act 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 act are declared to be severable.

**Sec. 8.** This act shall become effective July 1, 1979.



In the General Assembly read three times and ratified, this the 26th day of March, 1979.

S. B. 427

### CHAPTER 210

AN ACT TO MAKE THE GENERAL LAWS GOVERNING NOMINATION OF CANDIDATES IN PRIMARY ELECTIONS APPLY TO MITCHELL COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 10 of Chapter 163 of the General Statutes, entitled "Primary Elections" is applicable in Mitchell County.

**Sec. 2.** Chapter 894, Session Laws of 1945, and any other local, general or special law in conflict with this act is 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 26th day of March, 1979.

S. B. 467

### CHAPTER 211

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF BRYSON CITY, SWAIN COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES MAY BE OPERATED IN THE TOWN.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Aldermen of the Town of Bryson City may on its own motion and shall upon receipt of a petition signed by fifteen percent (15%) of the registered voters who voted in the last town election, order 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 Swain 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 shall not be necessary, and all qualified voters who are properly registered prior to registration for the election and those who register for the election shall be 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 Bryson City.

**Sec. 3.** There shall be submitted to the qualified voters of the Town of Bryson City 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 such stores shall be set up or operated in the Town of Bryson City 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 Mayor and the Board of Aldermen 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 Bryson City Board of Alcoholic Beverage Control". The chairman of the board shall be designated by the mayor and 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 mayor and 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 mayor and governing body of the town. Any vacancy shall be filled by the mayor and governing body of the town for the unexpired term.

**Sec. 5.** The Town of Bryson City 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 Bryson City Board of Alcoholic Beverage Control. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Bryson City 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: seventy percent (70%) to the general fund of Bryson City; twenty percent (20%) to Bryson City for law enforcement; and ten percent (10%) to Bryson City for Parks and Recreation.

**Sec. 7.** Subsequent elections may be held as authorized in this section. At such 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 Bryson City. Thereafter, all public, local, and private laws applicable to the sale of intoxicating beverages within the Town of Bryson City, 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 Bryson City 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-five percent (25%) of all registered voters in 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 26th day of March, 1979.

S. B. 468

## CHAPTER 212

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF MURPHY, CHEROKEE COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES SHALL BE OPERATED IN THE TOWN OF MURPHY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The governing body of the Town of Murphy may on its own motion, and shall upon a petition to said governing body signed by at least twenty percent (20%) of the registered and qualified voters of the municipality, order the Cherokee County Board of Elections to call a special election to be held on the question of whether alcoholic beverage control stores may be operated in said town. The Cherokee County Board of Elections may call the special election to be held on such date as the Board of Elections may determine, but not more than 120 days subsequent to the order of the governing body of the Town of Murphy to the Cherokee County Board of Elections to call such election. The Cherokee County Board of Elections shall hold and conduct all elections under this act, and the cost of the special election shall be paid from the general fund of the town.

**Sec. 2.** A new registration for 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 for said election shall be entitled to vote in said 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 Murphy.

**Sec. 3.** There shall be submitted to the qualified voters of the Town of Murphy at said election the question of whether municipal alcoholic beverage control stores may be operated in said town, and if a majority of the votes cast in such an election shall be for the operation of such 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 such election shall be against alcoholic beverage control stores, no such stores shall be set up or operated in the Town of Murphy under the provisions of this act. In said election a ballot shall be used upon which shall be printed on separate lines for each provision, "For Alcoholic Beverage Control Stores" and "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. Said board shall be known and designated as the "Town of Murphy Board of Alcoholic Beverage Control". The chairman of said 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 his first term a period of one year; all terms shall begin with the date of appointment, and after the same term shall have expired, 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 Board of Alcoholic Beverage Control shall have all the powers and duties prescribed for county boards of alcoholic control by G.S. 18A-17, except G.S. 18A-17(14) to the extent that the same may be in conflict with the provisions of this act, and shall be subject to the same powers and authority of the State Board of Alcoholic Control as are county boards of alcoholic control by the provisions of G.S. 18A-15. The Town of Murphy Board of Alcoholic Control, in the operation of any city alcoholic beverage control stores authorized under the provisions of this act, shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent that the same may be in conflict with the provisions of this act. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Murphy Board of Alcoholic Control. The Town Board of Alcoholic Beverage Control shall have authority to employ legal counsel and such other employees as it may deem necessary and fix their compensation. The per diem and subsistence allowance for members of the Town Board of Alcoholic Beverage Control shall be fixed by the governing body of the Town of Murphy.

**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. Not less than five percent (5%) and not more than ten percent (10%) of the total profits shall be expended for enforcement of the alcoholic beverage control laws, and to this end the town board may enter into a contract or agreement with a local law enforcement agency with jurisdiction in the town. The remaining revenue, as determined by quarterly audit, shall be distributed quarterly by the Town Board of Alcoholic Beverage Control as follows:

Seventy percent (70%) to the general fund of the Town of Murphy to be used for any and all purposes for which tax and nontax revenues may be expended by the town.

Thirty percent (30%) to the general fund of Cherokee County. Not less than fifteen percent (15%) of said funds shall be used for public education in the county, and the remaining funds to be used for any purpose for which tax and nontax revenues may be expended by the county.

**Sec. 7.** Subsequent elections may be held as authorized in this section. At such election if a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores", the Alcoholic Beverage Control Store shall be closed immediately and no beverages shall be sold at retail or otherwise to citizens of the Town of Murphy and within three months from the canvassing of such votes and the declaration of the results thereof, the 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 the same be deposited in the general fund of the Town of Murphy. Thereafter, all public, local and private laws applicable to the sale of intoxicating beverages within the Town of Murphy, 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 such election had not been held, and until and unless another election is held under the provisions of the act in which a majority of the votes shall be 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 Murphy may order a subsequent alcoholic beverage control election on its own motion, and shall within 60 days after a petition shall have been presented to the town's governing body, filed and signed by at least twenty percent (20%) of the number of the registered and qualified voters of the Town of Murphy that voted in the election for the governing body of said town in the last election, order the Cherokee County Board of Elections to call 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 26th day of March, 1979.

S. B. 469

## CHAPTER 213

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF MAGGIE VALLEY TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGE CONTROL STORES MAY LEGALLY BE OPERATED IN SAID TOWN.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Town of Maggie Valley is hereby authorized to hold an election to determine whether or not alcoholic beverage control stores may be operated in said city. The Board of Aldermen of the Town of Maggie Valley shall, by resolution, call for a special election on said question upon receipt of a petition signed by at least fifteen percent (15%) of the registered voters of the town, according to the registration figures as certified by the board of elections or upon the passage of a resolution by a majority of its members requesting that



the board of elections hold such an election on said question. Said election may be called and held on a date to be fixed by the board of aldermen, but said election shall not be held within 45 days of the date of any general, special or primary election to be held in the city. Provided, however, that said election may be held, in the discretion of the council, on the same day of a general, special, or primary election held within the city. Said election shall be conducted by the Haywood County Board of Elections and the costs thereof shall be paid from the general fund of said city.

**Sec. 2.** A new registration for 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 for said election, shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called, the special election shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Maggie Valley.

**Sec. 3.** The ballot shall give the voter the opportunity to vote "For" or "Against" the question presented thereon. Absentee ballots shall not be allowed in the said election.

On the issue of whether to establish town alcoholic beverage control stores, the ballots shall contain the following:

"FOR Alcoholic Beverage Control Stores.

AGAINST Alcoholic Beverage Control Stores."

If, at the first election held hereunder, a majority vote is cast against alcoholic beverage control stores, then no further elections shall be held under this act. If a subsequent election shall be held and at such election a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores", the alcoholic beverage 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. No election shall be called and held under the provisions of this act within three years of the last election thereunder.

**Sec. 4.** If the operation of alcoholic beverage control stores is authorized under the provisions of this act, the Mayor and Board of Aldermen of the Town of Maggie Valley 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 character, ability, and business acumen. Said board of alcoholic control shall be known and designated as the "Town of Maggie Valley Board of Alcoholic Control". The chairman of said board shall be designated by the Mayor and the Board of Aldermen of the Town of Maggie Valley and shall serve for a term of three years, and one member shall serve for a term of two years, and the other member shall serve for a term 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 term of three years. Their successors, or any vacancy occurring in the board, shall be named or filled by the mayor and the board of aldermen.

**Sec. 5.** The Town of Maggie Valley Board of Alcoholic Control shall have all of the powers and duties imposed by Section 18A-17 of 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 Section 18A-15 of the

General Statutes. The said Town of Maggie Valley Board of Alcoholic Control in the operation of any town liquor stores authorized under the provisions of this act shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Whenever the word "county" board of alcoholic control appears in said Chapter, it shall include the Town of Maggie Valley Board of Alcoholic Control.

**Sec. 6.** The Maggie Valley Board of Alcoholic 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 board. The remaining revenue, as determined by quarterly audit, shall be distributed as follows:

(a) Eighty percent (80%) shall be turned over to the general fund of the Town of Maggie Valley to be expended for any purpose or purposes, including recreation, deemed fit and proper by the board of aldermen.

(b) Ten percent (10%) shall be turned over to the general fund of the Town of Maggie Valley to be expended, at the direction of the board of aldermen, for law enforcement in the town and enforcement of alcoholic beverage control laws.

(c) Ten percent (10%) shall be turned over to the general fund of the Town of Maggie Valley to be expended, at the direction of the board of aldermen, for community service activities and education on the excessive use of alcoholic beverages and the rehabilitation of alcoholics.

**Sec. 7.** If, after the establishment of alcoholic beverage control stores, such stores are voted out of the Town of Maggie Valley, all property owned by the ABC System of the Town of Maggie Valley shall be sold and the proceeds of such sale shall go to the town's general fund.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1979.

## S. B. 153

## CHAPTER 214

AN ACT TO AMEND G.S. 54-2, METHOD OF INCORPORATION; POWERS, G.S. 54A-10A, ADMINISTRATOR TO CONSIDER APPLICATION, AND G.S. 54-24.1, SAVINGS AND LOAN COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-2(b) as same appears in Volume 2B of the 1975 Replacement Volume of the General Statutes of North Carolina is hereby amended by inserting after the first semicolon in line 15 "or that there is not a reasonable demand and necessity in the community to be served by its establishment;"

**Sec. 2.** G.S. 54A-10(7) as same appears in the 1977 Cumulative Supplement to Volume 2B of the 1975 Replacement Volume of the General Statutes of North Carolina is hereby amended by deleting the period at the end thereof and inserting in lieu thereof the following: "and there is a reasonable demand and necessity in the community to be served by the proposed association."

**Sec. 3.** G.S. 54-24.1(c) as same appears in Volume 2B of the Replacement Volume of the General Statutes of North Carolina is hereby amended by inserting in line 2 after the second comma "disapprove,".

**Sec. 4.** This act shall become effective on June 1, 1979, but shall not apply to any pending applications filed prior to effective date.

In the General Assembly read three times and ratified, this the 27th day of March, 1979.

S. B. 288

**CHAPTER 215****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, 1973 Session Laws Chapter 806, 1975 Session Laws Chapter 185, and 1977 Session Laws Chapter 184 is hereby revived and authorized to continue in existence until July 1, 1981.

**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 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 the same compensation and expenses as under the original authorization in 1973 General Assembly Resolution 80, and the Department of Human Resources is hereby authorized to reallocate fiscal resources under Budget Code (24081-8211) as the funding source for the Mental Health Study Commission.

**Sec. 5.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of March, 1979.

S. B. 323

**CHAPTER 216****AN ACT TO ALLOW THE CITY OF HENDERSONVILLE TO INCREASE THE TAX LEVY ON MOTOR VEHICLES TO A MAXIMUM OF FIVE DOLLARS (\$5.00).**

*The General Assembly of North Carolina enacts:*

**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 City of Hendersonville,".

**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 City of Hendersonville".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1979.

## S. B. 359

## CHAPTER 217

AN ACT TO PERMIT THE CITY OF CONCORD IN CABARRUS COUNTY TO LEVY A TAX OF UP TO THREE DOLLARS (\$3.00) PER YEAR UPON RESIDENT MOTOR VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-97(a) is hereby amended by inserting the phrase "the City of Concord in Cabarrus County may levy not more than three dollars (\$3.00) per year upon any such vehicle resident therein," between the words "therein," and "and" on line 10 of that subsection.

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 27th day of March, 1979.

## H. B. 191

## CHAPTER 218

AN ACT TO AMEND CHAPTER 20 TO RAISE THE LENGTH OF TWO AXLE BUSES PERMITTED ON THE HIGHWAYS FROM 35 TO 40 FEET.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-116(d) is amended by inserting in line 2 following the period and preceding the word "A" the following sentence:

"Provided, however, a bus with two axles may be up to 40 feet in length overall of dimensions inclusive of front and rear bumpers."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

## H. B. 361

## CHAPTER 219

AN ACT TO REPEAL SECTION 1 OF CHAPTER 466 OF THE SESSION LAWS OF 1947 RELATING TO DEER HUNTING IN BEAUFORT COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 466 of the Session Laws of 1947 is repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.



H. B. 373

**CHAPTER 220**

AN ACT TO PROHIBIT HUNTING WITH FIREARMS FROM THE RIGHT-OF-WAY OF HIGHWAYS IN THE COUNTIES OF CALDWELL AND YADKIN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 150 of the 1973 Session Laws is amended by deleting the words "Wilkes County" and substituting the words "the counties of Wilkes, Caldwell and Yadkin".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

H. B. 386

**CHAPTER 221**

AN ACT TO PROVIDE THAT THE ROCKINGHAM CITY ABC BOARD SHALL MAKE CERTAIN DISBURSEMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding G.S. 18A-15(8) and Chapter 199 of the Session Laws of 1965, the City of Rockingham Board of Alcoholic Control is authorized and directed to immediately appropriate the sum of fifty thousand dollars (\$50,000) from its Reserve for Law Enforcement to the City of Rockingham, to be used to purchase land for a new library.

**Sec. 2.** Notwithstanding G.S. 18A-15(8) and Chapter 199 of the Session Laws of 1965, the City of Rockingham Board of Alcoholic Control is authorized and directed to immediately appropriate the sum of twenty-nine thousand one hundred fifty-nine dollars and ten cents (\$29,159.10) from its Reserve for Law Enforcement to the Samaritan Colony Alcoholic Rehabilitation Home, to be used to pay existing debts.

**Sec. 3.** 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 the remaining provisions.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

H. B. 449

**CHAPTER 222**

AN ACT TO AMEND ARTICLE 3, CHAPTER 119 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 119-16.1 of the General Statutes is rewritten in its entirety as follows:

"§ 119-16.1. '*Kerosene*' defined.—The term '*kerosene*' wherever used in this Article, except to the extent otherwise provided in G.S. 119-16 shall include all petroleum oil free from water, glue and suspended matter and having flash point not below 115°F., a sulphur content not exceeding two tenths percent (0.20%), and a distillation 'end point' not higher than 572°F. as determined by currently approved A. S. T. M. procedures. The presence or absence of coloring

matter shall in no way be determinative of whether a substance is kerosene within the meaning of this section.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

## H. B. 470

## CHAPTER 223

AN ACT TO RAISE FROM FIFTEEN TO TWENTY PERCENT THE PERCENTAGE OF ABC PROFITS WHICH MAY BE SPENT ON LAW ENFORCEMENT BY THE NORTHAMPTON ABC BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 226 of the 1969 Session Laws is amended in Section 1 by rewriting subdivision 1 under that section to read as follows:

“1. Not less than fifteen percent (15%), and not more than twenty percent (20%), of the net profits for the enforcement of the Alcoholic Beverage Control laws in Northampton County.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

## H. B. 546

## CHAPTER 224

AN ACT AUTHORIZING THE ISSUANCE OF OFF-PREMISES WINE PERMITS TO COMMERCIAL WINERIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-36.1 is amended by adding the following new subsection (g) to the end of that section:

“(g) Notwithstanding G.S. 18A-52, G.S. 18A-57, or any other provision of this Chapter, a commercial winery with a valid unfortified winery or fortified winery permit under G.S. 18A-38(a)(1) is eligible to receive a permit under G.S. 18A-38(e)(2) for the off-premises sale at the winery of wine lawfully manufactured there. A winery receiving a permit for off-premises sale shall be subject to the same provisions as applied by this Chapter to all other retail off-premises wine permit holders and shall obtain the same licenses required for such permit holders by Chapter 105 of the General Statutes.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

## H. B. 579

## CHAPTER 225

AN ACT TO VALIDATE CERTAIN DEEDS FOR CEMETERY LOTS  
EXECUTED BY SUSPENDED CORPORATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any deed for a cemetery lot or lots which was executed prior to January 1, 1979, and which would have been valid if the charter of the grantor corporation had not been suspended at the time the deed was executed, is hereby validated.

**Sec. 2.** This act shall become effective on July 1, 1979, and shall not affect litigation completed or pending on that date.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

## H. B. 590

## CHAPTER 226

AN ACT TO AUTHORIZE A NOTARY PUBLIC TO EXAMINE  
WITNESSES TO A WILL AND TO REENACT G.S. 10-12, G.S. 10-13 AND  
G.S. 31-31.1 TO VALIDATE CERTAIN ACTS PERFORMED BY  
NOTARIES SINCE 1977.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 31-24 is hereby rewritten to read as follows:

“§ 31-24. *Examination of witnesses before notary public.*—The examination of witnesses to a will may be had, taken and subscribed in the form of an affidavit, before a notary public residing in the county and state in which the witnesses reside without regard to whether or not the will has been filed for probate in that county. The affidavits, so taken and subscribed, shall be transmitted by the notary public under his hand and official seal, to the clerk of the court before whom the will has been filed for probate. If such affidavits are, upon examination by the clerk, found to establish the facts necessary to be established before the clerk to authorize the probate of the will if the witnesses had appeared before him personally, then it shall be the duty of the clerk to order the will to probate, and record the will with the same effect as if the subscribing witnesses had appeared before him in person and been examined under oath.

**Sec. 2.** G.S. 10-12, G.S. 10-13 and G.S. 31-31.1 as the same appear in the 1977 Cumulative Supplements to Volume 1B and 2A of the General Statutes are hereby reenacted in their entirety.

**Sec. 3.** Nothing herein contained shall affect pending litigation.

**Sec. 4.** Section 2 of 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 29th day of March, 1979.

H. B. 653

**CHAPTER 227**

AN ACT TO AUTHORIZE THE CITY OF MORGANTON TO HOLD A  
MALT BEVERAGE AND UNFORTIFIED WINE ELECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 413, Session Laws of 1963, is hereby amended by deleting in lines 7-10 the words and punctuation, "Provided, however, in no event shall a license be issued to any person, firm or corporation to sell beer and/or wine for 'on premise' consumption anywhere in the Town of Morganton".

**Sec. 2.** The City of Morganton is hereby authorized to hold, in accordance with the provisions of North Carolina General Statutes 18A-52 and North Carolina General Statutes 18A-53, an election on the issue of whether malt beverages and unfortified wine, or both, may be sold "on premises".

**Sec. 3.** Said election may be called for by the City Council of the City of Morganton and held on a date specified notwithstanding the nearness or coincidence of said date with any other election.

**Sec. 4.** The election provided for herein shall not affect "off premises" sale of malt beverages or unfortified wine, or both.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

H. B. 714

**CHAPTER 228**

AN ACT TO AMEND AND SIMPLIFY ARTICLE 1 OF CHAPTER 106  
CONCERNING THE COLLECTION AND PUBLICATION OF  
INFORMATION RELATING TO AGRICULTURE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-24 is amended to read:

"§ 106-24. *Collection and publication of information relating to agriculture, cooperation.*—The Department of Agriculture shall collect, compile, systematize, tabulate, and publish statistical information relating to agriculture. The Department is authorized to use sample surveys to collect primary data relating to agriculture. The Department is authorized to cooperate with the United States Department of Agriculture and the several boards of county commissioners of the State, to accomplish the purpose of this Part."

**Sec. 2.** G.S. 106-25, G.S. 106-26, G.S. 106-26.1 and G.S. 106-26.2 of the General Statutes are repealed.

**Sec. 3.** A new section is added to Part 5 of Article 1 of Chapter 106 of the General Statutes to read:

"§ 106-24.1. *Confidentiality of information collected and published.*—All information published by the Department of Agriculture pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All information received pursuant to this Part from individual farm operators shall be held confidential by the Department and its employees."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.



## S. B. 229

## CHAPTER 229

## AN ACT RELATING TO MARKING OF STATE HIGHWAY PATROL VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-190 is amended by striking out of line 8 of the section the phrase "seventy-nine percent (79%)" and inserting in lieu thereof the phrase "eighty-three percent (83%)."

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 29th day of March, 1979.

## H. B. 451

## CHAPTER 230

## AN ACT TO AMEND THE TOWN CHARTER OF ROBBINS AS SET FORTH IN CHAPTER 63 OF THE PRIVATE LAWS OF 1935.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 63 of the Private Laws of 1935 is amended so that it shall hereafter read as follows:

"The officers of the Town of Robbins shall consist of a mayor and five commissioners to be elected by the qualified voters of said Town at the time prescribed by law for the election of municipal officers. At the next election for municipal officers, there shall be elected a mayor, who shall serve for a term of four years, and five commissioners. The two individuals seeking the office of commissioner who receive the highest number of votes shall be elected for a term of four years; the three individuals receiving the next highest number of votes shall be elected for a term of two years. Thereafter, each commissioner shall be elected for a term of four years."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 543

## CHAPTER 231

## AN ACT TO ABOLISH THE OFFICE OF CORONER IN DUPLIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The office of Coroner in Duplin County is abolished.

**Sec. 2.** Chapter 152 of the General Statutes is not applicable to Duplin County.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

H. B. 544

**CHAPTER 232**

AN ACT TO PERMIT THE LIMITED OPERATION OF THE GAME OF BINGO IN DUPLIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It is lawful for fire departments and charitable, civic, religious and veterans organizations which have been in continuous existence for one year in this State to operate the game of bingo in Duplin County.

**Sec. 2.** The gross proceeds obtained from the operation of the game of bingo, except for prize money, must go into the treasury of the organization operating the game of bingo. No organization shall pay salaries or commissions to persons operating bingo games.

**Sec. 3.** An organization may operate the game of bingo only one day per week for a maximum period of six hours on that day.

**Sec. 4.** The highest prize which an organization may offer on each day that it operates the game of bingo is two hundred fifty dollars (\$250.00).

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

H. B. 601

**CHAPTER 233**

AN ACT TO AMEND G.S. 105-360(a)(1) TO PROVIDE THAT THE GRACE PERIOD FOR PAYMENT OF COUNTY AND MUNICIPAL TAXES SHALL EXTEND TO JANUARY SIXTH.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-360(a)(1), as the same appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended by deleting the word "fourth" in the first line and inserting in lieu thereof the word "sixth".

**Sec. 2.** G.S. 105-360(a)(2), as the same appears in the 1977 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended by deleting the word "first" in the first line and inserting in lieu thereof the word "sixth".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

H. B. 613

**CHAPTER 234**

AN ACT TO ALLOW LENOIR COUNTY TO CONVEY CERTAIN LAND TO THE LENOIR COUNTY FARM BUREAU, INCORPORATED, BY PRIVATE SALE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Lenoir County Board of Commissioners is hereby authorized to convey by good and sufficient deed all its right, title, and interest in and to the hereinafter described tract of land located in Falling Creek Township, Lenoir County, North Carolina, to the Lenoir County Farm Bureau, Incorporated, by private sale. Such private sale shall be exempt from the provisions of Article 12 of Chapter 160A of the General Statutes.

BEGINNING at an iron stake located in the western right-of-way line of U.S. Highway Number 258 said point being the northeast corner of Lot Number 1 as depicted on a map entitled "EDWARD R. WYCKOFF" prepared by Kenneth Ray Noble, R. S., dated August 10, 1973 and appearing in Book 663, Page 116, Lenoir County Registry, and running thence from said beginning point so located with the northern line of said Tract Number 1, North 88 degrees 30 minutes West 251.8 feet to an iron stake; thence it runs with the western line of said Lot Number 1 South 2 degrees 28 minutes West 200.04 feet to a point; thence it runs South 88 degrees 30 minutes East approximately 255 feet to a point in the western right-of-way line of U.S. Highway 258; thence it runs with said right-of-way line North 1 degree 30 minutes East 200 feet to the point or place of beginning. Being the northern one-half of a 2.34 acre tract depicted as Number One on a map appearing in Book 663, Page 116, Lenoir County Registry, reference to which is here made.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 660

## CHAPTER 235

AN ACT EXEMPTING FROM THE PROVISIONS OF ARTICLE 12, CHAPTER 160A, OF THE GENERAL STATUTES OF NORTH CAROLINA, THE COUNTY OF MACON 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.** The County of Macon is hereby 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 of the County of Macon, 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. 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 Macon County Board of Commissioners, all on terms as negotiated.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

H. B. 697

**CHAPTER 236****AN ACT TO EXPAND THE TERRITORIAL JURISDICTION OF KENANSVILLE POLICE OFFICERS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to all jurisdiction granted by G.S. 15A-402, G.S. 160A-285 and G.S. 160A-286, police officers employed by the Town of Kenansville, Duplin County, shall have all the powers invested in law enforcement officers by statute or common law in the following areas:

(a) within the right-of-way of State Road 1301 from the northern town limit of Kenansville to and including the intersection of State Road 1301 and State Road 1398; and

(b) within the right-of-way of State Road 1398 from the intersection of State Road 1398 and State Road 1301 to the Duplin County Airport; and

(c) all that property constituting the Duplin County Airport, and more particularly described as that property described in the following deeds recorded in the Duplin County Registry of Deeds: Book 704, Page 349; Book 717, Page 81; Book 691, Page 180; Book 691, Page 192; Book 690, Page 248; Book 711, Page 147; Book 711, Page 154; Book 743, Page 279; Book 732, Page 19.

**Sec. 2.** For purposes of G.S. 15A-402(d), the term "territory" means the territory described in G.S. 15A-402(b) and (c), and the territory described in Section 1 of this act. This section applies only to the Town of Kenansville and police officers employed by that town.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

H. B. 795

**CHAPTER 237****AN ACT TO AUTHORIZE THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS TO COMPENSATE MARGARET HERNDON FOR INJURIES SHE SUSTAINED IN A FALL.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Cumberland County Board of Commissioners is authorized to compensate Mrs. Margaret Herndon for hospital and medical expenses incurred from injuries she received from a fall inside the Cumberland County Courthouse on October 29, 1976. The amount of that compensation shall be determined by the Cumberland County Board of Commissioners upon presentation by Mrs. Herndon of hospital and medical bills relating to the accident described in this section, but under no circumstances shall the compensation exceed five thousand dollars (\$5,000). Any sum paid to Mrs. Herndon shall be appropriated from the general fund of the County of Cumberland.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.



## S. B. 174

## CHAPTER 238

AN ACT TO ALLOW THE BOARD OF TRUSTEES OF THE UNIVERSITY OF NORTH CAROLINA AT WILMINGTON TO REGULATE PARKING ON CERTAIN PUBLIC STREETS IN THE CITY OF WILMINGTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 116-44.5 is amended by renumbering subsection (4) as subsection (5) and by inserting a new subsection (4), to read as follows:

“(4) The Board of Trustees of The University of North Carolina at Wilmington may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public streets in the City of Wilmington where parking is not prohibited by an ordinance of the City of Wilmington:

a. ‘H’ Street.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 187

## CHAPTER 239

AN ACT TO AMEND G.S. 20-79 RELATING TO REGISTRATION BY MANUFACTURERS AND DEALERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-79(a) is hereby amended by striking the word “calendar” appearing in line 13 immediately after the word “the” and immediately before the word “year”; by striking the last sentence of the first unnumbered paragraph beginning with the word “The” on Line 15 in its entirety and by inserting a new unnumbered paragraph immediately following the first unnumbered paragraph to read:

“Dealer and manufacturer plates shall after June 30, 1980, be issued on a fiscal year basis beginning July 1, and plates issued for fiscal year beginning July 1 shall expire on June 30 following the date of issuance.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 470

## CHAPTER 240

AN ACT TO AUTHORIZE CERTAIN ORGANIZATIONS TO OPERATE THE GAME OF BINGO IN THE TOWN OF BUNN.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be lawful for volunteer fire departments and rescue squads located in the Town of Bunn to operate the game of bingo within the Town. The game shall be operated upon premises owned or leased by such organizations and shall be operated only by the organization and its bona fide members who shall receive no compensation for their services. The funds derived from the operation of the game of bingo shall be used for the awarding of prizes and the net proceeds shall be used for purposes of the organization.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 66

## CHAPTER 241

AN ACT TO PROVIDE FOR CHARGING OF FEES BY COUNTY DEPARTMENTS OF SOCIAL SERVICES ON A SIMILAR BASIS AS CHARGED BY HEALTH DEPARTMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The General Statutes are amended by adding a new section to Chapter 108, as follows:

“§ 108-15.1. *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, and 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 regarding fees.

The fees collected under the authority of this subsection 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 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.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 292

## CHAPTER 242

AN ACT TO CHANGE THE DATE IN G.S. 45-21.42, VALIDATION OF DEEDS WHERE NO ORDER OR RECORD OF CONFIRMATION CAN BE FOUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 45-21.42, as it appears in the 1976 Replacement Volume 2A of the General Statutes, is amended by deleting in the second line the year “1957” and substituting in lieu thereof the year “1974”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 331

## CHAPTER 243

## AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF PINEBLUFF AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Pinebluff is hereby revised and consolidated to read as follows:

**THE CHARTER OF THE TOWN OF PINEBLUFF.**

**ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.**

**Section 1.1. *Incorporation.*** The Town of Pinebluff, 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 Pinebluff", (hereinafter at times referred to as the "Town").

**Section 1.2. *Powers.*** The Town of Pinebluff 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 Pinebluff specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

**Section 1.3. *Corporate Limits.*** The corporate limits of the Town of Pinebluff 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.**

**Section 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.

**Section 2.2. *Board of Commissioners, Composition, Terms of Office.*** The Board of Commissioners shall be composed of five (5) members, each of whom shall be elected for terms of four (4) years in the manner provided by Article III of this Charter; provided, they shall serve until their successors are elected and qualified.

**Section 2.3. *Election of the Mayor, Term of Office, Duties.*** The Mayor shall be elected directly by the voters of the Town in the manner provided by Article III of this Charter for a term of four (4) years; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. He shall have the right to vote only if there are an equal number of votes in the affirmative and the negative on any matter before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

**Section 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. In the event of a vacancy in the office of the Mayor, the Mayor pro tempore shall perform the duties of the Mayor until the vacancy is filled. 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.

### ARTICLE III. ELECTIONS.

Section 3.1. *Regular Municipal Elections; Conduct and Method of Election.* Regular municipal elections shall be held in the Town every two (2) 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 of Commissioners shall be elected according to the nonpartisan plurality method of election, as provided in G.S. 163-292.

Section 3.2. *Election of the Board of Commissioners; Election of Mayor.* At the regular municipal election in 1979 and every four (4) years thereafter, there shall be elected three (3) Commissioners to fill the seats of those Commissioners whose terms are then expiring. At the regular municipal elections in 1981 and every four (4) years thereafter, there shall be elected two (2) Commissioners to fill the seats of those Commissioners whose terms are then expiring. The Mayor shall be elected at the regular municipal election in 1981 and every four years thereafter.

### ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

Section 4.1. *Form of Government.* The Town shall operate under the Mayor-Council form of government in accordance with Part 3 of Article 7, Chapter 160A of the General Statutes.

Section 4.2. *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. It shall be the duty of the Town Attorney to prosecute and 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 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; and to perform other duties required by law or as the Board of Commissioners may direct. The Board of Commissioners may employ other legal counsel from time to time, in addition to the Town Attorney, as may be necessary to handle adequately the legal affairs of the Town.

Section 4.3. *Town Clerk.* The Board of Commissioners 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.

Section 4.4. *Town Tax Collector.* The Board of Commissioners shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other moneys belonging 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 by municipalities.

Section 4.5. *Town Treasurer.* The Board of Commissioners shall appoint a Town Treasurer, or 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 may be required by the Board.

Section 4.6. *Consolidation of Functions.* The Board of Commissioners may consolidate any two or more positions of Town Clerk, Town Tax Collector and Town Treasurer, 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.

Section 4.7. *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. SPECIAL PROVISIONS.

Section 5.1. *Bird Sanctuary.* (a) The Town of Pinebluff, within its entire corporate limits, is hereby declared to be a Bird Sanctuary. It shall be the duty of the Town officials to use such means as they deem best to encourage the citizenry to attract and protect all birds. A number of appropriate signs shall be placed on the highways where they enter the Town, stating the Town is a Bird Sanctuary and all birds are protected by both State and Federal law, and that harming them in any way is a misdemeanor and punishable as such.

(b) It shall be unlawful within the Town limits to pursue, shoot, hunt, kill, capture, snare or net any bird, collect birds' nests, except old and abandoned nests, or eggs, and all lesser acts such as disturbing or annoying birds or placing or using any net or other device for the purpose of taking birds, whether or not they result in taking such birds, except as hereinafter provided.

(c) The Town Board may, upon the recommendation of two adults of good repute owning and maintaining residence within the Town, issue licenses, revocable at their pleasure, permitting owners of real estate to shoot, trap or destroy, upon their own property, any or all birds named in the bulletins issued by the United States Biological Survey as not worthy of protection.

(d) It shall be lawful under a bird-banding permit issued by the United States Bureau of Biological Survey, endorsed or supplemented by the State officials of North Carolina, to maintain a bird-banding station and to capture live and uninjured birds for banding purposes.

(e) Any violation of this section shall be a misdemeanor and punishable by a fine not to exceed fifty dollars (\$50.00), or imprisonment for thirty days.

Section 5.2. *Sale of Real Estate at Private Sale.* In order to convey real estate owned in the name of the Town of Pinebluff, it shall be necessary for the deed of conveyance to be executed by the Mayor and the Town Clerk. All real estate heretofore sold at private sale by the Town of Pinebluff and deed for same made and executed by Levi Packard, Trustee, is hereby validated.

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Pinebluff 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 Pinebluff.

(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 340 Private Laws of 1899

Chapter 162 Private Laws of 1903

Chapter 187 Private Laws of 1903

Chapter 18 Private Laws of 1905

Chapter 188 Private Laws of 1905

Chapter 274 Private Laws of 1913

Chapter 109 Private Laws of 1915

Chapter 35 Private Laws of 1933

Chapter 110 Private Laws of 1933

Chapter 141 Private Laws of 1933

Chapter 611 Session Laws of 1945

Chapter 232 Session Laws of 1947

Chapter 966 Session Laws of 1969

Chapter 326 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):

(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 Town of Pinebluff and all existing rules or regulations of departments or agencies of the Town of Pinebluff, 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 Pinebluff 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.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 11.** This act is effective upon its ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 452

## CHAPTER 244

AN ACT TO CLARIFY THE PROVISIONS REGARDING WORKMEN'S  
COMPENSATION FOR THE CIVIL AIR PATROL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-29 is amended by striking from the third paragraph thereof the words "and senior members of the Civil Air Patrol".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 453

## CHAPTER 245

AN ACT TO CLARIFY A PROVISION OF THE LAW ENFORCEMENT  
OFFICERS', FIREMEN'S, RESCUE SQUAD WORKERS' AND CIVIL AIR  
PATROL MEMBERS' DEATH BENEFITS ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-166.5 is amended by inserting in the second line after "law-enforcement officers" the following: ", or other persons covered by this Article,".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 455

## CHAPTER 246

AN ACT REGARDING WORKMEN'S COMPENSATION BENEFITS FOR  
DEATH AS A RESULT OF CERTAIN OCCUPATIONAL DISEASES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-61.6 is amended by adding at the end of the fifth paragraph the following:

"If the employee was totally disabled as a result of asbestosis or silicosis, compensation shall be paid for any remaining portion of the 104 weeks specified in G.S. 97-61.5 for which the employee has not previously been paid compensation, and in addition shall be paid for an additional 300 weeks."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 457

## CHAPTER 247

AN ACT TO CLARIFY THE PROVISIONS OF THE WORKMEN'S  
COMPENSATION ACT REGARDING JURISDICTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-13(b) is amended by striking the word "five" both times the word appears, and inserting in lieu thereof the word "four".

**Sec. 2.** G.S. 97-19 is amended by deleting in line seven the words "five employees", and inserting in lieu thereof the words "four employees".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 487

## CHAPTER 248

AN ACT TO ALLOW MUNICIPALITIES IN LENOIR COUNTY TO  
CHARGE UP TO FIVE DOLLARS (\$5.00) FOR AUTO TAGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-97(a) is amended by adding immediately after the word "Johnston" both times it appears the word ", Lenoir".

**Sec. 2.** Section 2 of Chapter 433, Session Laws of 1977, is amended by adding immediately after the word "Johnston" the word ", Lenoir".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 499

## CHAPTER 249

AN ACT TO FACILITATE THE PAYMENT OF WORKMEN'S  
COMPENSATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-18(c) is amended by deleting the word "seven" and inserting in lieu thereof the number "14".

**Sec. 2.** G.S. 97-18(c) is further amended by adding the following new language at the end of the subsection:

"A payment becomes due within the meaning of this subsection the day following expiration of time for appeal of an award or judgment or after notice waiving right of appeal by all parties has been received by the commission, whichever is sooner. Except that if the applicable time for appeal is longer than 14 days, then payment must be made within five days after it becomes due as herein defined."

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.



## H. B. 502

## CHAPTER 250

AN ACT TO CREATE A VESTED RIGHT IN WORKMEN'S  
COMPENSATION BENEFITS IN EVENT OF TOTAL DISABILITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-31(17) is amended by adding at the end of the subdivision the following:

"The employee shall have a vested right in a minimum amount of compensation for the total number of weeks of benefits provided under this section for each member involved. When an employee dies from any cause other than the injury for which he is entitled to compensation, payment of the minimum amount of compensation shall be payable as provided in G.S. 97-37."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 737

## CHAPTER 251

AN ACT TO PROVIDE STAGGERED TERMS FOR THE CALDWELL  
COUNTY BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** At the general election in Caldwell County in 1980, all five members of the Board of County Commissioners shall be elected. The three candidates receiving the highest number of votes shall be elected for four-year terms. The two candidates receiving the next highest number of votes shall be elected for two-year terms.

**Sec. 2.** In 1982 and quadrennially thereafter, two members of the Board of County Commissioners of Caldwell County shall be elected for four-year terms.

**Sec. 3.** In 1984 and quadrennially thereafter, three members of the Board of County Commissioners of Caldwell County shall be elected for four-year terms.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 135

## CHAPTER 252

AN ACT TO AMEND THE MINING ACT OF 1971 TO PROVIDE FOR  
CHANGING THE EFFECTIVE DATE OF MINING PERMIT  
SUSPENSION AND REVOCATIONS AND TO PROVIDE FOR THE  
ASSESSMENT OF CIVIL PENALTIES FOR VIOLATIONS OF THE  
MINING ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 74-58, as the same appears in 1975 Replacement Volume 2C of the General Statutes is hereby amended by deleting from line 16 the number "60" and inserting instead the number "30".

**Sec. 2.** G.S. 74-64, as the same appears in 1975 Replacement Volume 2C of the General Statutes is hereby rewritten to read as follows:

“§ 74-64. *Penalties for violations.*—(a) Civil penalties.

- (1) A civil penalty of not more than five thousand dollars (\$5,000) may be assessed by the Department against any person who fails to secure a valid operating permit prior to engaging in mining, as required by G.S. 74-50. No civil penalty shall be assessed until the operator has been given notice of the violation pursuant to G.S. 74-60. Each day of a continuing violation shall constitute a separate violation and a civil penalty of not more than five thousand dollars (\$5,000) per day may be assessed for each day the violation continues.
- (2) The department shall determine the amount of the civil penalty to be assessed pursuant to G.S. 74-64(a)(1) and shall give notice to the operator of the assessment of the civil penalty pursuant to G.S. 74-60. Said notice shall set forth in detail the violation or violations for which the civil penalty has been assessed. The operator may appeal the assessment of any civil penalty assessed pursuant to this section in accordance with the procedures set forth in G.S. 74-61.
- (3) If payment of any civil penalty assessed pursuant to this section is not received by the department within 30 days following notice to the operator of the assessment of the civil penalty, or within 30 days following the denial of any appeal by the operator pursuant to G.S. 74-61 and 62, the department shall refer the matter to the Attorney General for the institution of a civil action in the name of the State in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the penalty.
- (4) All funds collected pursuant to this section shall be placed in the special fund created pursuant to G.S. 74-59 and shall be used to carry out the purposes of this Article.
- (5) In addition to other remedies, the department may request the Attorney General to institute any appropriate action or proceedings to prevent, restrain, correct or abate any violation of this Article or any rules and regulations promulgated hereunder.

(b) Criminal penalties. In addition to other penalties provided by this Article, any operator who engages in mining in willful violation of the provisions of this Article or of any rules and regulations promulgated hereunder or who willfully misrepresents any fact in any action taken pursuant to this Article or willfully gives false information in any application or report required by this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense.”

**Sec. 3.** G.S. 74-61, as the same appears in the 1977 Cumulative Supplement to Volume 2C of the General Statutes is amended by deleting the period following the word “plan” on line 4 of the presently existing section and adding the following: “or assessing a civil penalty pursuant to G.S. 74-64.”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 200

## CHAPTER 253

AN ACT TO CONSOLIDATE UNDER A SINGLE ADMINISTRATIVE PROCESS PERMITS FOR EXCAVATION AND FILLING UNDER G.S. 113-229, WETLAND ORDERS UNDER G.S. 113-230, AND PERMITS FOR DEVELOPMENT IN WETLANDS AND ESTUARINE WATERS UNDER G.S. 113A-118.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-229 is hereby amended by deleting the words "Marine Fisheries Commission" wherever they appear and substituting the words "Coastal Resources Commission".

**Sec. 2.** G.S. 113-229(e) is hereby amended by deleting the seventh sentence and substituting the following sentence:

"The Coastal Resources Commission shall have the authority to adopt, modify and revoke official regulations interpreting and applying the provisions of this section and rules of procedure consolidating the permit required by G.S. 113A-118 (the Coastal Area Management Act) so as to eliminate all unnecessary duplication and create a single, expedited permit process."

**Sec. 3.** G.S. 143B-286(2)(i) is hereby repealed.

**Sec. 4.** G.S. 113-230 is hereby amended by deleting the words "Marine Fisheries Commission" wherever they appear and substituting the words "Coastal Resources Commission".

**Sec. 5.** G.S. 113A-118(c) is hereby amended to appear as follows:

"Permits shall be obtained from the commission or its duly authorized agent, with a right to appeal a permit denial to the commission pursuant to the quasi-judicial procedures provided in G.S. 113A-122."

**Sec. 6.** G.S. 113A-122(a) is hereby amended as follows:

In the first sentence, insert the words "appeals of" between the words "all" and "permits".

In the second sentence, delete the word "applications" and substitute the word "appeals".

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 209

## CHAPTER 254

AN ACT TO AMEND G.S. 20-288(e) RELATING TO AUTOMOBILE DEALER BOND LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-288(e) is hereby amended by adding the following sentence at the end thereof:

"Provided nothing herein shall apply to a motor vehicle dealer, manufacturer, distributor branch or factory branch which deals only in trailers having an empty weight of 4,000 pounds or less."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 301

## CHAPTER 255

## AN ACT TO AMEND CHAPTER 53, BANKS, AS IT PERTAINS TO THE OFFICIAL BANKING RECORDS TO BE KEPT CONFIDENTIAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 53-99 is rewritten to read:

“§ 53-99. *Official records.*—(a) The Commissioner of Banks shall keep a record in his office of his official acts, rulings, and transactions which, except as hereinafter provided, shall be open to inspection, examination and copying by any person.

(b) Notwithstanding any laws to the contrary, the following records of the Commissioner of Banks shall be confidential and shall not be disclosed or be subject to public inspection:

- (1) records compiled during or in connection with an examination, audit or investigation of any bank, banking office or trust department operating under the provisions of this Chapter;
- (2) records containing information compiled in preparation or anticipation of litigation, examination, audit or investigation;
- (3) records containing the names of any borrowers from a bank or revealing the collateral given by any such borrower: provided, however, that every report of insider transactions made by a bank which report is required to be filed with the appropriate State or federal regulatory agency by either State or federal statute or regulation shall be filed with the Commissioner of Banks in a form prescribed by him and shall be open to inspection, examination and copying by any person;
- (4) records prepared during or as a result of an examination, audit or investigation of any bank, bank affiliate, data service center or banking practice by an agency of the United States, or jointly by such agency and the Commissioner of Banks, if such records would be confidential under federal law or regulation;
- (5) records of information and reports submitted by banks to federal regulatory agencies, if such records would be confidential under federal law or regulation;
- (6) records of complaints from the public received by the banking department and concerning banks under its supervision if such complaints would or could result in an investigation;
- (7) records of examinations and investigations of consumer finance licensees;
- (8) records of pre-need burial contracts maintained pursuant to Article 7A of Chapter 65 of the General Statutes including investigations of such contracts and related credit inquiries;
- (9) any letters, reports, memoranda, recordings, charts, or other documents which would disclose any information set forth in any of the confidential records referred to in subdivisions (1) through (8).”

**Sec. 2.** Section 4 of Chapter 1181, 1977 Session Laws (2nd Session, 1978) is rewritten to read as follows:

“Sec. 4. This act is effective upon ratification.”

**Sec. 3.** Section 3 of Chapter 1181, 1977 Session Laws (2nd Session, 1978) is repealed.

**Sec. 4.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 377

## CHAPTER 256

## AN ACT TO ANNEX THE ASHEVILLE AIRPORT TO THE CITY OF ASHEVILLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The following described property, known as the Asheville Airport, is hereby annexed to the City of Asheville and the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Asheville and shall be entitled to the same privileges and benefits as other parts of the municipality. The territory annexed shall be liable for taxes for the fiscal year as provided in G.S. 160A-49(f):

“Beginning at a point in the right-of-way of Interstate 26 thence S 16-14 E for 195.30 feet, thence S 16-42 E for 491.90 feet, thence S 19-31 E for 138.00 feet, thence S 28-03 E for 85.50 feet, thence S 37-33 E for 137.90 feet, thence S 40-36 E for 41.60 feet, thence S 18-31 W for 117.80 feet, thence S 79-24 E for 245.50 feet, thence S 34-08 W for 385.00 feet, thence S 28-48 W for 154.00 feet, thence S 20-35 W for 92.56 feet, thence S 89-30 E for 10.00 feet, thence S 11-43-29 W for 230.85 feet, thence S 89-30 E for 349.00 feet, thence S 03-50 W for 188.20 feet, thence S 86-24 E for 703.60 feet, thence S 13-01 E for 100.00 feet, thence S 30-07 E for 562.40 feet, thence S 14-54 E for 584.80 feet, thence S 13-49 E for 331.00 feet, thence S 72-50 W for 910.65 feet, thence S 48-51 W for 51.00 feet, thence S 41.47 W for 65.00 feet, thence S 31-44 W for 50.00 feet, thence S 01-42 W for 50.00 feet, thence S 02-29 E for 650.00 feet, thence N 84-52 E for 1301.80 feet, thence S 13-35 E for 328.00 feet, thence S 09-48 W for 648.10 feet, thence S 12-25 E for 400.90 feet, thence S 44-33 E for 183.54 feet, thence S 04-14 W for 950.00 feet, thence N 86-02 W for 1140.00 feet, thence S 70-18 W for 515.60 feet, thence S 19-42 E for 2250.00 feet, thence S 70-18 W for 150.00 feet, thence N 19-42 W for 2250.00 feet, thence S 70-18 W for 802.00 feet, thence N32-26 W for 694.40 feet, thence N 86-02 W for 1196.17 feet, thence N 52-24 W for 668.60 feet, thence N 50-00 W for 420.00 feet, thence N 40-50 E for 1331.00 feet, thence N 49-13 W for 347.14 feet, thence N 22-33 E for 70.00 feet, thence N 33-27 E for 900.00 feet, thence N 55-54 E for 61.50 feet, thence N 77-51 E for 124.10 feet, thence S 84-08 E for 100.00 feet, thence N 19-42 W for 1990.00 feet, thence N 19-42 W for 1369.40 feet, thence N 88-10 W for 798.05 feet, thence N 04-40 E for 314.00 feet, thence N 04-00 E for 700.00 feet, thence N 03-30 E for 816.75 feet, thence N 03-30 E for 800.25 feet, thence N 03-00 E for 990.00 feet, thence S 87-00 E for 1122.00 feet, thence S 03-00 W for 825.00 feet, thence S 86-30 E for 1100.00 feet, thence S 21-12 E for 335.00 feet, thence S 26-25 E for 1165.00 feet, thence S 23-49 E for 176.50 feet, thence S 24-27 E for 643.80 feet, thence N 32-34-15 W for 266.80 feet to the point of beginning and containing 814 acres.

“Beginning at a point in the right-of-way of Airport Road (S.R. 3526) thence S 88-00 E for 286.00 feet, thence S 06-00 W for 113.06 feet, thence N 88-00 W for 253.90 feet, thence N 10-07 W for 115.35 feet to the point of beginning and containing 0.70 acres.

“Beginning at a point in the right-of-way of Interstate 26 thence N-51-10 W for 426.90 feet, thence N43-12 W for 191.10 feet, thence N 37-10 W for 117.00 feet, thence N 27-34 W for 196.40 feet, thence N 24-14 W for 244.00 feet, thence

S 85-03 E for 880.40 feet, thence S 05-18 W for 737.80 feet thence S 49-28 W for 99.70 feet, thence N 20-45-08 E for 22.92 feet to the point of beginning and containing 10.69 acres and being recorded in the Buncombe County Register of Deeds Office in Deed Book 815, page 573; Deed Book 791, page 497 and Deed Book 790, page 30.”

**Sec. 2.** The boundaries set forth in Section 1 of this act shall not be deemed a part of the city's corporate limits for the purposes of extraterritorial land-use regulation pursuant to G.S. 160A-360 or abatement of nuisances pursuant to G.S. 160A-193, or annexation pursuant to Part 3 of Article 4A of Chapter 160A of the General Statutes. This exception shall not apply to lands acquired for airport purposes by the City of Asheville.

**Sec. 3.** If any portion 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 the act.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 443

## CHAPTER 257

AN ACT TO ALLOW ANNEXATIONS BY THE VILLAGE OF WALNUT CREEK UPON PETITION OF ONE HUNDRED PERCENT (100%) OF THE PROPERTY OWNERS IN THE AREA TO BE ANNEXED.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 55, Session Laws of 1977, is amended in line 9 by adding after the words “general law”, the words “except for G.S. 160A-31 (which requires a petition signed by the owners of all the real property located within such area)”, and is further amended in line 10 by adding after the words “General Assembly” the words “or in accordance with G.S. 160A-31”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 451

## CHAPTER 258

AN ACT TO VALIDATE WATER AND SEWER ASSESSMENTS IN THE TOWN OF CAROLINA BEACH, NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** In the case of water and sewer assessments since November 16, 1977 in which the Town of Carolina Beach, North Carolina, held public hearings after duly advertising same in a local newspaper having general circulation and qualifying under the laws of North Carolina to so advertise, said water and sewer assessments are hereby in all respects legalized, ratified, approved, validated and confirmed, and all such assessments are hereby declared to be legal and binding assessments.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 463

## CHAPTER 259

## AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF ALBEMARLE AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Albemarle is hereby revised and consolidated to read as follows:

**"THE CHARTER OF THE CITY OF ALBEMARLE.**

**"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.**

"Section 1.1. Incorporation. The City of Albemarle, North Carolina, in the County of Stanly, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Albemarle', hereinafter at times referred to as the 'City'.

"Section 1.2. Powers. The City of Albemarle 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 Albemarle specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Section 1.3. Corporate Limits. The corporate limits of the City of Albemarle shall be those existing at the time of ratification of this Charter, as the same are set forth on an official map of the City, and as the same may be altered from time to time in accordance with law. An official map showing the current boundaries of the City, entitled 'Map of the City of Albemarle, North Carolina', and a current metes and bounds description of the corporate limits shall be maintained in the office of the City 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 City shall be made.

**"ARTICLE II. MAYOR AND CITY COUNCIL.**

"Section 2.1. Governing Body. The 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 City Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.

"Section 2.2. Council; Composition; Terms of Office. The City Council shall be composed of five members, each of whom shall be elected by and from the qualified voters of the City for terms of four years, in the manner provided by Article III of this Charter.

"Section 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected by and from the qualified voters of the City in the manner provided by Article III of this Charter to serve for a term of four years, or until his successor is elected and qualified. The Mayor shall be the official head of the City government and shall preside at all meetings of the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the City.

"Section 2.4. Mayor Pro Tempore. In accordance with applicable State law, the City Council shall elect one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. In the event of a vacancy in the office of the Mayor, the Mayor pro tempore shall

perform the duties of the Mayor until the vacancy is filled. The Mayor pro tempore shall serve in such capacity for a term of four years.

#### **"ARTICLE III. ELECTIONS.**

**"Section 3.1. Regular Municipal Elections; Conduct and Method of Election.** Regular municipal elections shall be held in the City in 1979 and every four years thereafter 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 according to the partisan primary and elections method as provided in G.S. 163-291.

**"Section 3.2. Election of Mayor and Council Members.** At the regular municipal election in 1979 and quadrennially thereafter, there shall be elected a Mayor and five City Council members.

#### **"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.**

**"Section 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.

**"Section 4.2. City Manager.** The City Council shall appoint a City Manager who shall be the head of the administrative branch of City government, and who shall be responsible to the Council for the proper administration of the affairs of the City. The Manager shall be appointed on the basis of merit only, and he shall serve at the pleasure of the Council. In exercising his duties as chief administrator, the Manager shall have the following powers and duties:

(a) He shall appoint and suspend or remove all City employees whose appointment or removal is not otherwise provided for by law, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the City, subject to the general direction and control of the Council, except as otherwise provided by law.

(c) He shall attend all meetings of the Council, unless otherwise directed by the Council, and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the City Charter and the ordinances, resolutions and regulations of the Council are faithfully executed within the City.

(e) He shall prepare and submit the annual budget and capital program to the City.

(f) He shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of the fiscal year.

(g) He shall make any other reports that the Council may require concerning the operations of the City departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the Council.

**"Section 4.3. City Attorney.** The City Council shall appoint a City Attorney who shall be a resident of Stanly County and 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, 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 Council; and to perform other duties required by law or as the Council may direct. The Council may employ other legal counsel from time to time, in addition to the City Attorney, as may be necessary to handle adequately the legal affairs of the City.

“Section 4.4. City Clerk. The Council shall provide for the appointment of 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 Council may direct.

“Section 4.5. Finance Director. The Council shall provide for the appointment of a Finance Director to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

“Section 4.6. City Tax Collector. The Council shall provide for the appointment of a City 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.

“Section 4.7. Consolidation of Functions. The City Council may consolidate any two or more positions of City Clerk, Tax Collector and Finance Director or may assign the functions of any one or more of these positions to the holder of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

“Section 4.8. Other Administrative Officers and Employees. Consistent with applicable State laws, the 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.

“Section 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 City 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 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.

“Section 5.2. Alternative Methods of Assessing the Cost of Extending Water and Sewer Lines. A. In addition and as alternatives to the method provided in

G.S. 160A-218 for assessing the costs of water and sewer lines and laterals, the City Council, if in its opinion it would be more equitable to do so, hereby is authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines, or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

In lieu of assessing the total cost of a particular project as herein provided, the governing body annually between the first days of January and July of each year, may determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It also may include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this act is to distribute more equitably the cost of the installation of water and sewer lines throughout the City; to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights of way also may be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

If a lot or parcel of land used for a single-family residential purpose is assessed under this section and the lot or parcel of land is subdivided into additional lots for single-family occupancy, the City Council may assess the additional lots or parcels of land into which the original parcel of land is from time to time divided on the basis of the average cost as determined under the provisions of this section at the time the owner of the additional lot requests the utility service. Such assessment shall be made only after the owner of the newly created lot or lots has requested water or sewer service and an assessment against his property or has paid the amount of the assessment in cash. In the absence of such request or payment, the service shall be withheld from the property.

If a lot or parcel of land is used for any purpose other than for single-family occupancy, the City Council may assess the lot or parcel of land used for such other purpose in an amount equal to the multiple of the assessment for a single-family lot by the nearest number of times that the area so used is divisible by 20,000 feet but in no case shall the assessment be less than the assessment which would be made against a single-family dwelling lot.

B. The City Council shall have the authority to exempt from assessment for water and sewer extensions for corner lots 150 feet of the frontage of any side of a corner lot when water and sewer extensions are installed along both sides of such lot.

C. The City Council shall have authority to waive the assessment for water and sewer extensions against lands owned by Stanly County, the Stanly County Board of Education, and the Albemarle City School Administrative Unit.

"Section 5.3. Authority to Waive Street Assessments. The City Council is authorized and empowered to waive the collection of street assessments owed to the City by Stanly County, the Stanly County Board of Education, and the Albemarle City School Administrative Unit.

**"ARTICLE VI. SPECIAL PROVISIONS.**

"Section 6.1. Authority to Hold ABC Election. A. The City Council may, upon petition filed by fifteen percent (15%) of the voters who voted in the last municipal election of the said city for mayor, call an election for the purpose of submitting the question as to whether city alcoholic beverage control stores may be operated in the said city. If the City Council calls an election, said election shall be called within ninety days after such petition is filed on a date to be fixed by the City Council as herein prescribed, and at least thirty days' public notice shall be given prior to the date of the election, notwithstanding the nearness of date within which any other type election may be held. At such election, if a majority of the votes cast at said election shall be against the operation of such stores, no such stores shall be set up and operated in the city under the provisions of this Section. If a majority of the votes cast shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in said city.

B. A new registration of voters for such election shall not be necessary. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition 'For alcoholic beverage control stores', and 'Against alcoholic beverage control stores'. Those favoring setting up and operating alcoholic beverage control stores in the City of Albemarle 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 municipal alcoholic beverage control stores shall mark in the voting square to the left of the words 'Against alcoholic beverage control stores'. Excepting as otherwise herein provided, if a special election is called, the election authorized shall be conducted under the same statutory laws and regulations applicable to regular municipal election for the City Council in the City of Albemarle, and the costs thereof shall be paid from the general fund of the City of Albemarle.

C. If the operation of municipal alcoholic beverage control stores is authorized under the provisions of this act, the City Council shall create immediately a municipal board of alcohol control to be composed of three members who shall be well known for their character, ability, and business acumen. The City Council shall appoint a chairman and two other members.

Said board shall be known and designated as the 'City of Albemarle Board of Alcohol Control'. The member designated as chairman shall serve for his first term a period of three years. As to 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 the members expire, their successors in the office shall serve for terms of three years each and until their successors are appointed and qualified. Any vacancy on said board will be filled by the City Council. Compensation of the members of the said City of Albemarle Board of Alcohol Control shall be fixed by the City Council.

D. The City of Albemarle Board of Alcohol Control shall have all the powers and duties imposed by Section 18A-17 of the General Statutes on county boards of alcohol control and shall be subject to the powers and authority of the State



Board of Alcohol Control the same as county boards of alcohol control, as provided in Section 18A-15 of the General Statutes. The City of Albemarle Board of Alcohol Control and the operation of any city alcoholic beverage control stores 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 'county' board of alcohol appears in this Chapter, it shall include the City of Albemarle Board of Alcohol Control. The City of Albemarle Board of Alcohol Control shall have authority to employ legal counsel and such other employees as it may deem wise and fix their compensation.

E. Out of net revenue, five percent (5%) and no more than ten percent (10%) may be expended for law enforcement purposes. Any officers employed by the City of Albemarle Board of Alcohol Control shall have jurisdiction throughout Stanly County. Out of net revenue, up to five percent (5%) may be expended for alcoholic education as to the effects of the use of alcoholic beverages. Out of the net revenue remaining after the payment of all costs and operating expenses, and after retaining a sufficient working capital, the City of Albemarle Board of Alcohol Control shall on a quarterly basis pay over seventy percent (70%) of said net revenue to the general fund of Stanly County.

F. No election as hereinbefore called for under this Section may be held more often than once every three years.

"Section 6.2. Industrial Development. The City Council is authorized and empowered, annually, in its discretion, to set apart and appropriate from funds of the City not raised by taxation, an amount determined by the Council for the purpose of aiding and encouraging the location of manufacturing, industrial and commercial development, for advertising the advantages and resources of the City, and for such other purposes as will in the opinion of the Council, increase the taxable wealth within the City and promote the general welfare of the City and its people."

**Sec. 2.** The purpose of this act is to revise the Charter of the City of Albemarle 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 Albemarle.

(b) 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 14, Public Laws of 1840-41, 1842-43

Chapter 119, Private Laws of 1856-57

Chapter 113, Private Laws of 1874-75



Chapter 145, Private Laws of 1891  
Chapter 344, Private Laws of 1901  
Chapter 71, Private Laws of 1907  
Chapter 516, Public-Local Laws of 1911  
Chapter 234, Private Laws of 1911  
Chapter 337, Private Laws of 1911  
Chapter 384, Private Laws of 1911  
Chapter 33, Public-Local Laws of 1913  
Chapter 13, Private Laws of 1913  
Chapter 232, Public-Local Laws of 1913  
Chapter 362, Private Laws of 1913  
Chapter 379, Private Laws of 1913  
Chapter 100, Private Laws of 1915  
Chapter 54, Private Laws of 1919  
Chapter 27, Private Laws, Extra Session, 1924  
Chapter 17, Public-Local Laws, Extra Session, 1924  
Chapter 242, Public-Local Laws of 1925  
Chapter 111, Private Laws of 1929  
Chapter 20, Private Laws of 1935  
Chapter 338, Private Laws of 1935  
Chapter 294, Public-Local Laws of 1941  
Chapter 664, Session Laws of 1947  
Chapter 901, Session Laws of 1947  
Chapter 287, Session Laws of 1949  
Chapter 288, Session Laws of 1949  
Chapter 838, Session Laws of 1949  
Chapter 146, Session Laws of 1951  
Chapter 716, Session Laws of 1951  
Chapter 186, Session Laws of 1955  
Chapter 956, Session Laws of 1955  
Chapter 209, Session Laws of 1957  
Chapter 3, Session Laws of 1959  
Chapter 872, Session Laws of 1961  
Chapter 986, Session Laws of 1961  
Chapter 2, Session Laws of 1963  
Chapter 848, Session Laws of 1963  
Chapter 721, Session Laws of 1965  
Chapter 175, Session Laws of 1967  
Chapter 338, Session Laws of 1967  
Chapter 592, Session Laws of 1969  
Chapter 666, Session Laws of 1969  
Chapter 122, Session Laws of 1971  
Chapter 451, 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 interest (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 Albemarle and all existing rules or regulations of departments or agencies of the City of Albemarle, 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 Albemarle 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 circumstance is held invalid, such invalidity shall not affect other provisions or applications of this 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. 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 its ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

S. B. 473

## CHAPTER 260

AN ACT TO AUTHORIZE THE NEUSE RIVER COUNCIL OF GOVERNMENTS TO CARRY OUT THE PURPOSES OF CERTAIN PROVISIONS OF THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965, AS AMENDED.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Neuse River Council of Governments, established pursuant to Chapter 160A, Article 20, Part 2, may apply for, accept, and disburse funds under the provisions of the Public Works and Economic Development Act of 1965, as amended, (P.L. 89-136; 42 U.S.C. 3121 et seq.) and may contract with private nonprofit corporations for the administration of programs under the act.

**Sec. 2.** The Neuse River Council of Governments may use the grant funds to make loans for purposes permitted by the federal act, according to the grant agreement and in furtherance of economic development. By way of illustration, but not limitation, loans may be made for the following purposes:

- (1) lawful acquisition and assembly of land, including land banking, for commercial, industrial and related uses;
- (2) acquisition of surplus government properties;
- (3) acquisition of abandoned properties with redevelopment potential;
- (4) development of real estate including redevelopment and rehabilitation of historical buildings for industrial or commercial use;
- (5) rehabilitation and renovation of usable empty factory buildings for industrial and commercial uses;
- (6) other investments which will accelerate recycling of land and facilities for job creating activity, such as assistance to firms to locate or expand in such facilities; and
- (7) local share for other federal programs for 1-6 above, as allowed by those programs.

**Sec. 3.** Loans may be made to public and private organizations and, pursuant to provisions of Chapter 160A, Article 20, Part 1, to units of local government.

**Sec. 4.** This act is supplemental to G.S. 160A-475.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## S. B. 478

## CHAPTER 261

## AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF MURPHY AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Murphy is hereby revised and consolidated to read as follows:

**"THE CHARTER OF THE TOWN OF MURPHY.**

**"ARTICLE I.**

**"Incorporation, Corporate Powers and Boundaries.**

**"Section 1.1. *Incorporation.*** The Town of Murphy, North Carolina in the County of Cherokee, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Murphy' (hereinafter at times referred to as the 'Town').

**"Section 1.2. *Powers.*** The Town of Murphy 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 Murphy specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

**"Section 1.3. *Corporate limits.*** The corporate limits of the Town of Murphy shall be as follows:

Beginning on a concrete monument having a North Carolina State X coordinate of 498,592.6 feet and a Y coordinate of 526,888.9 feet, on the South bank of the Valley River on the North edge of a gravel road at a point known as the Meroney Bluff and runs thence South 16 degrees and 11 minutes West, a direct line, 5,583.4 feet to a concrete monument having a North Carolina State X coordinate of 497,036.4 feet and a Y coordinate of 521,526.6 feet on the Northeast bank of the Hiwassee River opposite the upstream end of the Murphy filter plant and runs thence South 57 degrees and 56 minutes East, up

the Northeast bank of the Hiwassee River, 155.3 feet to a concrete monument having a North Carolina State X coordinate of 497,168.0 feet and a Y coordinate of 521,444.1 feet, said monument is at the down stream end of an old river crossing and runs thence South 3 degrees and 0 minutes West, with old river crossing, 328.0 feet to a concrete monument having a North Carolina State X coordinate of 497,150.8 feet and a Y coordinate of 521,116.5 feet on the Southwest bank of the Hiwassee River in the old Sycamore Lane and runs thence South 19 degrees and 21 minutes West, with said Sycamore Lane, 510.5 feet to a Tennessee Valley Authority boundary monument number HR256-1, having a North Carolina State X coordinate of 496,980.9 feet and a Y coordinate of 520,635.6 feet, thence continuing up an old road the following courses: South 15 degrees and 21 minutes East 92.8 feet, South 7 degrees and 47 minutes East 156.6 feet, South 14 degrees and 42 minutes East 197.8 feet, South 34 degrees and 51 minutes East 122.5 feet, South 40 degrees and 01 minutes East 158.1 feet, South 61 degrees and 12 minutes East 121.7 feet, South 78 degrees and 36 minutes east 133.6 feet, South 68 degrees and 10 minutes East 153.7 feet, South 63 degrees and 01 minutes East 220.0 feet, South 55 degrees and 12 minutes East 212.9 feet, South 14 degrees and 16 minutes West 229.7 feet to a concrete monument having a North Carolina State X coordinate of 497,943.0 feet and a Y coordinate of 519,393.0 feet, in the center of an old road and on the Tennessee Valley Authority boundary line on top of Morgan Hill and continues thence with the center of the old road South 22 degrees and 19 minutes West 87.6 feet to a point on said road and runs thence South 16 degrees and 36 minutes East 67.7 feet to a concrete monument having a North Carolina State X coordinate of 497,929.1 feet and a Y coordinate of 519,247.0 feet in the center of the old road, 30 feet Northeast of Martin's Creek Road on Morgan Hill and runs thence North 67 degrees and 17 minutes West, a direct line, 3,543.1 feet to a concrete monument having a North Carolina State X coordinate of 494,661.0 feet and a Y coordinate of 520,615.3 feet on the Northwest edge of a branch which parallels West Hollow Street and runs thence North 60 degrees and 29 minutes West, 2,319.25 feet to a point in the right-of-way of US 64 highway having a North Carolina State X coordinate of 492,642.6 feet and a Y coordinate of 521,759.4 feet and runs thence South 47 degrees and 50 minutes West with the right-of-way of US 64 highway 261.42 feet to a point marked by an iron pipe and runs thence South 8 degrees and 25 minutes West 371.37 feet to a point marked by a 16" Black Oak and runs thence South 65 degrees and 23 minutes West 55.09 feet to a point marked by an iron pipe at a 18" Spanish Oak and runs thence North 42 degrees and 5 minutes West 185.17 feet to a point marked by a highway right-of-way monument and runs thence North 42 degrees and 5 minutes West 34.62 feet to a point marked by a highway right-of-way monument and runs thence North 41 degrees and 44 minutes West, crossing US 64 highway, 77.29 feet to a point marked by a highway right-of-way monument and runs thence North 41 degrees and 34 minutes West 153.76 feet to a point marked by an iron pipe on the right-of-way of the L & N Railroad and runs thence North 41 degrees and 34 minutes West 75.09 feet to a point in the centerline of the L & N Railroad and runs thence with the L & N Railroad the following five courses: North 45 degrees and 6 minutes East 100.0 feet to a point; North 44 degrees and 35 minutes East 196.0 feet to a point, North 47 degrees and 51 minutes East 100.0 feet to a point; North 51 degrees and 58 minutes East 100.0 feet to a point; North 54 degrees



and 40 minutes East 28.65 feet to a point in the center of said railroad having a North Carolina State X coordinate of 492,379.17 feet and a Y coordinate of 521,941.32 feet which bears North 6 degrees and 19 minutes West 36.64 feet from the former corner of the Murphy City Limits and runs thence North 6 degrees and 19 minutes West, a direct line, 6,582.36 feet to a Tennessee Valley Authority boundary monument number HR318-6 having a North Carolina State X coordinate of 491,655.0 feet and a Y coordinate of 528,483.4 feet on top of the mountain above Lover's Leap bluff, and runs thence South 66 degrees and 27 minutes East, with the Tennessee Valley Authority boundary line 368.8 feet to a Tennessee Valley Authority angle iron and steel fence post corner number LS2-20, having a North Carolina State X coordinate of 491,990.3 feet and a Y coordinate of 528,337.3 feet at the foot of Lover's Leap bluff on the West bank of Hiwassee River said corner being the Northeast corner of the land purchased by the Cherokee County Development Corporation from the United States of America by and through its legal agent Tennessee Valley Authority for an industrial site and runs thence North 20 degrees and 25 minutes East, a direct line, diagonally across and with the flow of the Hiwassee River, 1322.3 feet to a concrete monument having a North Carolina State X coordinate of 492,451.4 feet and a Y coordinate of 529,576.5 feet in the mouth of a hollow at a quarry on the Northwest side of branch and runs North 65 degrees and 01 minutes East, a direct line, 1145.0 feet to a Tennessee Valley Authority concrete boundary monument number HR414-8, having a North Carolina State X coordinate of 493,489.3 feet and a Y coordinate of 530,060.0 feet and runs thence South 27 degrees and 26 minutes East, with the Tennessee Valley Authority boundary line, 305.6 feet to a Tennessee Valley Authority boundary monument number HR414-9, having a North Carolina State X coordinate of 493,630.1 feet and a Y coordinate of 529,788.8 feet and runs thence South 27 degrees and 29 minutes East with the said Tennessee Valley Authority boundary, 278.0 feet to a Tennessee Valley Authority boundary monument number HR414-10, having a North Carolina State X coordinate of 493,758.4 feet and a Y coordinate of 529,542.2 feet then leaving the Tennessee Valley Authority boundary and running thence North 80 degrees and 16 minutes East, with the top of the ridge, 137.3 feet to a point and runs thence North 65 degrees and 10 minutes East 71.6 feet to a point and runs thence North 21 degrees and 46 minutes East 77.3 feet to a concrete monument having a North Carolina State X coordinate of 493,987.3 feet and a Y coordinate of 529,667.3 feet at the West edge of the pavement of the rural paved road number 1363 (Texana Road) at the entrance to the present City Landfill and runs thence North 86 degrees and 18 minutes East, a direct line, 2151.2 feet to a concrete monument having a North Carolina State X coordinate of 496,135.4 feet and a Y coordinate of 529,807.7 feet and runs thence North 8 degrees and 51 minutes East, a direct line, 3700.0 feet to an iron pin having a North Carolina State X coordinate of 496,704.6 feet and a Y coordinate of 533,463.6 feet at Brittain Branch below the Town reservoir and runs thence down said branch the following courses: South 18 degrees and 05 minutes East 122.0 feet, South 17 degrees and 28 minutes East 167.5 feet, South 22 degrees and 06 minutes East 160.1 feet, South 37 degrees and 13 minutes East 142.2 feet, South 26 degrees and 31 minutes East 113.9 feet, South 76 degrees and 51 minutes East 135.8 feet, South 47 degrees and 10 minutes East 145.2 feet, South 39 degrees and 14 minutes East 128.2 feet, South 37 degrees and 06 minutes East 93.1 feet, South 8 degrees and 55

minutes West 98.3 feet, South 4 degrees and 22 minutes East 80.4 feet, South 43 degrees and 40 minutes East 55.9 feet, South 3 degrees and 14 minutes West 92.1 feet, South 25 degrees and 37 minutes East 96.8 feet, South 27 degrees and 28 minutes East 110.8 feet, South 47 degrees and 00 minutes West 81.1 feet, South 38 degrees and 36 minutes West 115.4 feet, South 51 degrees and 14 minutes West 96.8 feet, South 35 degrees and 22 minutes West 95.1 feet, South 4 degrees and 24 minutes East 105.8 feet, South 20 degrees and 03 minutes East 131.7 feet, South 38 degrees and 01 minutes East 109.3 feet, South 24 degrees and 19 minutes East 111.2 feet, South 36 degrees and 44 minutes West 94.5 feet, South 11 degrees and 41 minutes East 102.3 feet, South 23 degrees and 24 minutes East 120.2 feet, South 26 degrees and 51 minutes East 138.5 feet, South 33 degrees and 03 minutes East 98.6 feet, South 36 degrees and 28 minutes East 113.6 feet, South 53 degrees and 32 minutes West 37.0 feet, South 54 degrees and 26 minutes East 102.2 feet, South 43 degrees and 35 minutes West 37.7 feet, South 22 degrees and 41 minutes West 70.2 feet, South 30 degrees and 44 minutes East 83.5 feet, South 24 degrees and 24 minutes West 74.3 feet, South 0 degrees and 55 minutes East 78.6 feet, South 15 degrees and 54 minutes East 134.0 feet, South 45 degrees and 56 minutes West 83.2 feet, South 36 degrees and 52 minutes West 103.4 feet, South 48 degrees and 10 minutes West 91.7 feet, South 3 degrees and 36 minutes West 60.7 feet, South 3 degrees and 30 minutes East 115.1 feet, South 21 degrees and 10 minutes East 291.0 feet, South 33 degrees and 35 minutes East 268.3 feet, South 65 degrees and 25 minutes East 97.5 feet, South 23 degrees and 18 minutes East 60.9 feet, South 39 degrees and 43 minutes West 90.7 feet, South 72 degrees and 02 minutes East 136.6 feet, South 3 degrees and 18 minutes West 194.6 feet, South 34 degrees and 10 minutes East 274.2 feet, South 40 degrees and 58 minutes East 230.2 feet, South 43 degrees and 52 minutes East 172.8 feet, North 31 degrees and 17 minutes East 33.6 feet, South 44 degrees and 43 minutes East 58.5 feet, South 57 degrees and 49 minutes East 129.6 feet, South 0 degrees and 16 minutes East 21.6 feet, South 88 degrees and 33 minutes West 50.5 feet, South 23 degrees and 14 minutes East 27.8 feet, South 0 degrees and 24 minutes West 62.0 feet, South 84 degrees and 18 minutes East 49.6 feet, South 87 degrees and 16 minutes East 69.0 feet, North 77 degrees and 34 minutes East 107.6 feet, South 58 degrees and 50 minutes East 37.6 feet, South 11 degrees and 15 minutes East 88.1 feet, South 70 degrees and 00 minutes East 63.6 feet to a point in the center of Valley River opposite the mouth of Brittian Branch, having a North Carolina State X coordinate of 498,759.7 feet and a Y coordinate of 528,155.2 feet and runs thence down the said Valley River the following courses: South 7 degrees and 13 minutes East 1044.3 feet to a point and runs thence South 60 degrees and 17 minutes West 319.4 feet to a point in the Valley River at Meroney Bluff, having a North Carolina State X coordinate of 498,613.5 feet and a Y coordinate of 526,960.9 feet and runs thence South 16 degrees and 11 minutes West 75.0 feet to a concrete monument, the point of beginning.

#### “ARTICLE II.

##### “Mayor and Board of Commissioners.

“Section 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.

"Section 2.2. *Selection of the Mayor; term of office, duties.* The Mayor shall be elected by the qualified voters of the Town for a term of four years, in the manner provided by Article III of this Charter. The Mayor shall be the official head of the Town government, and shall preside at all meetings of the Board of Commissioners. The Mayor shall have the right to vote on matters before the Board only where there is an equal number of votes in the affirmative and in the negative.

"Section 2.3. *Board of Commissioners; terms of office.* The Board of Commissioners shall be composed of six members, each of whom shall be elected for a term of four years, in the manner provided by Article III of this Charter.

"Section 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 shall serve in such capacity at the pleasure of the remaining members of the Board.

### "ARTICLE III.

#### "Elections.

"Section 3.1. *Regular municipal elections; conduct.* At the regular municipal election to be held in 1981, and every four years thereafter, municipal elections shall be held in the Town, and shall be conducted in accordance with the uniform municipal election laws of North Carolina.

"Section 3.2. *Method of election; officers elected at large.* The Mayor and members of the Board of Commissioners shall be elected every four years according to the partisan primary and election method set out in G.S. 163-291. The Mayor and members of the Board shall be elected by all of the qualified voters of the Town.

### "ARTICLE IV.

#### "Organization and Administration.

"Section 4.1. *Form of government.* 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.

"Section 4.2. *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. It shall be the duty of the Town Attorney to prosecute and 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 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 Board of Commissioners; and to perform other duties required by law or as the Board of Commissioners may direct.

"Section 4.3. *Town Clerk.* The Board of Commissioners 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, to be the chief administrative official for the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Section 4.4. *Town Tax Collector.* The Board of Commissioners shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other moneys belonging 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 by municipalities. The duties of the Tax Collector may be conferred upon the Town Clerk, or any other Town employee.

"Section 4.5. *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.

##### "Electric Power Board.

"Section 5.1. *Power Board continued.* There shall continue to be a Power Board for the Town of Murphy, to be known and designated as 'The Town of Murphy Electric Power Board', hereinafter referred to as the 'Power Board'. The Power Board shall consist of three citizens who are customers of the Power Board, who shall serve staggered terms of six years each. That Francis C. Bourne, Jr. be and he is hereby appointed a member of and as Chairman of said Board to serve for a term of six years from and after the effective date of this act; Jerry O'Henry Hatchett be and he is hereby appointed a member of said Board to serve for a term of four years from and after the effective date of this act; and William F. Forsyth be and he is hereby appointed a member of said Board to serve for a term of two years from and after the effective date of this act. Vacancies in the membership of said Board shall be filled by the governing body of the Town of Murphy for the balance of the term and the successors to the members of said Board appointed by this act shall be appointed by the governing body of the Town of Murphy for terms of six years each. A member of the Town Board of Commissioners shall be eligible to serve as a member of the Power Board.

"Section 5.2. *Compensation of Power Board members.* The members of the Power Board shall each receive compensation from the funds under its control in such sum as fixed by the governing board of the Town of Murphy.

"Section 5.3. *Organization.* At the expiration of the Chairman's term of office as fixed by this act or in the event of a vacancy in the Chairman's term of office as fixed by this act the Power Board shall elect a Chairman, and may, at its discretion, employ someone not a member of the Power Board to act as Secretary. The Power Board shall hold at least one public meeting per month and as many special meetings as may be necessary or convenient, at a time and place to be determined by the Power Board. The presence of two of the members of the Power Board shall constitute a quorum for the transaction of the business of the Power Board. The Power Board shall keep a typewritten record of all regular and special meetings and shall keep such minutes in a permanent minute book.

"Section 5.4. *Powers.* (a) Independent Control. The Power Board shall have and exercise and is hereby granted all the powers and duties now possessed by the Town of Murphy with respect to the construction, acquisition, operation, maintenance, improvement, and extension of the electric transmission and distribution plant and appurtenant properties and facilities (hereinafter called 'the system') now owned and hereafter acquired by or on behalf of the Town of Murphy. The Power Board, acting by itself or through its duly authorized officers and employees, shall have and maintain full control and complete



jurisdiction over the management, operation, maintenance, and improvement of the system and may do any and all acts and things that are necessary, convenient or desirable to the exercise of such control and jurisdiction and to the establishment, preservation, and promotion of an orderly, economic and businesslike administration of the system. Except as expressly provided in this act, the system shall be free from the jurisdiction, direction or control of other Town officers and employees and of the Town Board of Commissioners.

(b) **Surety Bonds.** The Power Board shall require corporate surety bonds from such of the system's officers and employees, and in such amounts as the Power Board shall deem necessary. Premiums for such bonds shall be paid out of the funds of the system.

(c) **Rates.** The Power Board shall fix rates to be charged for services rendered by the system. Such rates shall be fair, reasonable and uniform for all customers in the same class, but different rate schedules may be applied to different classes of customers, as determined by the Power Board. The rates for electric service shall be fixed in conformity with the resale rates that the Town is required to charge by the Town's contractual obligations with the Tennessee Valley Authority.

(d) **Contracts, Leases and Agreements.** The Power Board may enter into such leases, contracts and agreements as it deems necessary or desirable in conducting the business and operations of the system, so long as the same are in accordance with the statutes of the State of North Carolina. The authority given the Power Board by this section shall not be construed to mean that the Power Board has the authority to sell, lease or otherwise dispose of all or a major part of the system, unless such transaction is approved by the Board of Commissioners of the Town by ordinance.

(e) **Short-Term Loans.** The Power Board is hereby authorized to borrow money for a period not to exceed three years and to issue negotiable notes, payable from the revenues of the system or a part thereof, as evidence of such loans, subject to the approval of the Board of Commissioners of the Town. Such short-term notes shall bear interest at not exceeding the maximum rate of interest allowed by law. The action of the Power Board with respect to issuance thereof may be by resolution or resolutions which may be adopted at the same meeting at which introduced and shall take effect immediately upon adoption by the Power Board and approval by the Board of Commissioners of the Town.

(f) **Long-Term Revenue Bonds.** The Power Board is hereby authorized to provide for the issuance of long-term bonds for the acquisition, construction, improvement, and/or expansion of the electric system from time to time in the manner hereinafter provided. Such bonds shall be issued by the Board of Commissioners pursuant to the then applicable general or special statutes authorizing the issuance and sale thereof, and shall be issued in such amounts and at such times, and shall bear such maturity dates, as the Power Board shall direct, and it shall be the duty of the Board of Commissioners to provide for the issuance of such bonds pursuant to any such general or special statutes as directed by the Power Board; Provided, however, that the Board of Commissioners shall not be required to issue any such bonds without its approval if the bonds to be issued are payable out of the Town's general income and revenue, it being the intention hereof that the Power Board be empowered to direct the issuance of such bonds only when the bonds are to be payable solely from the revenues of the electric system.

(g) Rules and Regulations. The Power Board shall have authority to make and enforce all necessary and desirable rules and regulations for the efficient use, operation and management of the system.

(h) Eminent Domain. The Power Board is hereby authorized to exercise the right of eminent domain on behalf and in the name of the Town of Murphy for the purpose of acquiring any property, real, personal, or mixed, necessary or useful in exercising the power and authority conferred in this Article. The title to all property acquired by the Power Board either by contract or by condemnation shall be taken in the name of the Town of Murphy.

(i) Employment of Personnel. The Power Board shall have the power to employ and fix the duties and compensation of such officers and employees as it deems necessary or convenient for the operation of the system. The power to employ and fix the compensation of officers and employees of the system may be delegated by the Power Board to the superintendent of the system after he has been appointed by the Power Board.

(j) Recreation Appropriation. The Power Board is authorized to appropriate not more than one thousand dollars (\$1,000) per year to help provide wholesome recreation for the Town of Murphy.

"Section 5.5. *Duties.* (a) The Power Board shall keep the funds, books and accounts of the system separate and apart from all other funds, books and accounts of the Town or any of the departments thereof. The funds of the system, including revenues from the operation thereof, shall be deposited in the name of the Power Board. Such funds shall be disbursed only on voucher signed by the superintendent of the system issued pursuant to resolution or order of the Power Board, a certified copy of which shall be filed in the office of the fiscal agent of the Power Board.

(b) The Power Board shall make and file with the Board of Commissioners on the first day of January and the first day of July each year a financial statement showing the financial operations of the system during the preceding six months and the financial condition of the system.

(c) The Power Board shall cause to be paid all obligations for which the Town may now be or hereafter become liable because of the ownership and operation of the system. All such obligations which are general obligations of the Town may be paid either directly to those to whom the obligations are owed or to the Treasurer of the Town for payment over to those entitled to such payments. This Article shall not in any way impair any obligations heretofore entered into by the Town and shall not change or alter the obligations of any existing contracts, all of which, insofar as they apply to the system, shall be binding on the Power Board.

(d) The Power Board shall dispose of its gross revenues from system operations in the following manner:

(1) Revenues shall first be used for the payment of all current system operating expenses, including salaries, wages, cost of materials, supplies and services, power at wholesale, and insurance.

(2) Next, provisions shall be made for payment of interest on and retirement of indebtedness incurred by the Power Board or the Town for system purposes, including amortization and/or sinking fund payments thereon.

(3) Thereafter, revenues shall be used to establish and maintain reasonable reserves for replacement, new construction and contingencies, and to provide a reasonable amount of cash working capital.

(4) Thereafter, the Power Board shall pay into the general fund of the Town an amount in lieu of ad valorem taxes on the property of the system not to exceed the amount of taxes payable on private property of a similar nature.

(5) All revenues remaining after making provision for items above enumerated in the order in which they are stated shall be considered surplus revenues to be used solely for system purposes and primarily as a basis for reduction of rates to the electric consumers.

"Section 5.6. *Purpose.* It is the intent and purpose of this Article to create the Power Board as a separate and independent unit of government insofar as control, management and operation of the system are concerned and this Article shall be liberally construed to accomplish such intent and purpose.

#### "ARTICLE VI.

#### "SPECIAL PROVISIONS.

##### (Reserved)

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Murphy 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 Murphy.

(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:

Private Laws of 1850-51, Chapter 342

Private Laws of 1870-71, Chapter 61

Private Laws of 1887, Chapter 8

Private Laws of 1887, Chapter 131

Private Laws of 1889, Chapter 239

Public Laws of 1893, Chapter 217

Private Laws of 1893, Chapter 140

Private Laws of 1901, Chapter 352

Private Laws of 1903, Chapter 136

Private Laws of 1905, Chapter 228

Private Laws of 1907, Chapter 224

Private Laws of 1908, Extra Session, Chapter 60

Private Laws of 1909, Chapter 184

Public-Local Laws of 1911, Chapter 107

Private Laws of 1911, Chapter 4

Private Laws of 1911, Chapter 157

Private Laws of 1911, Chapter 387

Private Laws of 1913, Chapter 260  
Private Laws of 1913, Extra Session, Chapter 1  
Private Laws of 1921, Extra Session, Chapter 112  
Private Laws of 1921, Extra Session, Chapter 121  
Private Laws of 1921, Extra Session, Chapter 127  
Private Laws of 1923, Chapter 34  
Private Laws of 1927, Chapter 113  
Private Laws of 1929, Chapter 123  
Public-Local Laws of 1931, Chapter 412  
Private Laws of 1933, Chapter 220  
Private Laws of 1935, Chapter 155  
Public-Local Laws of 1937, Chapter 630  
Public-Local Laws of 1941, Chapter 141  
Public-Local Laws of 1941, Chapter 356  
Session Laws of 1945, Chapter 429  
Session Laws of 1947, Chapter 143  
Session Laws of 1947, Chapter 590  
Session Laws of 1949, Chapter 278  
Session Laws of 1949, Chapter 710  
Session Laws of 1953, Chapter 806  
Session Laws of 1957, Chapter 894  
Session Laws of 1957, Chapter 956  
Session Laws of 1961, Chapter 990  
Session Laws of 1965, Chapter 533  
Session Laws of 1971, Chapter 139  
Session Laws of 1971, Chapter 611.

**Sec. 5.** The following acts having served the purposes for which they were enacted, are hereby repealed only insofar as they relate to the Town of Murphy:

Private Laws of 1913, Chapter 494  
Public-Local Laws of 1937, Chapter 135  
Session Laws of 1949, Chapter 901.

**Sec. 6.** 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. 7.** 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. 8.** (a) All existing ordinances and resolutions of the Town of Murphy and all existing rules or regulations of departments or agencies of the Town of Murphy, 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 Murphy or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**Sec. 9.** 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. 10.** 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.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 12.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1979.

## H. B. 338

## CHAPTER 262

AN ACT TO INCREASE THE MINIMUM DOLLAR AMOUNT FOR WHICH FORMAL AND INFORMAL BIDS ARE REQUIRED FOR WAKE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-129 is amended in paragraph 1, line 5, by deleting the words and figures "two thousand five hundred dollars (\$2,500)" and inserting in lieu thereof the words and figures "five thousand dollars (\$5,000)".

**Sec. 2.** G.S. 143-131 is amended in paragraph 1, line 3, by deleting the words and figures "one thousand dollars (\$1,000)" and inserting in lieu thereof the words and figures "two thousand five hundred dollars (\$2,500)".

**Sec. 3.** This act shall apply to Wake 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, 1979.

## H. B. 375

## CHAPTER 263

AN ACT TO CLARIFY THE SCOPE OF G.S. 14-118.1, WHICH PROHIBITS THE SIMULATION OF COURT PROCESS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-118.1, as the same appears in the 1969 Replacement to Volume 1B of the General Statutes, is amended by deleting the first sentence and inserting in its place the following:

"It shall be unlawful for any person, firm, corporation, association, agent or employee in any manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with any claim, demand or account, by the issuance, utterance or delivery of any matter, printed, typed or written, which (a) simulates or resembles a summons, warrant, writ or other court process or

pleading; or (b) by its form, wording, use of the name of North Carolina or any officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a tendency to create in the mind of the ordinary person the false impression that it has judicial or other official authorization, sanction or approval."

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 419

## CHAPTER 264

AN ACT TO AMEND CHAPTER 46 OF THE SESSION LAWS OF 1973 TO INCREASE SUPPLEMENTAL RETIREMENT BENEFITS FOR RETIRED FIREMEN IN THE CITY OF CLINTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 46 of the Session Laws of 1973 is amended by striking the words and figures "nine hundred dollars (\$900.00)" in Section 1 and substituting in lieu thereof the words and figures "one thousand two hundred dollars (\$1,200)".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 428

## CHAPTER 265

AN ACT TO ALLOW THE WINSTON-SALEM SPORTS COMMISSION TO PROMOTE AMATEUR SPORTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 37, Session Laws of 1975, is amended by adding immediately after the word "professional", the words "and amateur".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 441

## CHAPTER 266

AN ACT TO ALLOW THE VOTERS OF POLKVILLE TO ELECT THEIR MAYOR DIRECTLY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Polkville, as the same appears in Section 12 of Chapter 178, Session Laws of 1971, is amended:

(1) by rewriting the first sentence of Section 3.1 to read:

"Beginning with the 1979 municipal election, the Mayor of Polkville shall be elected by the qualified voters of the town for a term of four years."

(2) by amending the last sentence of Section 3.1 to read:

"The Mayor Pro Tempore as such shall have no fixed term of office but shall serve in such capacity at the pleasure of the Board of Commissioners."

(3) by amending Section 3.3(b) by deleting the words "Board of Commissioners," and inserting in lieu thereof the words "Board of Commissioners or as Mayor,".

(4) by amending Section 3.3 by adding a new subsection (d) to read:

“(d) If the person elected Mayor shall refuse to qualify, or if there is a vacancy in the office of Mayor, the Board of Commissioners shall by majority vote appoint some qualified person to serve for the remainder of the unexpired term.”

(5) by amending Section 3.7(b) by rewriting the first sentence to read: “The affirmative vote of three Commissioners, or two Commissioners and the Mayor, shall be necessary to adopt any ordinance or any resolution or motion having the effect of an ordinance.”

(6) by amending Section 4.1 to read:

“Section 4.1. *Regular Municipal Elections.* Regular municipal elections shall be held on the Tuesday after the first Monday in November of 1979, and biennially thereafter. In the regular municipal election of 1979 and quadrennially thereafter, two Commissioners and a Mayor shall be elected to serve for terms of four years or until their successors are elected and qualify. In the regular municipal election of 1981, and quadrennially thereafter, two Commissioners shall be elected for four-year terms, or until their successors are elected and qualify.”

(7) by repealing Section 4.2;

(8) by amending Section 3.2 by adding the following new language: “Effective with the 1979 regular municipal election, the Board of Commissioners shall consist of four members”.

**Sec. 2.** The person serving as Mayor of the Town of Polkville upon ratification of this act shall continue to serve, if otherwise qualified, until the organizational meeting following the 1979 regular municipal election.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 458

## CHAPTER 267

### AN ACT TO PROVIDE THE METHOD OF FILLING VACANCIES ON THE BOARD OF COMMISSIONERS OF POLK COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-27 is rewritten to read:

“§ 153A-27. *Vacancies on the board of commissioners.*—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 five registered voters of the county.

If the member being replaced was serving a two-year term, or was in the last two years of a four or six-year 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, either to the remainder of the unexpired term or, if the term has expired, to a full term.

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.

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."

**Sec. 2.** This act shall apply to Polk County only.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 500

## CHAPTER 268

### AN ACT TO ALLOW ASSESSMENT OF ATTORNEY FEES IN WORKMEN'S COMPENSATION CASES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 97 of the General Statutes is amended by adding a new section to read:

"§ 97-88.1. *Attorney's fees at original hearing.*—If the Industrial Commission shall determine that any hearing has been brought, prosecuted, or defended without reasonable ground, it may assess the whole cost of the proceedings including reasonable fees for defendant's attorney or plaintiff's attorney upon the party who has brought or defended them."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 508

## CHAPTER 269

### AN ACT TO AMEND G.S. 62-50 TO REVISE AND CLARIFY THE JURISDICTION AND RESPONSIBILITY OF THE UTILITIES COMMISSION IN REGULATING SAFETY STANDARDS FOR PIPELINE FACILITIES AND TO INCLUDE MUNICIPALLY OWNED GAS DISTRIBUTION SYSTEMS, PUBLIC HOUSING AUTHORITIES, AND PERSONS OPERATING APARTMENT COMPLEXES OR MOBILE HOME PARKS IN THAT JURISDICTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G. S. 62-50 is amended by rewriting subsections (a) and (g) as follows:

"§ 62-50. *Safety standards for gas pipeline facilities.*—(a) The commission may promulgate and adopt safety standards for the operation of natural gas pipeline facilities in North Carolina. These safety standards shall apply to the



pipeline facilities of gas utilities and pipeline carriers under franchise from the Utilities Commission and to pipeline facilities of other gas operators, as defined in subsection (g) of this section. The commission shall require that all gas operators file with the commission reports of all accidents occurring in connection with the operation of their gas pipeline facilities located in North Carolina. The commission may require that all gas operators file with the commission copies of their construction, operation, and maintenance standards and procedures, and any amendments thereto, and such other information as may be necessary to show compliance with the safety standards promulgated by the commission. Where the commission has reason to believe that any gas operator is not in compliance with the commission's safety standards, the commission may, after notice and hearing, order that gas operator to take such measures as may be necessary to comply with the standards. The commission may require all gas operators to furnish engineering reports showing that their pipeline facilities are in safe operating condition and are being operated in conformity with the commission's safety standards.

(g) For the purpose of this section, 'gas operators' include gas utilities and gas pipeline carriers operating under a franchise from the Utilities Commission, municipal corporations operating municipally owned gas distribution systems, and public housing authorities and any person operating apartment complexes or mobile home parks that distribute or submeter natural gas to their tenants. This section does not confer any other jurisdiction over municipally owned gas distribution systems, public housing authorities or persons operating apartment complexes or mobile home parks."

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 517

## CHAPTER 270

### AN ACT TO AUTHORIZE THE TOWN OF GARNER TO TOW MOTOR VEHICLES FROM FIRE LANES PROPERLY DESIGNATED ON PRIVATE PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 160A-303(b)(1) of the North Carolina General Statutes is amended to read as follows:

(1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking or has been left on private property in a properly designated fire lane in violation of an ordinance prohibiting parking in such specifically designated fire lanes;

**Sec. 2.** This act shall apply only to the Town of Garner.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

H. B. 525

## CHAPTER 271

## AN ACT TO CHANGE THE RESTRICTIONS ON A CONVEYANCE OF CERTAIN REAL PROPERTY BY THE DAVIE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Davie County Board of Education is hereby authorized to convey by good and sufficient deed all its right, title and interest in and to the hereinafter described tract of land located in Davie County, Farmington Township, North Carolina, to the Smith Grove Community Development Center, Inc., at a private sale with or without monetary consideration; provided, however, that such conveyance shall provide that if said property at any time ceases to be used for nonprofit recreational, educational and community service purposes, title shall revert by operation of law to the Davie County Board of Education or its successor.

"BEGINNING at the Southwest corner of the within described tract, a cement post and an iron pipe, the common corner of the described property, and the Bahnson Company, and running thence with the line of the Bahnson Company North 29 degrees East 850 feet to an iron pipe, Bahnson Company's corner; thence with the line of Bahnson Company South 85 degrees East 437.6 feet and with the line of C.M. Foster the same call 277 feet to an iron pin, Echols, formerly Studevent's corner; thence with Studevent's line South 29 degrees East 462 feet crossing the present line of U.S. Highway #158 to a stake in the right of way of U.S. Highway #158; thence a straight line 705 feet in a Southwestwardly direction to a point on the West line of U.S. Highway #158; thence North 3 degrees West 16.5 feet; thence Westwardly 105 feet to the point of beginning, and being that property known as the Smith Grove School property, excepting the portion hereinafter set forth.

SAVE AND EXCEPT the following described lands: BEGINNING at an iron pipe, the Northwest corner of the within described tract, which pipe is located 103.8 feet South 85 degrees East from an iron rod, the common corner of Bahnson Company, Inc., and Vance F. Dunn and running thence South 85 degrees 30 minutes East 74 feet to an iron pipe, Echols' corner; thence with the line of Echols South 29 degrees East 385 feet to the center of U.S. Highway #158; thence with the center line of U.S. Highway #158 South 62 degrees 40 minutes West 200 feet to the intersection of the center line of U.S. Highway #158 and a gravel driveway; thence with the center line of the said gravel driveway North 29 degrees West 206 feet to an iron pipe, a new corner; thence North 61 degrees East 139 feet to an iron pipe, a new corner; thence North 29 degrees West 215 feet to the beginning and containing 53,600 square feet or 1.2/3 acres more or less."

**Sec. 2.** The Davie County Board of Education is hereby authorized to convey by good and sufficient deed all its right, title and interest in and to the hereafter described tract of land located in Davie County, Farmington Township, North Carolina, to the Farmington Community Association, Inc., at a private sale with or without monetary consideration; provided, however, that such conveyance shall provide that if said property at any time ceases to be used for nonprofit recreational, educational and community service purposes, title shall revert by operation of law to the Davie County Board of Education or its successor.

"BEGINNING at an iron pin, Grady Smith's corner in the Farmington to Mocksville paved road, the Northeast corner of the within described tract, and running thence with the line of the said Grady Smith South 87 degrees West 410 feet to an iron pin, Smith's corner; thence with the line of the said Smith South 6 degrees East 850 feet to an iron on the North side of Bobby Lakey's road; thence with the North line of the said Lakey's road North 39 degrees East 95 feet; thence with Lakey's line South 87 degrees East 342 feet to an iron pin in the said Mocksville-Farmington Road; thence with the West line of the said road in a Northwardly direction to the point of beginning and being all of that property known and designated as the Farmington School property."

**Sec. 3.** Sections 1 and 2 of Chapter 399, Session Laws of 1971, are repealed.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 526

## CHAPTER 272

## AN ACT AUTHORIZING THE DAVIE COUNTY BOARD OF COMMISSIONERS TO CONVEY CERTAIN REAL PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Davie County Board of Commissioners is hereby authorized to convey by good and sufficient deed all its right, title and interest in and to the hereinafter described tract of land located in Davie County, Mocksville Township, North Carolina, to such person or persons as the board in its discretion may determine at a private sale with or without monetary consideration; said property shall be used only for the construction of a medical office building for medical professionals who customarily use the facilities of the Davie County Hospital and that use of said property shall be restricted to such purpose in the deed of conveyance:

BEGINNING at a point, a new 1/2 in. iron pipe in the edge of right of way of Meroney Street in the Town of Mocksville at its intersection with the edge of a new proposed roadway to Davie County Hospital, being the Easternmost corner of the within described tract, said point of beginning being located South 51 deg. 11 min. 25 sec. West 417.39 feet of a point, the North Carolina Geodetic Traverse Station (Florist) in the Town of Mocksville at latitude 35 deg. 54 min. 4.02645 min. and longitude 80 deg. 34 min. 12.51055 sec. and North Carolina Grid Coordinates 786559.9283 and 1534991.8480, runs thence with the edge of said proposed private roadway South 50 deg. 27 min. 27 sec. West 100 feet to a point, a new 1/2 in. iron pipe; thence North 36 deg. 13 min. 3 sec. West 150 feet to a point, a new 1/2 in. iron pipe; thence North 50 deg. 29 min. 46 sec. East 100 feet to a point in the edge of right of way of said Meroney Street, a new 1/2 in. iron pipe; thence with said street South 35 deg. 33 min. 39 sec. East 130.96 feet to a point, an old iron pipe in the edge of said right of way; thence South 40 deg. 43 min. 39 sec. East 19.04 feet to the BEGINNING, containing .34 of an acre, more or less, as taken from a plat and survey prepared by Francis B. Greene, R.S.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

H. B. 528

**CHAPTER 273****AN ACT TO AUTHORIZE THE TOWN OF HARRELLSVILLE IN HERTFORD COUNTY TO LEASE A TRACT OF LAND BY PRIVATE NEGOTIATION.***The General Assembly of North Carolina enacts:*

**Section 1.** The Town of Harrellsville in Hertford County is authorized to lease for a period not to exceed 20 years for adequate consideration the tract of land described in Section 2 to any lessee through private negotiation for the purpose of industrial development.

**Sec. 2.** The tract of land is described as follows:

“That certain lot or parcel of land lying and being in Harrellsville Township, Hertford County, North Carolina, known as the ‘Harrellsville School Property’ and being more definitely described as follows: BEGINNING at an iron stake at the Northern edge of the sidewalk on Main Street in the Town of Harrellsville, corner for the property herein and lands of Hunter Sharp and running thence with the Sharp lands North 24 deg. 30 min. East 543 feet to an iron stake; thence still with said Sharp line North 24 deg. 30 min. East 337 feet to stake, corner; thence still with lands of Hunter Sharp North 66 deg. West 96 feet to a stake; thence still with the Sharp line North 66 deg. West 334 feet to a point in run of pond, corner; thence with run of pond South 12 deg. West 76 feet, South 1 deg. East 77 feet, South 23 deg. West 80 feet, South 27 deg. West 116 feet, corner; thence South 20 deg. East 198 feet, corner; thence South 24 deg. 30 min. West 403 feet to a point at the Northern edge of the sidewalk on Main Street in the Town of Harrellsville, corner for the lot herein and the lot of Mrs. W. B. Gillam, Sr.; thence with the Northern edge of the sidewalk South 66 deg. East 255 feet to the iron stake and point of beginning and being further described according to deeds recorded in Book 16, Page 544, Book 71, Page 285, Book 256, Page 165, and Book 379, Page 433, Hertford County Registry and Decree recorded in Book F, Page 340, Orders and Decrees, in the Office of the Clerk of Superior Court of Hertford County. Reference is hereby made to all said records for further description of said premises. Save and except all rights retained in a 10 feet (10) lane between the W. B. Gillam line and the School property by H. C. Sharp et als in Deed dated December 12, 1921, and recorded in Book 71, Page 285, Hertford County Registry, reference to said Deed is hereby made for further describing the rights retained. The above-described tract or parcel of land is also described on a Map Showing Property Of The Board Of Education of Hertford County Harrellsville School Property dated January 21, 1975, and prepared by Thomas E. Harrell, Jr., R.L.S.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.



## H. B. 548

## CHAPTER 274

## AN ACT TO PROVIDE FOUR-YEAR STAGGERED TERMS FOR THE JONESVILLE BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** At the regular municipal election in the Town of Jonesville on the Tuesday after the first Monday in November, 1979, and biennially thereafter, a mayor shall be elected for a two-year term.

**Sec. 2.** At the regular municipal election in the Town of Jonesville on the Tuesday after the first Monday in November, 1979, five members of the board of commissioners shall be elected as follows: the three persons receiving the highest number of votes shall be elected for four-year terms, and the two persons receiving the next highest number of votes shall be elected for two-year terms. At the regular municipal election in Jonesville in 1981, and quadrennially thereafter, two members of the board of commissioners shall be elected for four-year terms. At the regular municipal election in Jonesville in 1983, and quadrennially thereafter, three members of the board of commissioners shall be elected for four-year terms.

**Sec. 3.** Effective with the 1979 regular municipal election, the Jonesville Town Board of Commissioners shall consist of five members.

**Sec. 4.** Regular municipal elections in Jonesville shall be conducted in accordance with the nonpartisan plurality method, and the results determined in accordance with G.S. 163-292.

**Sec. 5.** Municipal elections in the Town of Jonesville shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes, except as herein otherwise provided.

**Sec. 6.** Chapter 308, Session Laws of 1967, is repealed.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 612

## CHAPTER 275

## AN ACT AMENDING G.S. 160A-272 AS IT APPLIES TO WAKE COUNTY'S LEASING THE BUILDING AT 336 FAYETTEVILLE STREET IN RALEIGH.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Commissioners of the County of Wake are empowered to lease space to other parties in the building owned by Wake County and located at 336 Fayetteville Street, Raleigh, North Carolina, for lease periods of up to 10 years.

**Sec. 2.** The Board of Commissioners of the County of Wake may, by resolution, delegate to the County Manager or to some other administrative officer of the county the authority to enter into leases under Section 1 of this act.

**Sec. 3.** The provisions of the last two sentences of the first paragraph of G.S. 160A-272 shall not apply to leases made under this act.

**Sec. 4.** In determining the term of a proposed lease under Section 1 of this act, periods that may be added to the original term by options to renew or extend shall be included.

**Sec. 5.** In case of conflict between the provisions of this act and the provisions of G.S. 160A-272 or G.S. 153A-176, or any provisions of general law or local act, the provisions of this act shall control to the extent of the conflict.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 625

## CHAPTER 276

AN ACT TO PROVIDE THAT COSTS OF ELECTIONS FOR THE WAKE COUNTY SCHOOL ADMINISTRATIVE UNIT SHALL BE PAID BY WAKE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The cost of all elections in the Wake County School Administrative Unit, including elections for the Wake County Board of Education and school bond elections for Wake County shall be paid by Wake County, and shall not be charged against the budget of the county school administrative unit.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 626

## CHAPTER 277

AN ACT TO AMEND THE CHARTER OF THE CITY OF RALEIGH CONCERNING PARKING.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1184 of the Session Laws of North Carolina, 1949, as amended, the Charter of the City of Raleigh, is amended by adding the following new language immediately after the first sentence of Section 22 (37), to read as follows:

“The City of Raleigh shall have the authority to classify each additional hour that a vehicle remains parked beyond the legal time limit for the parking area where said vehicle is parked as a separate and distinct offense. No ordinance adopted to implement the preceding sentence of this subdivision shall be effective unless a public hearing is held on such ordinance and the ordinance adopted no earlier than 30 days after the public hearing.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 627

## CHAPTER 278

## AN ACT TO AMEND G.S. 18A-16 TO PROVIDE FOR THE SELECTION OF THE MEMBERS OF WAKE COUNTY ABC BOARD BY THE BOARD OF COUNTY COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-16 is hereby amended:

(1) by deleting from the first paragraph of subsection (a) thereof, at lines 6 through 9, the following:

“in a 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” and by substituting in lieu thereof the words “by the board of county commissioners”;

(2) by deleting from the second paragraph of subsection (a) thereof, at lines 11 and 12, the words “the appointing boards” and by substituting in lieu thereof the words “the board of county commissioners”;

(3) by deleting therefrom the third paragraph of subsection (a), and by substituting in lieu thereof the following:

“Any member of the county board hereinabove referred to in this section may be removed at any time by the board of county commissioners whenever such board finds, by a majority vote of its membership, that a member or members are unfit to serve on the county alcoholic beverage control board. If any member of the county board is removed hereunder, his successor shall be selected to serve out the time for which such member was originally selected.”;

(4) by deleting from the fourth paragraph of subsection (a), at lines 33 through 35, the following:

“at a joint meeting of the board of county commissioners, the county board of health, and the county board of education, which joint meeting shall be held within 10 days after such resignation or death.”, and by substituting in lieu thereof the following: “by the board of county commissioners at its next regularly scheduled meeting following the death or resignation of the chairman or any other member of the county board of alcoholic control.”;

(5) by deleting from subsection (c) thereof, at line 2, the words “joint meeting of the several boards that appoint them” and by substituting in lieu thereof the words “board of county commissioners”;

(6) by deleting from subsection (d) thereof, at lines 15 and 16, the words “The three joint boards referred to above”, and by substituting in lieu thereof the words “The board of county commissioners”.

**Sec. 2.** This act shall apply only to Wake County.

**Sec. 3.** This act shall apply to appointments made after the expiration of terms now being served, and to vacancies occurring or continuing after the effective date of this act.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

H. B. 636

## CHAPTER 279

AN ACT TO ALLOW THE AVERY COUNTY REGISTER OF DEEDS TO  
USE LISTS OR SCROLLS FOR NOTICE OF POSTED LANDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Register of Deeds of Avery County, in lieu of posting on the Courthouse bulletin board notices of property posted in accordance with Article 10A of the General Statutes Chapter 113, may establish scrolls or lists for each township in Avery County to which individuals may sign their names and indicate that their property is posted. If the Register of Deeds employs this method of providing public notice of posted property, he shall maintain the scrolls or lists in his office and shall indicate on the Courthouse bulletin board where the scrolls or lists may be found.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

H. B. 646

## CHAPTER 280

AN ACT TO PROVIDE FOUR-YEAR STAGGERED TERMS FOR THE  
YADKINVILLE BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** At the regular municipal election in the Town of Yadkinville on the Tuesday after the first Monday in November, 1979, and biennially thereafter, a mayor shall be elected for a two-year term.

**Sec. 2.** At the regular municipal election in the Town of Yadkinville on the Tuesday after the first Monday in November, 1979, five members of the board of commissioners shall be elected as follows: the three persons receiving the highest number of votes shall be elected for four-year terms, and the two persons receiving the next highest number of votes shall be elected for two-year terms. At the regular municipal election in Yadkinville in 1981, and quadrennially thereafter, two members of the board of commissioners shall be elected for four-year terms. At the regular municipal election in Yadkinville in 1983, and quadrennially thereafter, three members of the board of commissioners shall be elected for four-year terms.

**Sec. 3.** Regular municipal elections in Yadkinville shall be conducted in accordance with the nonpartisan plurality method, and the results determined in accordance with G.S. 163-292.

**Sec. 4.** Municipal elections in the Town of Yadkinville shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes, except as herein otherwise provided.

**Sec. 5.** Section 4 of Chapter 10, Private Laws of 1885, is repealed.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.



H. B. 647

**CHAPTER 281****AN ACT TO ABOLISH THE OFFICE OF CORONER IN HERTFORD COUNTY.***The General Assembly of North Carolina enacts:***Section 1.** The office of Coroner in Hertford County is abolished.**Sec. 2.** Chapter 152 of the General Statutes is not applicable to Hertford County.**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

H. B. 685

**CHAPTER 282****AN ACT TO AUTHORIZE 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.** The Board of Commissioners of Guilford County is hereby authorized and empowered to delegate to the Guilford County Planning Board the authority to close public roads or easements which power the county commissioners now have pursuant to G.S. 153A-241. Delegation pursuant to this section shall be by a resolution adopted at a regularly scheduled meeting of the board of county commissioners.**Sec. 2.** The procedure for closing public roads or easements found in G.S. 153A-241 shall remain the same with the exceptions as noted in this act.**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.**Sec. 4.** Any person aggrieved by the closing of a public road or an easement by the Guilford County Planning Board may appeal the planning board's decision to the Guilford County Board of Commissioners within 30 days after the decision to close a road or easement. The board of commissioners shall hear the matter de novo.**Sec. 5.** Any person aggrieved by the closing of a public road or easement may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day the order is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to order the road or easement closed upon proper findings of fact by the trier of fact.**Sec. 6.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

H. B. 686

**CHAPTER 283**

AN ACT TO ALLOW THE BOARD OF COMMISSIONERS OF GUILFORD COUNTY TO DELEGATE THEIR AUTHORITY FOR NAMING ROADS AND ASSIGNING HOUSE AND BUILDING NUMBERS IN UNINCORPORATED AREAS TO THE PLANNING BOARD OF GUILFORD COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of County Commissioners of Guilford County may by resolution delegate its statutory authority pursuant to G.S. 153A-240 for naming roads and assigning house and building numbers in the unincorporated areas of Guilford County to the Planning Board of Guilford County.

**Sec. 2.** The Planning Board of Guilford County, after delegation to it properly made by resolution of the Board of County Commissioners of Guilford County, may name or rename any public road within its legal jurisdiction of the unincorporated areas of Guilford County and may assign or reassign house and building numbers for use on such a road.

**Sec. 3.** In naming or renaming a public road, the planning board may not  
(1) change the name, if any, given to the road by the board of transportation, unless the board of transportation agrees;

(2) change the number assigned to the road by the board of transportation, but may give the road a name in addition to its number; or

(3) give the road a name that is deceptively similar to the name of any other public road in the vicinity.

**Sec. 4.** The planning board shall not name or rename a road or assign or reassign house and building numbers on a road until it has held a public hearing on the matter. At least 10 days before the day of the hearing, the planning board shall cause notice of the time, place, and subject matter of the hearing to be prominently posted in at least three places along the road involved.

**Sec. 5.** After naming or renaming a public road, or assigning or reassigning house and building numbers on a public road, the planning board shall cause notice of its action to be given to the local postmaster with jurisdiction over the road, to the board of transportation, and to any city within five miles of the road.

**Sec. 6.** The planning board shall also cause notice of its actions and of the right of any person affected by its actions to appeal to the Board of County Commissioners of Guilford County to be prominently posted in at least three places along the road involved for 10 days.

**Sec. 7.** Any person affected by a decision of the planning board made pursuant to this act may, within 10 days, notify the planning department director of his desire to appeal to the Board of County Commissioners of Guilford County. The planning department director shall arrange for the appealing party or parties to be heard at a regularly scheduled meeting of the board of county commissioners within 30 days after receiving notice of appeal to the board.

**Sec. 8.** The Board of County Commissioners of Guilford County may by resolution revoke the delegation to the planning board pursuant to this act; however, such revocation shall not affect any action previously taken by the planning board pursuant to this act.

**Sec. 9.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

H. B. 695

**CHAPTER 284****AN ACT RELATING TO THE WINSTON-SALEM FIRE-PUBLIC SAFETY RETIREMENT FUND.**

*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, is further amended as follows:

(1) by rewriting Section 1 to read:

"Section 1. That the name of the Association herein established shall be Winston-Salem Firemen's Retirement Fund Association, hereinafter referred to as the Association. References to the Association as of a date prior to the ratification date, and following July 1, 1973, shall mean the Winston-Salem Fire-Public Safety Retirement Fund Association, which was the name of the Association during such period.";

(2) by deleting the provisions of subsections (a) and (b) of Section 2, and substituting therefor the following:

"(a) As of the ratification date, any person who is a member of the Association following the close of business of the Association immediately preceding the ratification date.

(b) As of the ratification date and thereafter, any person not covered under (a) above who shall have been regularly and continuously employed full-time by the Fire Department of the City of Winston-Salem (hereinafter referred to as the Fire Department), including any Fire Department mechanic or electrician, and who shall have attained his twenty-first birthday and shall not have attained his thirtieth birthday.";

(3) by adding the following new matter at the end of Section 9:

"The Trustees may also elect an investment adviser who may or may not be the same person as the custodian. Any said investment advisor shall be a bank, or an insurance company, or an entity registered under the Investment Adviser's Act of 1940. Any investment adviser (including the custodian when acting as an investment adviser) shall recommend investments to the Trustees, but no investment shall be made or sold or otherwise disposed of by the custodian without the prior written authority of the Trustees as provided in Section 13. An investment adviser (including said custodian when acting as investment adviser) shall not be liable to the Association for any act or failure to act by it, except for gross negligence or willful misconduct.";

(4) by deleting the first sentence of Section 14 and substituting therefor the following:

"The custodian and the investment adviser 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 adviser (with respect to services rendered by the investment adviser).";

(5) by deleting the provisions of Section 16 and substituting therefor the following:

"Sec. 16. (a) Notwithstanding the provisions of subsection (b) immediately following, if a person who shall not be a member of the Association shall be

transferred to the employment of the Fire Department from the employment of the Police Department of the City of Winston-Salem (hereinafter referred to as the Police Department), the following provisions shall apply in determining whether he shall be a member of the Association following such transfer:

(1) If he shall have attained at least his twenty-first birthday and shall not have attained his thirtieth birthday on the date of such transfer, he shall automatically become a member on such date of transfer. In determining such transferred employee's number of years of continuous employment by the City of Winston-Salem, employment with the Police Department prior to such transfer shall be taken into account only if such employee shall elect to contribute to the Association the amount he would have contributed if his employment with the Police Department had been with the Fire Department, plus interest at the rate of four and one-half percent (4 1/2%) compounded annually.

(2) If he shall have attained at least his thirtieth birthday on the date of transfer, but had not attained such birthday when last employed by the Police Department, he may elect within sixty days following such transfer to become a member. If he elects to become a member, he shall contribute to the Association the amount he would have contributed if he had become a member on the day next preceding his thirtieth birthday. In addition, at the option of such employee, he may further elect to contribute such additional amount as he would have contributed prior to his thirtieth birthday if his employment with the Police Department had been with the Fire Department. Any such contributions shall include interest at the rate of four and one-half percent (4 1/2%) compounded annually.

(3) If he shall have attained at least his thirtieth birthday when last employed by the Police Department, he shall be ineligible to become a member following such transfer.

(4) The elections specified in subdivisions (1) and (2) hereof shall be made in writing to the Trustees within sixty days following such transfer, and shall be irrevocable when made (subject to termination of membership upon a subsequent separation from employment with the Fire Department). Any contributions (and interest) payable pursuant to such election shall be paid in cash in a lump sum at the time such election shall be filed.

(b) Notwithstanding the provisions of subsection (a) of Section 2 hereof, as soon as practicable following the ratification date (but in no event more than sixty days thereafter) the Trustees shall give each person who is then employed by the City of Winston-Salem as a Public Safety Officer an election to be a member or not to be a member of the Association. Each such election shall be made in accordance with procedures established by the Trustees and shall be irrevocable when made (subject to termination of membership upon a subsequent separation from the employment of the City of Winston-Salem, and subject to the provisions of subsection (a) of this Section 16). If a Public Safety Officer shall fail to file a timely election, he shall be deemed to have elected not to be a member. If a Public Safety Officer who is a member on the date of the election shall elect to discontinue membership (or shall be deemed to have so elected), within thirty days following such date there shall be refunded to him the full amount of his prior contributions to the Association, if any, without interest. If a Public Safety Officer who has failed to make contributions prior to the election date shall elect to be a member, he shall within thirty days



following such election pay to the Association the full amount he would have contributed if he had made required contributions during the entire period that he was eligible to be a member. Such contributions shall include interest at the rate of four and one-half percent (4 1/2%) per annum, compounded annually.

(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 due to transfer to another department in the employment of the City, shall be terminated immediately as a member. If such 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.

(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) of this Section 16."

**Sec. 2.** The term "ratification date" as used in this act means the date of ratification of this act.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## S. B. 372

## CHAPTER 285

## AN ACT TO AMEND CHAPTER 117, ELECTRIFICATION, OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 117 of the General Statutes is amended by adding a new section to read as follows:

"§ 117-2.1. *Additional powers.*—In addition to the powers provided in G.S. 117-2, the Authority is empowered, authorized and directed to make, promulgate and implement plans and programs whereby the electric membership corporations organized or domesticated under this Chapter shall promote and foster methods of conserving electric energy in accordance with provisions of the National Energy Act as delegated to the States."

**Sec. 2.** G.S. 117-13 is amended by deleting the last two sentences of the section and substituting therein the following:

"The directors shall be entitled to receive for their services only such compensation as is provided in the bylaws. The board shall elect annually from its own number a president and a secretary. The directors must be members of the corporation, except that for those corporations whose principal purpose is to furnish bulk electric wholesale power supplies and whose membership consists of other electric membership corporations, the directors may be members, directors, officers or managers of the member corporations, and shall be elected by the member corporation's board of directors."

**Sec. 3.** G.S. 117-16 is amended by adding at the end of that section the following:

"With respect to the members of an electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale, the word 'use' as used in this section shall also mean either 'use and

purchase' or 'purchase' solely, as the case may be, and the words 'supplied by' shall also mean 'supplied for the account of'. With respect to an electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale, it shall be lawful for such corporation to enter into joint arrangements with other power supply entities, including but not limited to investor-owned public utilities and bodies politic, for the purchase and sale of bulk power supplies and bulk power services and for the joint ownership of bulk power supply properties."

**Sec. 4.** Chapter 117 of the General Statutes, is amended by adding a new Article to read as follows:

**"ARTICLE 5.**

**"Consolidation and Merger.**

"§ 117-36. *Consolidation.*—(a) Any two or more electric membership corporations or any two or more telephone membership corporations, organized and operating under this Chapter (each of which is hereinafter designated a 'consolidating corporation'), may consolidate into a new corporation (hereinafter designated the 'new corporation'), by complying with the provisions of subsections (b) and (c) hereof and of G.S. 117-38.

(b) The proposition for the consolidation of the consolidating corporations into the new corporation and proposed articles of consolidation to give effect thereto shall be submitted to a meeting of the members of each consolidating corporation, the notice of which shall have attached thereto a copy of the proposed articles of consolidation.

(c) If the proposed consolidation and the proposed articles of consolidation, with any amendments, are approved by the affirmative vote of not less than two-thirds of those members of each consolidating corporation voting thereon at each such meeting, articles of consolidation in the form approved shall be executed and acknowledged on behalf of each consolidating corporation by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The articles of consolidation shall recite that they are executed pursuant to this Chapter and shall state: (1) the name of each consolidating corporation and the address of its principal office; (2) the name of the new corporation and the address of its principal office; (3) a statement that each consolidating corporation agrees to the consolidation; (4) the names and addresses of the directors of the new corporation; and (5) the terms and conditions of the consolidation and the mode of carrying the same into effect, including the manner in which members of the consolidating corporations may or shall become members of the new corporation; and may contain any provisions not inconsistent with this Chapter deemed necessary or advisable for the conduct of the business of the new corporation. The president or vice-president of each consolidating corporation executing such articles of consolidation shall make and annex thereto an affidavit stating that the provisions of this section in respect of such articles were duly complied with by such corporation.

"§ 117-37. *Merger.*—(a) Any one or more electric membership corporations or any one or more telephone membership corporations, organized and operating under this Chapter (each of which is hereinafter designated a 'merging corporation'), may merge into another like corporation (hereinafter designated the 'surviving corporation'), by complying with the provision of G.S. 117-37(b) and (c), and G.S. 117-38.

(b) The proposition for the merger of the merging corporation(s) into the surviving corporation and proposed articles of merger to give effect thereto shall be submitted to a meeting of the members of such merging corporation(s) and of the surviving corporation, the notice of which shall have attached thereto a copy of the proposed articles of merger.

(c) If the proposed merger and the proposed articles of merger, with any amendments, are approved by the affirmative vote of not less than two-thirds of those members of each corporation voting thereon at each such meeting, articles of merger in the form approved shall be executed and acknowledged on behalf of each such corporation by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The articles of merger shall recite that they are executed pursuant to this Chapter and shall state: (1) the name of each merging corporation and the address of its principal office; (2) the name of the surviving corporation and the address of its principal office; (3) a statement that each merging corporation and the surviving corporation agree to the merger; (4) the names and addresses of the directors of the surviving corporation; and (5) the terms and conditions of the merger and the mode of carrying the same into effect, including the manner in which members of the merging corporations may or shall become members of the surviving corporation; and may contain any provisions not inconsistent with this Chapter deemed necessary or advisable for the conduct of the business of the surviving corporation. The president or vice-president of each corporation executing such articles of merger shall make and annex thereto an affidavit stating that the provisions of this section in respect of such article were duly complied with by such corporation.

“§ 117-38. *Filing and recording of articles of consolidation or merger.*—Articles of consolidation or merger shall be filed with the Secretary of State, who shall forthwith prepare one or more certified copies thereof and forward one to the register of deeds of each county in which a portion of the territory of the filing corporation is authorized to furnish service, which registers of deeds shall forthwith file such certified copy in their respective offices and record the same as articles of incorporation are recorded. As soon as the provisions of this section have been complied with, the new consolidated corporation or the surviving merged corporation, described and named in the articles so filed, shall become and constitute a body corporate in accordance with the provisions of such articles.

“§ 117-39. *Effect of consolidation or merger.*—Upon compliance with the provisions of G.S. 117-39:

(a) (1) In the case of a consolidation, the existence of the consolidating corporations shall cease and the articles of consolidation shall be deemed to be the articles of incorporation of the new corporation; and (2) in the case of a merger, the separate existence of the merging corporations shall cease and the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes therein are provided for in the articles of merger.

(b) All the rights, privileges, immunities and franchises and all property, real and personal, including without limitation applications for membership, all debts due on whatever account and all other choses in action, of each of the consolidating or merging corporations shall be deemed to be transferred to and vested in the new or surviving corporation without further act or deed.

(c) The new or surviving corporation shall be responsible and liable for all the liabilities and obligations of each of the consolidating or merging corporations and any claim existing or action or proceeding pending by or against any of the consolidating or merging corporations may be prosecuted as if the consolidation or merger had not taken place, but the new or surviving corporation may be substituted in its place.

(d) Neither the rights of creditors nor any liens upon the property of any of such corporations shall be impaired by such consolidation or merger.

“§ 117-40. *Validation.*—No provision of Article 5 nor any provision thereof shall, or shall be construed to, express or imply the invalidity or invalidation of the incorporation or operations of any electric or telephone membership corporation heretofore organized and operating under Chapter 117 of the General Statutes, including but not limited to North Carolina Electric Membership Corporation and any two or more electric or telephone membership corporations which have substantively merged or consolidated; and any such substantive mergers or consolidations are hereby specifically validated.”

**Sec. 5.** Any laws or provisions of laws which are in conflict with any provision of this act are repealed.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1979.

## H. B. 284

## CHAPTER 286

### AN ACT TO AMEND VARIOUS PROVISIONS OF CHAPTER 18A, REGULATION OF INTOXICATING LIQUORS, TO FACILITATE THE ADMINISTRATION OF THE STATE LIQUOR LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-28(a) is hereby amended by deleting from line 3 thereof the following: “in containers not smaller than 750 milliliters”.

**Sec. 2.** G.S. 18A-29(b)(1) is hereby rewritten to read as follows:

“(1) Statement as to Bond and Bill of Lading Required. There shall accompany said spirituous liquors a true and exact copy of the numbered fleet permit issued to the authorized carrier and signed by the Chairman of the State Board of Alcoholic Beverage Control. Said permit and copies shall verify that the bond hereinbefore required has been furnished and approved and is current for the ensuing year. Each permit copy shall bear the fleet carrier’s certificate that it is a true and exact copy of the original permit issued by the board. There shall accompany said spirituous liquors, at all times during transportation, a bill of lading or other memorandum of shipment signed by the consignor showing an exact description and the North Carolina code numbers of the spirituous liquors being transported and the name and address of the consignee. Each carrier applying for a fleet permit and transporting spirituous liquors into, out of, or between points in this State over the public highways of this State, shall keep current files of their routes over which they are authorized to transport the same, and shall not unreasonably deviate from said routes.”

**Sec. 3.** G.S. 18A-33(b) is hereby amended by deleting from line 9 thereof the term “and (4).” and by substituting in lieu thereof the following: “,(4) and (7).”



**Sec. 4.** G.S. 18A-39(a)(8) is hereby amended by deleting from the second line thereof the words "or other crime involving moral turpitude", by changing the period in line 7, following the word "federal", to a semicolon and by inserting, following the semicolon, the following: "that he has not been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor drug law violation."

**Sec. 5.** G.S. 18A-41(a) is hereby amended by deleting the first two sentences of the second paragraph thereof which read as follows:

"Malt beverages and wine (fortified and unfortified) may be transported into, out of, or between points in this State over the public highways of this State by motor vehicles upon condition that every person intending to make such use of the highways of this State shall as a prerequisite thereto register such intention with the State Board of Alcoholic Control in advance of such transportation, with notice of the kind and character of such products to be transported and the license and motor number of each motor vehicle intended to be used in such transportation. Upon the filing of such information, together with an agreement to comply with the provisions of this Chapter, the State Board of Alcoholic Control shall without charge therefor issue a numbered permit to each such owner or operator for each motor vehicle intended to be used for such transportation, which numbered permit shall be prominently displayed on the motor vehicle used in transporting malt beverages or wine (fortified or unfortified).",

and by inserting in lieu thereof the following:

"Malt beverages and wine (both fortified and unfortified) may be transported into, out of, or between points in this State over the public highways of this State by authorized motor vehicle carriers upon condition that every carrier intending to make use of the highways of this State shall, as a prerequisite thereto, register such intention with the State Board of Alcoholic Control in advance of such transportation, with notice of the kind and character of such products to be transported and its authorization from the appropriate regulatory authority. Upon the filing of such information, together with an agreement to comply with the provisions of this Chapter, the State Board of Alcoholic Control shall, without charge therefor, issue a numbered fleet permit to each such carrier, an exact copy of which shall be carried in the motor vehicle used in such transportation. Each permit copy shall bear the fleet carrier's certificate that it is a true and exact copy of the original permit issued by the Board."

**Sec. 6.** G.S. 105-113.93 is hereby amended at the last line of the first paragraph thereof (at line 5) by changing the period following the word "stores" to a comma and adding the following: "but not including spirituous liquors sold in mixed beverages as defined in G.S. 18A-2(6)."

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1979.

H. B. 483

**CHAPTER 287****AN ACT TO REDEFINE THE NORTHERN BOUNDARY OF KILL DEVIL HILLS.***The General Assembly of North Carolina enacts:*

**Section 1.** The northern corporate limit line of the Town of Kill Devil Hills is redefined as follows:

“Beginning at a point on the Atlantic Ocean, which said point is the terminus of a line extended eastwardly at right angles to the western margin of U.S. Highway 158 Business, sometimes known as Virginia Dare Trail, from a stake or other marker on the western margin of said highway at the Northeast corner of Lot No. 1, Block 2, Orville Beach subdivision, as shown on a map or plat thereof recorded in Map Book 1, page 138A, Public Registry of Dare County, North Carolina; and running thence from said point on the Atlantic Ocean in a westerly direction and at right angles to U.S. Highway 158 Business, sometimes known as Virginia Dare Trail, and crossing said highway right of way to the Northeast corner of Lot No. 1, Block 2, Orville Beach Subdivision, herein referred to; and running thence in a southwesterly direction and along the North line of the said Orville Beach Subdivision to the easterly margin of Raymond Street or Avenue; and thence continuing in a southwesterly direction and along the North line of Orville Beach Subdivision as shown on an amended map or plat thereof recorded in Map Book 2, page 144, Public Registry of Dare County, North Carolina, and crossing U.S. Highway 158 Business to the Northwest corner of Lot No. 2, Block 18, Orville Beach Subdivision, as shown on said plat, which corner is also the Northeast corner of Lot No. 9 as shown on map or plat of the subdivision known as ‘Orville Beach West’ recorded in Map Book 9, page 44, Public Registry of Dare County, North Carolina; and thence continuing in a southwesterly direction and along the North line of the Orville Beach West subdivision to the mean high water line of Kitty Hawk Bay, at the Northwest corner of Lot No. 253, Orville Beach West, as shown on map or plat recorded in Map Book 9, page 44, Public Registry of Dare County, North Carolina.

The foregoing North line of the Town of Kill Devil Hills is bounded on the North by property now or formerly known as the ‘Tate Tract’ and the subdivision known as ‘Kitty Dunes II’, as shown on map or plat thereof recorded in Map Book 4, page 84, Public Registry of Dare County, North Carolina; and said line, as the same extends westwardly from U.S. Highway 158 Business to Kitty Hawk Bay, follows the North line of various sections of Orville Beach and Orville Beach West subdivisions.”

**Sec. 2.** Real and personal property in the territory annexed pursuant to this act is subject to municipal taxes according to the provisions of G.S. 160A-58.10.

**Sec. 3.** This act shall become effective June 30, 1979.

In the General Assembly read three times and ratified, this the 4th day of April, 1979.

## H. B. 484

## CHAPTER 288

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO TO PROVIDE AUTHORITY FOR ORDINANCES CONCERNING TREES, PROVIDING CIVIL PENALTIES FOR TRAFFIC VIOLATIONS, AND RAISING BID LIMITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter V, 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, as amended by Section 4, Chapter 29 of the Session Laws of 1971, is amended by adding the following new section following Section 5.65 as follows:

“Section 5.66. Ordinances regulating the removal, replacement and preservation of trees. The council may adopt ordinances to regulate the removal of trees and other growth from public and private property within the City of Greensboro in order to preserve, protect and enhance one of the most valuable natural resources of the community and to protect the health, safety and welfare of its citizens. Before adopting or amending any ordinance authorized herein, the council shall hold a public hearing. 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 later than fifteen days nor more than twenty-five days before the date fixed for the hearing.”

**Sec. 2.** Section 5.121 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, as amended by Section 12, Chapter 142 of the Session Laws of 1969, is further amended by deleting subsections (c) and (d) and by substituting in lieu thereof new subsections to read as follows:

“(c) The council may establish maximum civil penalties for any traffic violations as established above including for overtime parking.

(d) Any person receiving a citation or ticket by any police officer or other designated official of the City of Greensboro for any traffic violation including overtime parking may pay the applicable civil penalty as may be fixed by the council and be discharged.”

**Sec. 3.** G.S. 143-129, is amended in paragraph 1, line 5, by deleting the words and figures “two thousand five hundred dollars (\$2,500)” and inserting in lieu thereof the words and figures “ten thousand dollars (\$10,000)”.

**Sec. 4.** G.S. 143-131, is amended in paragraph 1, line 3, by deleting the words and figures “one thousand dollars (\$1,000)” and inserting in lieu thereof the words and figures “two thousand five hundred (\$2,500)”.

**Sec. 5.** Sections 3 and 4 of this act apply to the City of Greensboro only.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1979.

## H. B. 485

## CHAPTER 289

AN ACT TO AMEND CHAPTER 899 OF THE SESSION LAWS OF 1953 RELATING TO MONTHLY BENEFITS UNDER THE GREENSBORO FIREMEN'S SUPPLEMENTAL RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4, Chapter 899 of the Session Laws of 1953 is amended by deleting the phrase "\$50.00" and inserting the phrase "eighty dollars (\$80.00)".

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1979.

## H. B. 593

## CHAPTER 290

AN ACT TO ESTABLISH PROCEDURES WHEN A PETITION FOR A FIRE DISTRICT ELECTION INCLUDES TERRITORY IN FORSYTH AND DAVIDSON COUNTIES AND TO RATIFY AN ELECTION AND TAX LEVY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 69-25.9 is amended by adding the following paragraph at the end of the second paragraph:

"In the event that an area petitioning for a tax election under this Article lies in both Forsyth County and Davidson County, then either the Forsyth County Board of Commissioners or the Davidson County Board of Commissioners may provide by resolution that the elections shall be conducted separately and may be held at different times, and in such event the cost of the election in that county shall be paid by the county where the election is held. In the event that a separate election is held and a majority of the qualified voters voting at said election vote in favor of levying and collecting a tax in said district, then the provisions of G.S. 69-25.4 shall apply, and the area lying within the county conducting the election shall be considered for all purposes as a separate fire protection district under the provisions of this Article."

**Sec. 2.** All aspects of that certain election conducted by the Davidson County Board of Elections on May 2, 1978, known as the Gum Tree Fire Protection District Election wherein the voters expressed themselves in favor of a tax for fire protection in the Gum Tree Fire Protection District and the subsequent levy of a special tax for fire protection within said Gum Tree Fire Protection District by the Davidson County Board of Commissioners for the fiscal year 1978-1979 are hereby ratified, confirmed, validated, and declared to be proper, authorized, and legal. The Gum Tree Fire Protection District of Davidson County is hereby declared to be in legal existence in accordance with Section 1 of this act.

**Sec. 3.** This act shall apply only to Forsyth County and Davidson County.

**Sec. 4.** All laws and clauses of laws in conflict with this act are, to the extent of such conflict, repealed.



**Sec. 5.** This act shall also apply to any petition described above for a tax election which is pending on the date of its enactment.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1979.

## H. B. 598

## CHAPTER 291

AN ACT TO INCREASE THE MINIMUM DOLLAR AMOUNT FOR WHICH FORMAL BIDS ARE REQUIRED FOR THE CITY OF JACKSONVILLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-129 is amended in paragraph 1, line 5, by deleting the words and figures "two thousand five hundred dollars (\$2,500)" and inserting in lieu thereof the words and figures "five thousand dollars (\$5,000)".

**Sec. 2.** This act shall apply to the City of Jacksonville only.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1979.

## H. B. 689

## CHAPTER 292

AN ACT AMENDING CHAPTER 224 OF THE PRIVATE LAWS OF 1927 AS AMENDED WITH RESPECT TO THE CITY OF WINSTON-SALEM AND FORSYTH COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The heading of Section 15(b) of Chapter 224 of the Private Laws of 1927, as amended by Chapter 222, Session Laws of 1977, is hereby rewritten to read as follows:

"Deferred payments of Water Service Charges and Sewer Service Charges Treated as Assessments".

**Sec. 2.** The second sentence of Section 15(b) of Chapter 224 of the Private Laws of 1927, as amended by Chapter 222, Session Laws of 1977, is hereby rewritten to read as follows:

"If the City/County Utility Commission desires to provide for deferred payments for water service charges (exclusive of water consumption charges) in excess of two hundred dollars (\$200.00), or sanitary sewer service charges (exclusive of sewer user charges) in excess of two hundred dollars (\$200.00), they may so declare by resolution."

**Sec. 3.** This act shall apply to the City of Winston-Salem and Forsyth County only.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1979.

## H. B. 345

## CHAPTER 293

## AN ACT TO AMEND G.S. 54-109.86, A PORTION OF THE NORTH CAROLINA CREDIT UNION LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-109.86 is rewritten to read as follows:

“(a) At the end of each accounting period the gross income shall be determined. From this amount, there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in regulations prescribed pursuant to law, sums in accordance with the following schedule:

(1) A credit union in operation for more than four years and having assets of five hundred thousand dollars (\$500,000) or more shall set aside (a) 10 per centum (10%) of gross income until the regular reserve shall equal four per centum (4%) of the total of outstanding loans and risk assets, then (b) five per centum (5%) of gross income until the regular reserve shall equal six per centum (6%) of the total of outstanding loans and risk assets.

(2) A credit union in operation less than four years or having assets of less than five hundred thousand dollars (\$500,000) shall set aside (a) 10 per centum (10%) of gross income until the regular reserve shall equal seven and one-half per centum (7 1/2%) of the total of outstanding loans and risk assets, then (b) five per centum (5%) of gross income until the regular reserve shall equal 10 per centum (10%) of the total outstanding loans and risk assets.

(3) Whenever the regular reserve falls below the stated per centum of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be determined by the administrator to maintain the stated reserve goals.

(b) The administrator, with the advice and consent of the Credit Union Commission, may increase or decrease the reserve requirement set forth in subsection (a) of this section when such an increase or decrease is deemed necessary or desirable in order to conform to the reserve requirements of Federally chartered Credit Unions.

(c) In addition to such regular reserve, special reserves to protect the interests of members shall be established:

(1) when required by regulation; or

(2) when found by the administrator, in any special case, to be necessary for that purpose.

(d) Nothing in this section shall be construed as limiting the amount that a credit union may set apart to its reserve fund.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

H. B. 488

**CHAPTER 294****AN ACT AUTHORIZING THE DAVIE COUNTY BOARD OF EDUCATION TO CONVEY CERTAIN REAL PROPERTY.***The General Assembly of North Carolina enacts:*

**Section 1.** The Davie County Board of Education is hereby authorized to convey by good and sufficient deed all its right, title and interest in and to the hereafter described tract of land located in Davie County, Jerusalem Township, North Carolina, to the Jerusalem Volunteer Fire Department, Inc., at a private sale with or without monetary consideration.

“Lying and being in Jerusalem Township, Davie County, North Carolina and beginning at a new iron, said new iron being located North 09 degrees 30 minutes 00 seconds East 49.73 feet from an old iron, said old iron being the Southwest corner of Davie County Board of Education in the northern right of way of Marginal Street, Cooleemee, North Carolina and in the eastern right of way of Watt Street, Cooleemee, North Carolina; thence North 09 degrees 30 minutes 00 seconds East, 80.00 feet with the eastern right of way of Watt Street to a new iron pipe; thence South 80 degrees 21 minutes 37 seconds East, 80.00 feet to a new iron pipe; thence South 09 degrees 30 minutes 00 seconds West, 80.00 feet to a new iron pipe; thence North 80 degrees 21 minutes 37 seconds West, 80.00 feet to the point and place of beginning and containing 0.147 acres as surveyed by Francis B. Greene on February 5, 1979.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

H. B. 567

**CHAPTER 295****AN ACT TO AMEND THE GENERAL STATUTES TO PROVIDE THAT FOR PURPOSES OF ASSESSMENT UNDER ARTICLE 17B OF CHAPTER 58, PREMIUMS OTHERWISE REPORTABLE BY ASSOCIATIONS ADMINISTERING THE FAIR AND BEACH PLANS SHALL BE DEEMED TO BE THE PREMIUMS OF THE INSURERS PARTICIPATING IN THOSE PLANS.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-155.48(a)(3) is amended by adding the words “or association” after the words “servicing insurer” so that the end of the second sentence shall read as follows:

“; provided, for purposes of assessment only, premiums otherwise reportable by a servicing insurer or association under any plan of operation approved by the Commissioner of Insurance under Articles 18A or 18B of this Chapter shall not be deemed to be the net direct written premiums of such servicing insurer or association, but shall be deemed to be the net direct written premiums of the individual insurers to the extent provided for in any such plan of operation.”

**Sec. 2.** All laws and clauses of laws in conflict with this act are amended.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

H. B. 694

**CHAPTER 296**

AN ACT AMENDING CHAPTER 677 OF THE 1947 SESSION LAWS RELATING TO IMPROVEMENTS IN THE CITY OF WINSTON-SALEM AND IN THE COUNTY OF FORSYTH.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 677 of the 1947 Session Laws is amended by adding a new paragraph at the end thereof to read:

“A failure to follow the provisions of this section shall not affect the validity of any acts taken or improvements constructed or authorized by the city.”

**Sec. 2.** Section 13 of Chapter 677 of the 1947 Session Laws is amended by adding a new paragraph at the end to read:

“A failure to follow the provisions of this section shall not affect the validity of any acts taken or improvements constructed or authorized by the county or by any board of education.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

H. B. 701

**CHAPTER 297**

AN ACT AUTHORIZING COMPENSATION OF DAVIE COUNTY HOSPITAL TRUSTEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding any other provision of law, the Davie County Board of Commissioners is authorized and empowered to amend the Davie County Hospital Ordinance as heretofore adopted and amended to provide that each hospital trustee during the trustee's tenure of office may be paid for attending meetings, regular, special and emergency, of the hospital board of trustees in an amount to be determined from time to time by the said board of commissioners.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

S. B. 118

**CHAPTER 298**

AN ACT TO CLARIFY CHAPTER 20 OF THE GENERAL STATUTES RELATING TO RED LIGHTS AND TO MAKE CONFORMING CHANGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 20 of the General Statutes is amended by rewriting G.S. 20-158(b)(2) to read as follows:

“(2) Vehicles facing a red light from a steady or strobe beam stop light shall not enter the intersection while the steady or strobe beam stop light is emitting a red light; provided that, except where prohibited by an appropriate sign, vehicular traffic facing a red light, after coming to a complete stop at the intersection, may enter the intersection to make a right turn but such vehicle shall yield the right-of-way to pedestrians and to other traffic using the intersection. When the stop light is emitting a steady yellow light, vehicles



facing the yellow light are warned that a red light will be immediately forthcoming. When the stop light is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law."

**Sec. 2.** Chapter 20 of the General Statutes is further amended by deleting the words "Board of Transportation" wherever they appear in G.S. 20-169 and inserting in lieu thereof the words "Department of Transportation".

**Sec. 3.** Chapter 136 of the General Statutes is amended by deleting the words "member of the Department of Transportation" wherever they appear in G.S. 136-13, G.S. 136-13.1, and G.S. 136-14, and by inserting in lieu thereof the words "member of the Board of Transportation".

**Sec. 4.** G.S. 136-13(a) is hereby amended by striking from line 5, the first four words and punctuation which reads "any officer, employee, or" and by inserting in lieu thereof the following: "any officer or employee of the Department of Transportation or any".

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

## S. B. 142

## CHAPTER 299

AN ACT TO AMEND G.S. CHAPTER 113A, ARTICLE 7 TO ELIMINATE COASTAL RESOURCE COMMISSION REVIEW OF PESTICIDE PERMITS AND LICENSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113A-125(c) is hereby amended by deleting from lines 12-14 thereof the words, "restricted-use pesticide permits issued pursuant to G.S. 143-440(b), pesticide applicator licenses issued pursuant to G.S. 143-452 for persons who may apply pesticides within the coastal area.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

## S. B. 265

## CHAPTER 300

AN ACT TO AUTHORIZE THE STATE BOARD OF EDUCATION TO DEVELOP POSITION EVALUATION DESCRIPTIONS COVERING EMPLOYEES OF LOCAL BOARDS OF EDUCATION WHO ARE NOT REQUIRED TO BE CERTIFIED.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 115-11 of Chapter 115 of the General Statutes is hereby amended by adding a new subsection (20) to read as follows:

"(20) Noncertified personnel position evaluation descriptions. The board is authorized and directed to develop position evaluation descriptions covering those positions in local education agencies for which certification by the State Board of Education is not normally a prerequisite. The position evaluation descriptions required in this section 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 section."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1979.

## H. B. 300

## CHAPTER 301

AN ACT TO AUTHORIZE THE TOWN OF CARRBORO TO TOW MOTOR VEHICLES FROM FIRE LANES PROPERLY DESIGNATED ON PRIVATE PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 160A-303(b)(1) of the North Carolina General Statutes is amended to read as follows:

(1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking or has been left on private property in a properly designated fire lane in violation of an ordinance prohibiting parking in such specifically designated fire lanes;

**Sec. 2.** This act shall apply only to the Town of Carrboro.

**Sec. 3.** All laws and clauses of laws 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 9th day of April, 1979.

## H. B. 307

## CHAPTER 302

AN ACT TO PERMIT THE TOWN OF CARRBORO TO AUTHORIZE ITS BOARD OF ADJUSTMENT TO MAKE DECISIONS PURSUANT TO A MAJORITY VOTE AND TO COMBINE ITS ZONING AND SUBDIVISION AND OTHER RELATED ORDINANCES INTO A LAND USE CODE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 160A-388(e) or G.S. 160A-446(d) or any other State or local act, the Board of Aldermen of the Town of Carrboro may by ordinance authorize its Board of Adjustment to decide any matter before it upon a vote of a majority of the members of the Board of Adjustment.

**Sec. 2.** The Board of Aldermen of the Town of Carrboro may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the authority granted in Article XIX of Chapter 160A of the North Carolina General Statutes or any local act applicable to the Town of Carrboro that deals with the subject matters contained in Article XIX of Chapter 160A of the General Statutes. The intent of this section is not to grant to the Town of Carrboro any substantive authority beyond that already contained in the Town Charter or existing enabling legislation, but merely to permit the town to exercise its existing authorization through the vehicle of a single ordinance rather than multiple ordinances.

**Sec. 3.** All laws and clauses of laws 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 9th day of April, 1979.

## H. B. 321

## CHAPTER 303

AN ACT TO EXEMPT GASTON COUNTY FROM THE REQUIREMENT THAT IT COLLECT AMBULANCE LIENS FOR OTHER COUNTIES AND CITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-364 is amended by adding a new subdivision (e) to read:

“(e) Notwithstanding anything in this section or in Article 9B of Chapter 44 of the General Statutes, the tax collector shall have no duty to collect liens from other counties or municipalities for ambulance service under Article 9B of Chapter 44 of the General Statutes.”

**Sec. 2.** This act is effective in Gaston County only.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 390

## CHAPTER 304

AN ACT TO AMEND THE CHARTER OF THE TOWN OF PEACHLAND TO CHANGE THE TERMS OF OFFICE OF THE MAYOR AND COMMISSIONERS AND TO PROVIDE A METHOD FOR THEIR ELECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 766 of the Session Laws of 1947, amending the Charter of the Town of Peachland, is amended by rewriting Section 4 as follows:

“Sec. 4. (a) At the regular municipal election in 1979, the candidate for Mayor and the two (2) candidates for Commissioner who receive the highest numbers of votes shall be elected for four year terms, while the three (3) candidates for Commissioner who receive the next highest numbers of votes shall be elected for two year terms. Beginning at the regular municipal election in 1981, and quadrennially thereafter, three (3) Commissioners shall be elected to serve four year terms. Beginning at the regular municipal election in 1983, and quadrennially thereafter, a Mayor and two (2) Commissioners shall be elected to serve four year terms.”

**Sec. 2.** The election shall be nonpartisan, simple plurality and held at the time specified in G.S. 163-279(a)(1). The municipal elections shall be conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 614

## CHAPTER 305

## AN ACT TO AUTHORIZE THE DISBURSEMENT OF FUNDS HELD IN THE NAME OF THE TOWN OF MILWAUKEE.

Whereas, there are funds on deposit with the North Carolina National Bank at Woodland, North Carolina, such funds held in the name of the Town of Milwaukee; and

Whereas, Chapter 740, Session Laws of 1971, repealed the Charter of the Town of Milwaukee in Northampton County, such Charter having been Chapter 82 of the Private Laws of 1915; and

Whereas, citizens of the area have made known their desire that such funds be made available for the upkeep and maintenance of the old town cemetery, such cemetery now being maintained by the Bethany United Methodist Church; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Operations Officer at the North Carolina National Bank in Woodland, North Carolina, is authorized to disburse funds on deposit in a certificate of deposit in the name of the Town of Milwaukee, a municipality unincorporated by the repeal of its Charter by Chapter 740, Session Laws of 1971, to the officers of Bethany United Methodist Church upon written request of said officers.

**Sec. 2.** The officers of Bethany United Methodist Church are hereby authorized to expend said funds for the upkeep and maintenance of the church cemetery, located in Northampton County; provided, that (a) said funds may be used for the upkeep and maintenance of said cemetery and no other purpose, and (b) said funds shall be maintained in a separate account, the accounts of which shall be open to public inspection by any person.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 633

## CHAPTER 306

## AN ACT TO EXPAND THE MEMBERSHIP OF THE PITT COUNTY - CITY OF GREENVILLE AIRPORT AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 571, Session Laws of 1967, is rewritten to read:

“Sec. 3. (a) The County and City may become participating members of the authority by adopting appropriate resolutions to that effect and by appointing representatives to the authority. The authority shall consist of eight members, appointed as follows:

- (1) three members shall be appointed by the governing body of the County for terms of four years;
- (2) three members shall be appointed by the governing body of the City for terms of four years;
- (3) the governing board of the County shall designate one of its members to serve as a member of the authority, with the right to vote, such service to be ex officio to duties as a member of the Board of County Commissioners;



(4) the governing board of the City shall designate one of its members to serve as a member of the authority, with the right to vote, such service to be ex officio to duties as a member of the City Council.

(b) A vacancy shall be filled for the remainder of the unexpired term by the body making the original appointment.

(c) A member of the authority shall hold office until a successor is appointed or qualified.

(d) It shall be the duty of each governing body to fill any vacancy not later than 60 days after it has received notification that such vacancy has occurred."

**Sec. 2.** Section 14 of Chapter 571, Session Laws of 1967, is amended by deleting the words "Three members" in line 1, and inserting in lieu thereof the words "Four members".

**Sec. 3.** Section 14 of Chapter 571, Session Laws of 1967, is further amended by deleting the words "the affirmative vote of three members shall be necessary for any action taken by the authority.", and inserting in lieu thereof the words "The affirmative votes of a majority of the members present and voting, but in no case less than four affirmative votes, shall be necessary for any action taken by the authority."

**Sec. 4.** The additional members of the authority authorized by this act shall be appointed as follows:

(1) The two members serving on the authority who were appointed by the governing body of the County shall serve until the expiration of their terms, when successors shall be appointed for four-year terms.

(2) The two members serving on the authority who were appointed by the governing body of the City shall serve until the expiration of their terms, when successors shall be appointed for four-year terms.

(3) One member shall be appointed by the governing body of the County for a term of four years, upon the effective date of this act.

(4) One member shall be appointed by the governing body of the City for a term of four years, upon the effective date of this act.

(5) The governing body of the County shall designate its ex officio member, upon the effective date of this act.

(6) The governing body of the City shall designate its ex officio member upon the effective date of this act.

**Sec. 5.** Notwithstanding any provision of this act, the fifth member of the authority, appointed by the authority and serving on the effective date of this act, shall serve as a member of the authority and as secretary of the authority until the expiration of his one-year term, and for that purpose the Pitt County-City of Greenville Airport Authority shall consist of nine members until the expiration of that term, and a quorum shall be five members until the expiration of that term.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

H. B. 650

**CHAPTER 307**

AN ACT TO ALLOW THE CHAPEL HILL-CARRBORO BOARD OF EDUCATION TO PAY ITS EMPLOYEES ON OR BEFORE THE TENTH DAY OF EACH MONTH.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Chapel Hill-Carrboro Board of Education may pay employees who are employed on a 10-month basis on or before the 10th day of each month for service during the previous month of the annual calendar.

**Sec. 2.** This act shall become effective August 1, 1979.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

H. B. 668

**CHAPTER 308**

AN ACT TO FIX THE PAY OF THE CHAIRMAN AND MEMBERS OF THE BOARD OF EDUCATION OF CUMBERLAND COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 413 of the Session Laws of 1969 is repealed.

**Sec. 2.** The Board of Education of Cumberland County is authorized to pay the Chairman and members thereof thirty-five dollars (\$35.00) per each regular or special meeting held in the transaction of business and mileage to said meetings at the rate allowed by law for State employees per mile while going to and returning from the place where business is transacted. Said Board of Education is authorized and directed to pay the Chairman thereof, in addition to the per diem per meeting and mileage above referred to, one hundred twenty-five dollars (\$125.00) each three months. The per-meeting payment shall also apply to a panel of the Board that holds due-process hearings for students, teachers or other personnel as provided by law on a per diem basis.

**Sec. 3.** This act shall become effective the first day of the next month after ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

H. B. 679

**CHAPTER 309**

AN ACT TO AMEND CHAPTER 385 OF THE PUBLIC-LOCAL LAWS OF 1921, AS AMENDED, RELATING TO PENSIONS FOR SCHOOTEACHERS OF NEW HANOVER COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 385 of the Public-Local Laws of 1921, as amended, is further amended by adding a new subsection, "d", at the end of Section 3 to read as follows:

"3(d) An employee's normal retirement date shall be the date he becomes 66 years of age. For purposes of meeting the requirement for benefits under Sections 2 and 3, years of service and compensation shall not be counted after an employee's normal retirement date."

**Sec. 2.** This act applies to New Hanover County only.

**Sec. 3.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 702

## CHAPTER 310

AN ACT TO PROVIDE FOR THE DISSOLUTION OF THE SINKING FUND  
COMMISSION FOR BUNCOMBE COUNTY AND THE DISTRIBUTION  
OF FUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Legislative Purpose. The General Assembly finds that the refunding bonds and debts from the depression era of Buncombe County, the City of Asheville and all other bodies politic in Buncombe County have been retired; and that all bonded debt for these bodies can now be supervised and governed by the Local Government Finance Act N.C.G.S. Chapter 159; and that the debt now issued by those bodies is generally retired in serial form rather than by sinking funds, and, therefore, there is no longer a need for the Sinking Fund Commission of Buncombe County.

**Sec. 2.** Dissolution. On or before 2:00 p.m. local time on July 2, 1979, the Sinking Fund Commission for Buncombe County shall disburse all funds in its possession in accordance with this act and, upon completion thereof, said commission shall be dissolved and the commissioners shall be therewith discharged. Provided, however, the commissioners of the said Sinking Fund Commission, as constituted on July 2, 1979, shall thereafter have such authority as is necessary to do all acts required to complete the winding up of affairs of the said commission.

**Sec. 3.** Distribution of funds. All funds held by the Sinking Fund Commission of Buncombe County on July 2, 1979, shall be distributed to the governmental unit or body politic which levied the taxes for such issue or, in the case of capital funds, the governmental unit or body politic for whose account said funds are held. In the case of the particular issues set out below, distribution shall be made as set out below:

(1) Sanitary District Bonds.

- a. The funds attributable to the following issues shall be distributed to Buncombe County:

Skyland Sanitary Sewer District of July 1, 1936

Venable Sanitary District

- b. The funds attributable to the following issues shall be distributed to Buncombe County and the City of Asheville as their interests appear in the final audit of the Sinking Fund Commission Books for Fiscal Year 1979:

Beaverdam Water and Sewer District in Buncombe County of July 1, 1936

Caney Valley Sanitary Sewer District of July 1, 1936

East Biltmore Sanitary Sewer District of July 1, 1936

Fairview Sanitary Sewer District of July 1, 1936

Hazel Ward Water and Watershed District of July 1, 1936

South Buncombe Water and Watershed District of July 1, 1936

Swannanoa Water and Sewer District of July 1, 1936

## (2) Buncombe County and School Districts.

Funds Attributable to the  
Bonded Indebtedness of:

Shall be Distri-  
buted to:

Buncombe County Refunding Bonds of  
1 July 1936

Buncombe County

Buncombe County Public Building Bonds  
of June 1972

Buncombe County

Buncombe County School Building Bonds  
of 1950

Buncombe County

Buncombe County School Building Bonds  
of 1951

Buncombe County

Buncombe County Community College  
Bonds of April 1959 and June 1961

Buncombe County

## (3) Capital Reserve.

Funds Attributable to:

Shall be Distri-  
buted to:

Buncombe County Capital Reserve Fund

Buncombe County

Buncombe County School Capital Reserve

Buncombe County for  
use by Buncombe  
County School Board  
Buncombe County for  
use by Asheville  
City School Board

Asheville City School Capital Reserve

## (4) City of Asheville. The funds attributable to the following issues shall be paid to the City of Asheville:

City of Asheville Refunding Bonds of 1 July 1936

City of Asheville Water Refunding Bonds of 1936

City of Asheville Public Improvement Bonds of 1 June 1964

City of Asheville Grade Separation Bonds of 1 June 1964

City of Asheville Municipal Vehicle Bonds of 1 November 1969

City of Asheville Redevelopment Bonds of 1 May 1970

City of Asheville Auditorium and Arts Center Bonds of 1 June 1971

City of Asheville Auditorium and Arts Center Bonds of 1 December  
1971

City of Asheville Parking Bonds of 1 March 1975

City of Asheville Water Bonds Series A of 1 March 1975

City of Asheville Water Bonds Series B of 1 March 1976

## (5) Distribution of Certain Funds.

The funds attributable to the following two issues shall be paid to the independent depository designated in accordance with this subparagraph:

City of Asheville Water Bonds of 1 December, 1951

City of Asheville Water Bonds of 1 November, 1961

The independent depository shall be a State or national bank having assets in excess of one hundred million dollars (\$100,000,000) whose deposits are insured by the Federal Deposit Insurance Corporation designated by the City of Asheville and approved by the local government commission. The selection, designation, and approval of such independent depository shall be made by the City of Asheville and the Local Government Commission in writing and submitted to the Sinking Fund Commission prior to 1 June, 1979. The independent depository shall receive all deposits and funds disbursed hereunder



and all funds required to be deposited with the Sinking Fund Commission under the Bond Ordinances and Resolutions for the two issues above referred to. Prior to 1 June, 1979, the independent depository shall execute an agreement with the City of Asheville agreeing to hold, manage and apply all funds received pursuant to this act in accordance with Bond Resolutions and Bond Ordinances of the two issues above referred to and all other applicable law. Any fee charged by the independent depository shall be paid by the City of Asheville from general revenues. The independent depository may be changed by the City of Asheville any time with the approval of the Local Government Commission; provided that such successor independent depository has the qualifications set forth above and executes an agreement with the City of Asheville substantially similar to the agreement entered into with the independent depository first selected.

**Sec. 4.** Allocation of funds. The allocation of funds held by the Sinking Fund Commission to the various bond issues herein provided for shall be made in accordance with the usual and customary method of accounting employed by the Sinking Fund Commission.

**Sec. 5.** Discharge of obligations. Upon the payment by the Sinking Fund Commission of all funds in its custody in accordance with this act, the body politic receiving said funds shall hold, apply and administer said funds, in accordance with N.C.G.S. Chapter 159 and all other applicable law and the obligations of the Sinking Fund Commission and the Commissioners thereof to said body politic shall be fully satisfied, discharged and terminated.

**Sec. 6.** Succession. Upon the distribution of funds hereunder, the finance officers of the various bodies politic receiving funds shall, with respect to those funds received hereunder and later received under the various bond ordinances, succeed to all of the duties, obligations and responsibilities previously held and owed by the Sinking Fund Commission.

**Sec. 7.** Repealer. All laws and clauses of laws in conflict herewith are hereby repealed.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 709

## CHAPTER 311

### AN ACT TO PROVIDE FOR STAGGERED FOUR-YEAR TERMS FOR THE WHITAKERS TOWN BOARD OF COMMISSIONERS AND A FOUR-YEAR TERM FOR THE MAYOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article IV of the Charter of the Town of Whitakers as found in Chapter 996, Session Laws of 1965, is amended to read:

“Article IV.

“Election Procedure.

“Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year.

· Sec. 4.2. Mayor and Board of Commissioners. All powers conferred upon the Town of Whitakers and the administration of the government thereof shall be exercised by and vested in a principal executive office styled the Mayor, and

five Commissioners, who shall serve in a legislative capacity and who are designated the Board of Town Commissioners. The Mayor and five Commissioners shall be residents of the Town of Whitakers, and shall be elected for four-year terms.

Sec. 4.3. Election of Mayor. In the regular municipal election of 1979 and quadrennially thereafter, the Mayor shall be elected for a four-year term.

Sec. 4.4. Election of Board. In the regular municipal election of 1979, the two candidates for Commissioner receiving the highest number of votes shall be elected for four-year terms, and the three candidates for Commissioner receiving the next highest number of votes shall be elected for two-year terms. In 1981 and quadrennially thereafter, three Commissioners shall be elected for four-year terms. In 1983 and quadrennially thereafter, two Commissioners shall be elected for four-year terms.

Sec. 4.5. Manner of election. The elections for Mayor and Board of Town Commissioners shall be conducted according to the nonpartisan plurality method, and the results determined in accordance with G.S. 163-292.

Sec. 4.6. Conduct of Elections. All municipal elections in the town shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes, except as otherwise provided herein."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

H. B. 727

## CHAPTER 312

### AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE GRAHAM COUNTY SCHOOL BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Effective December 1, 1980, the Board of Education of Graham County shall consist of five members to be nominated and elected by the qualified voters of the entire county for terms of four years.

**Sec. 2.** The Graham County Board of Education shall be elected on a partisan basis in the primary and general election, except that there shall be no second primary. The results of the primary shall be determined under the same procedures as G.S. 163-292.

**Sec. 3.** In 1980 and quadrennially thereafter, three members of the Graham County Board of Education shall be elected for four-year terms.

**Sec. 4.** In 1982 and quadrennially thereafter, two members of the Graham County Board of Education shall be elected for four-year terms.

**Sec. 5.** Except as provided in this act, the Graham County Board of Education shall be elected under the same laws and regulations pertaining to the nomination and election of county officers as provided in Chapter 163 of the General Statutes.

**Sec. 6.** Members of the board of education shall qualify by taking the oath of office on the first Monday in December of the year in which elected, at which time their term of office shall begin.

**Sec. 7.** The terms of office of the persons elected to the Graham County Board of Education in 1976 shall expire on the first Monday in December, 1980. The terms of office of the persons elected to the Graham County Board of Education in 1978 shall expire on the first Monday in December, 1982.

**Sec. 8.** Chapter 1102, Session Laws of 1967, is repealed.

**Sec. 9.** All elections and acts of the Graham County Board of Education are validated and confirmed.

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 729

## CHAPTER 313

AN ACT TO AMEND G.S. 153A-335 TO MODIFY THE AUTHORITY OF  
RUTHERFORD COUNTY TO REGULATE THE SUBDIVISION OF  
LAND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 263 of the 1975 Session Laws is hereby repealed.

**Sec. 2.** G.S. 153A-335(2) is amended to read as follows:

“(2) The division of land whereby the resulting lots front on a road that has been accepted for maintenance by the North Carolina Department of Transportation and the resulting lots meet county subdivision ordinance requirements, or the division of land whereby all lots have frontage on a non-State maintained road or access way in existence and in use on the effective date of this act and (a) the road or access way provides access to a road which has been accepted for maintenance by the North Carolina Department of Transportation and (b) the resulting lots meet county subdivision ordinance requirements.”

**Sec. 3.** Nothing in this act or in G.S. 153A-330 through G.S. 153A-335 shall be construed to prevent the county from allowing a minor subdivision defined as the subdivision of a tract of land into not more than four lots where the intention is not to further subdivide the said tract of land and where no new street right-of-way is involved other than as a private minor road; a private minor road being defined as a road serving a minor subdivision and having access to an existing State-maintained road, and which private minor road shall have a right-of-way of not less than 60 feet for the eventuality of constructing a public road by the residents of the private minor road; provided, however, the seller shall be made aware by the County Planning Board of the provision of G.S. 136-102.6.

**Sec. 4.** This act shall apply to Rutherford County only.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 738

## CHAPTER 314

## AN ACT ALLOWING ORANGE COUNTY TO ENACT ANIMAL CONTROL ORDINANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Sections 1 through 5 and Section 8, of Chapter 367, Session Laws of 1953 are repealed.

**Sec. 2.** Article 5 of Chapter 67 of the General Statutes shall not apply to Orange County.

**Sec. 3.** A county may, by ordinance, under the general ordinance making power of G.S. 153A-121, provide for animal protection and control within the county. Different animal control regulations may be established in the ordinance for different districts by the Board of County Commissioners. These districts may be any shape and area and in any number that the Board of County Commissioners considers best suited to carry out the purposes of the animal control ordinance.

**Sec. 4.** Section 3 of this act applies to Orange County only.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 754

## CHAPTER 315

## AN ACT TO ALLOW NEW HANOVER COUNTY TO PREVENT EMPLOYMENT DISCRIMINATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** A county board of commissioners may adopt ordinances prohibiting acts of employment discrimination based on race, color, national origin, gender, religion, handicap, or age.

**Sec. 2.** Penalties for violation of any ordinance adopted under this act, and enforcement of such ordinances, shall be the same as for county ordinances generally under Chapter 153A of the General Statutes.

**Sec. 3.** This act shall apply to New Hanover County only.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1979.

## H. B. 763

## CHAPTER 316

## AN ACT TO PROVIDE FOR THE APPOINTMENT OF THE TREASURER OF THE TOWN OF KILL DEVIL HILLS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 220 of the Session Laws of 1953, as amended by Chapter 605 of the Session Laws of 1961, is rewritten to read:

"Sec. 3. The officers of the Town of Kill Devil Hills are a mayor, five commissioners, and a treasurer. The treasurer is ex officio clerk to the board of commissioners. The mayor and city commissioners are elected biennially at an election held in accordance with Subchapter IX of Chapter 163 of the General Statutes. The treasurer is appointed by the town board of commissioners and serves at the pleasure of the board."



**Sec. 2.** The treasurer who is serving at the time of the ratification of this act shall continue to serve for the remainder of the term for which he was elected. As that term expires, the provisions of Section 1 of this act govern the selection and tenure of the treasurer.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## H. B. 767

## CHAPTER 317

## AN ACT RELATING TO LAND SALES BY THE ASHEVILLE CITY COUNCIL AND THE ASHEVILLE HOUSING AUTHORITY.

*The General Assembly of North Carolina enacts:*

**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 the provisions of Section 2 or 3 of this act.

**Sec. 2.** The City Council may convey at private sale to a prospective developer particular properties in excess of five thousand dollars (\$5,000) in valuation where it finds that the proposed developer is the only known available, qualified and willing developer for the contemplated use of the property which may have been specified or designated by council, provided that one or more of the following findings are made and verified after a public hearing, notice of which shall be given once a week for two successive calendar weeks in a newspaper published in the municipality, said notice to be published the first time not less than fifteen (15) days prior to the date fixed for said hearing:

(a) that the proposed use or development is reasonably necessary in order to assure development which will have the desired beneficial effect upon neighboring property, the project area, and the community as a whole;

(b) that the proposed use or development will assure that the property will not remain unused for an unduly long period and will result in a return to the local ad valorem tax rolls at a substantially greater assessed valuation and at an earlier date than uses or redevelopment obtained by other methods of disposition.

Conveyances made in this manner shall be for such consideration and conditions as may be agreed upon by the council and the developer which shall not be less than the fair, actual value of the property, as determined by the council, based on competent evidence.

**Sec. 3.** (a) After a public hearing advertised in accordance with the provisions of G.S. 160A-364, the City Council may determine that in the best interest of the municipality certain property should be developed for one purpose only, said purpose and terms of sale or conveyance being designated by City Council. The City Council shall advertise such property and invite redevelopment proposals by public notice, by publication once a week for two consecutive weeks in a newspaper having general circulation in the municipality, and shall make available all pertinent information to any person interested in undertaking a purchase of such property and the redevelopment of such property or any part thereof. Any property sold in accordance with this subsection shall be sold by negotiated offer, advertisement, and upset bid for cash at a price not less than the fair market value thereof as fixed by the City

Council. All conveyances made under the authority of this subsection shall contain restrictive covenants limiting the use of property conveyed to the designated purpose for which the conveyance is made.

(b) In addition to the provisions of the preceding paragraph the City Council may reject the highest responsible bid and accept a lesser bid where it makes the following specific findings:

The general public welfare and proper development of the community will be better served by the bid which was accepted than by the higher bid or bids which were rejected, for one or more of the following reasons:

- (1) The proposed use or development of the land under the successful bid will result in an assessed valuation for ad valorem taxation greater than that of the use or uses proposed by the higher bidders;
- (2) The proposed use or development of the land under the successful bid will have a substantially greater beneficial effect upon neighboring property, the project area, and the community as a whole than the use or uses proposed by the higher bidder and will tend to induce greater investment in development of other property in the area.

**Sec. 4.** The Asheville Housing Authority shall be authorized to sell or otherwise dispose of property within redevelopment areas designated by the City Council of the City of Asheville under the provisions and conditions set forth in Sections 2 and 3 herein, provided that final approval of the sale and/or conveyance is approved by the City Council of the City of Asheville.

**Sec. 5.** This act shall apply only to the City of Asheville.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

H. B. 779

## CHAPTER 318

### AN ACT REGARDING DIVISION OF LONG BEACH ABC PROFITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 6 of Chapter 345, Session Laws of 1961, as amended by Chapter 311, Session Laws of 1971, is further amended by deleting subsections (a), (b), (c), (d), and (e), and substituting in lieu thereof the following phrase:

“one hundred percent (100%) to go to the general fund of the Town of Long Beach.”

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## H. B. 781

## CHAPTER 319

AN ACT TO AUTHORIZE THE TYRRELL COUNTY BOARD OF EDUCATION TO ENTER INTO CERTAIN CONTRACTS WITHOUT COMPLYING WITH THE PROVISIONS OF CHAPTER 133 AND OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Tyrrell County Board of Education shall have authority during calendar years 1979 and 1980 to enter into purchase and/or construction contracts for prefabricated and/or pre-engineered school buildings without complying with provisions of Chapter 133 of the General Statutes and without complying with those provisions of Article 8 of Chapter 143 of the General Statutes requiring separate specifications and bidding for the classes of work enumerated in Section 143-128.

**Sec. 2.** The Tyrrell County Board of Education shall have authority to utilize and expend funds allocated to it from proceeds of the 1973 Public School Facilities Bond issue, and any other funds available to the board, for the erection of prefabricated and/or pre-engineered school buildings.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## H. B. 782

## CHAPTER 320

AN ACT TO AUTHORIZE THE TYRRELL COUNTY BOARD OF COMMISSIONERS TO ENTER INTO CERTAIN CONTRACTS WITHOUT COMPLYING WITH THE PROVISIONS OF CHAPTER 133 AND OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The County of Tyrrell by and through its County Board of Commissioners shall have authority during calendar years 1979 and 1980 to enter into purchase and/or construction contracts for prefabricated and/or pre-engineered public buildings without complying with provisions of Chapter 133 of the General Statutes and without complying with those provisions of Article 8 of Chapter 143 of the General Statutes requiring separate specification and bidding for the classes of work enumerated in Section 143-128.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## H. B. 783

## CHAPTER 321

## AN ACT TO PROVIDE FOR THE APPOINTMENT OF TRUSTEES FOR ALBEMARLE HOSPITAL IN PASQUOTANK COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Trustees of Albemarle Hospital in Pasquotank County shall consist of 10 members. Five of the members shall be residents of the City of Elizabeth City or the Elizabeth City Township. Five members shall not be residents of the City of Elizabeth City but shall be one resident from each of the townships of Newland, Providence, Mount Herman, Nixonton and Salem.

**Sec. 2.** All members of the Board of Trustees of Albemarle Hospital shall serve for terms of two years. Members may succeed themselves.

**Sec. 3.** The Board of County Commissioners of Pasquotank County shall set compensation, as the commissioners deem proper and appropriate, for the Board of Trustees of Albemarle Hospital. The trustees shall be paid from hospital funds.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## H. B. 788

## CHAPTER 322

## AN ACT TO PROVIDE FOR A NONPARTISAN PRIMARY AND ELECTION FOR THE BOARD OF EDUCATION OF MONTGOMERY COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** In the year 1980, and at each election thereafter as the terms of the members expire, the members of the Montgomery County Board of Education shall be nominated in a nonpartisan primary which shall be held at the same time as the regular primary for county officers. Candidates shall file at the same time as other county officers, but no party affiliation shall appear on the notice of candidacy or on the ballot in the primary or general election. The names of the nominees shall be printed on the general election ballot in 1980, and biennially thereafter and the persons elected shall take the place of the members whose terms expire and they shall serve for a term of four years. All members shall be nominated and elected by the voters of the entire county.

If three or more candidates file for any seat, a primary shall be held at the time of the county primary. The two persons receiving the highest number of votes in the primary shall be placed on the ballot in the general election.

If two or less candidates file for any seat, there shall be no primary, and the names of any candidates who file for the seat shall be placed on the ballot for the general election.

The results of the general election shall be determined by the same method as G.S. 163-292.

**Sec. 2.** One member of the board of education shall be a resident of each of the five school attendance areas of Montgomery County, as follows: the attendance areas of Star, Biscoe, Candor, Mount Gilead, and Troy.

At the general election to be held in Montgomery County in 1980, there shall be elected two members of the board of education, one each from the Star



and Biscoe school attendance areas, who shall hold office for a term of four years and until their successors are elected and qualified.

At the general election to be held in Montgomery County in 1982, there shall be elected three members of the board of education, one each from the Candor, Mount Gilead and Troy school attendance areas who shall hold office for a term of four years and until their successors are elected and qualified.

Thereafter and biennially there shall be elected at general elections members of the board of education to take the place of the members whose terms next expire, and the persons so elected shall serve for terms of four years.

**Sec. 3.** The persons elected at the 1976 primary election shall serve until the first Monday in December, 1980.

**Sec. 4.** The persons elected in the 1978 primary shall serve until the first Monday in December, 1982.

**Sec. 5.** Vacancies in the membership of the board by death, resignation or otherwise shall be filled as provided in G.S. 115-24, except as provided in Section 6 of this act.

If any candidate nominated on a nonpartisan basis shall die, resign or for any reason a vacancy in the nomination should occur between the date of his nomination and the general election, such vacancy in the nomination shall not be filled unless it leaves no person on the ballot for such seat, in which case, there shall be no election for that seat in that year, and the board of education shall, in December, appoint a person to serve as provided in G.S. 115-24.

**Sec. 6.** In the event a vacancy should occur during the period beginning 10 days before the filing period ends and closing 30 days before the ensuing general election in a year when an election is not being held to elect a member for the position in which the vacancy occurs, the board of education shall appoint someone to fill the remainder of the unexpired term.

**Sec. 7.** The provisions of Article 5, Chapter 115 of the General Statutes, shall apply to the Montgomery County Board of Education except as modified by this act.

**Sec. 8.** Sections 1 and 2, Chapter 61, Session Laws of 1973, are repealed.

**Sec. 9.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## H. B. 792

## CHAPTER 323

AN ACT TO PROVIDE THAT WEAPON PERMITS IN ROCKINGHAM COUNTY WILL BE ISSUED BY THE SHERIFF.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1073 of the 1959 Session Laws is amended by striking from Section 4 thereof the word "Rockingham".

**Sec. 2.** On and after the effective date of this act, weapon permits in Rockingham County will be issued by the sheriff of that county pursuant to Chapter 14, Article 52A of the General Statutes of North Carolina.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

H. B. 572

**CHAPTER 324**

AN ACT TO ALLOW THE VOTERS OF THE TOWN OF WOODFIN TO ELECT THEIR MAYOR DIRECTLY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Woodfin, as the same is contained in Section 12 of Chapter 271, Session Laws of 1971, is amended as follows, effective with the 1979 regular municipal election:

(1) The first two sentences of Section 3.1 are amended to read:

"The Mayor shall be elected for a two-year term by the qualified voters of the town. In a case of a refusal to qualify or a vacancy in the office of Mayor, the Board of Aldermen shall appoint some qualified voter to be Mayor for the remainder of the unexpired term."

(2) Section 3.2 is amended by deleting the words and figures "seven (7) members", and inserting in lieu thereof the words and figures "six (6) members."

(3) Section 3.3(b) is rewritten to read:

"No person shall be eligible to be elected or appointed as a member of the Board of Aldermen or as Mayor, unless he is a resident and a qualified voter of the town".

(4) Section 3.5 is amended by deleting the words ", elect the Mayor".

(5) Section 3.7(b) is rewritten to read:

"(b) An affirmative vote equal to a majority of all the members of the Board of Aldermen, (including the Mayor's vote in case of an equal division) shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted on shall be decided by a majority vote."

(6) Article IV is rewritten in its entirety to read:

"Article IV.

"Election Procedure.

"Section 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1979.

Section 4.2. Filing of Candidacy. Filing of candidacy for the office of Alderman and the office of Mayor shall be as provided in Article 24 of Chapter 163 of the General Statutes.

Section 4.3. Regulation of elections. Municipal elections shall be conducted in accordance with the provisions of Chapter 163 of the General Statutes, except as otherwise herein provided.

Section 4.4. Officers to be elected. (a) At the regular municipal election in 1979, and biennially thereafter, a Mayor shall be elected for a two-year term.

(b) At the regular municipal election in 1979, and quadrennially thereafter, three members of the Board of Aldermen shall be elected for four-year terms.

(c) At the regular municipal election in 1981, and quadrennially thereafter, three aldermen shall be elected for four-year terms."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## S. B. 56

## CHAPTER 325

## AN ACT TO PROVIDE EFFECTIVE LIABILITY INSURANCE PROTECTION FOR LAW ENFORCEMENT OFFICERS AND PUBLIC OFFICERS AND EMPLOYEES OF MUNICIPALITIES AND COUNTIES IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 143B of the General Statutes is hereby amended by adding to Article 9 thereof a new Part 20 to read as follows:

**"Part 20.**

**"Public Officers and Employees Liability Insurance Commission.**

"§ 143B-422. *Commission created; membership.*—There is hereby created within the Department of Administration a Public Officers and Employees Liability Insurance Commission. The commission shall consist of 10 members who shall be appointed as follows: The Governor shall appoint six members as follows: two members who are members of the insurance industry who may be chosen from a list of three nominees submitted to the Governor by the Independent Insurance Agents of North Carolina, Inc., and a list of three nominees submitted by the Carolinas Association of Professional Insurance Agents, North Carolina Division; one member who is employed by a police department who may be chosen from a list of three nominees submitted to the Governor jointly by the North Carolina Police Chiefs Association and North Carolina Police Executives Association, and one member who is employed by a sheriff's department who may be chosen from a list of three nominees submitted to the Governor by the North Carolina Sheriffs' Association; one member representing city government who may be chosen from a list of three nominees submitted to the Governor by the North Carolina League of Municipalities; and one member representing county government who may be chosen from a list of three nominees submitted to the Governor by the North Carolina Association of County Commissioners; the Lieutenant Governor shall appoint one member who shall be a member of the North Carolina Senate; the Speaker of the House of Representatives shall appoint one member who shall be a member of the North Carolina House of Representatives. The Secretary of the Department of Crime Control and Public Safety or his designate shall be an ex officio member. The Attorney General or his designate shall be an ex officio member. One insurance industry member appointed by the Governor shall be appointed to a term of two years and one insurance industry member shall be appointed to a term of four years. The police department member shall be appointed to a term of two years and the sheriff's department member shall be appointed to a term of four years. The representative of county government shall be appointed to a term of two years and the representative of city government to a term of four years. The member appointed by the Lieutenant Governor shall be appointed to a term of four years. The member appointed by the Speaker of the House shall be appointed to a term of two years. If any vacancy occurs in the membership of the commission, the appointing authority shall appoint another person to fill the unexpired term of the vacating member. After the initial terms established herein have expired, all appointees to the commission shall be appointed to terms of four years.

The commission members shall elect the chairman and vice-chairman of the commission. The commission may, by majority vote, remove any member of the

commission for chronic absenteeism, misfeasance, malfeasance or other good cause.

“§ 143B-423. *Meetings of commission; compensation.*—The commission shall meet at least four times per year, on or about January 15, April 15, July 15, October 15 and upon call of the chairman. The members shall receive no compensation for attendance at meetings, except a per diem expense reimbursement. Legislative members of the commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1 from funds made available to the commission. Members of the commission who are not officers or employees of the State shall receive reimbursement for subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the commission. Members of the commission who are officers or employees of the State shall be reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made available to the commission.

“§ 143B-424. *Powers and duties of commission.*—The commission may acquire from an insurance company or insurance companies a group plan of professional liability insurance covering the law enforcement officers and/or public officers and employees of any county or municipality of the State. The commission shall have full authority to negotiate with insurance companies submitting bids or proposals and shall award its group plan master contract on the basis of the company or companies found by it to offer maximum coverage at the most reasonable premium. The commission is authorized to enter into a master policy contract of such term as it finds to be in the best interests of the law enforcement officers and/or public officers and employees of the counties and municipalities of the State, not to exceed five years. The commission, in negotiating for such contract, is not authorized to pledge or offer the credit of the State of North Carolina. The insurance premiums shall be paid by the counties or municipalities whose employees are covered by the professional liability insurance. Any municipality or county may elect coverage for any or all of its employees on a departmental basis; provided all employees in a department must be covered if coverage is elected for that department. Nothing contained herein shall be construed to require any county or municipality to participate in any group plan of professional liability insurance.

The commission may, in its discretion, employ professional and clerical staff whose salaries shall be as established by the State Personnel Commission.

Should the commission determine that reasonable coverage is not available at a reasonable cost, the commission may undertake such studies and inquiries into the situation and alternatives, including self insurance and State administered funds, as the commission deems appropriate. The commission shall then bring before the General Assembly such recommendations as it deems appropriate.

The commission may acquire information regarding loss ratios, loss factors, loss experience and other such facts and figures from any company issuing professional liability insurance covering public officers, employees or law enforcement officers in the State of North Carolina. Such information shall not be deemed a public record within the meaning of Chapter 132 of the General Statutes where it names the company divulging such information, but the commission may make public such information to show aggregate statistics in respect to the experience of the State as a whole. The information shall be provided to the commission upon its written demand and shall be submitted to



the commission by such company or companies upon sworn affidavit. If any company shall fail or refuse to supply such information to the commission within a reasonable time following receipt of the demand, the commission may apply to the Superior Court sitting in Wake County for appropriate orders to enforce the demand.

“§ 143B-425. *Meetings of commission.*—The commission shall act as liaison between the insurance company or companies with which it contracts, their servicing agent and the insureds. The commission shall give notice of its meetings to the company or companies and to all insureds. The commission shall attempt to resolve such difficulties as arise in the servicing and administration of the program of insurance between the company and insureds.

“§ 143B-426. *Contract conditions.*—The commission, in procuring and negotiating for the contract of insurance herein described shall include in any procurement document the following conditions, which are not subject to negotiation and which are deemed a part of the said contract when entered into:

1. The master policy shall be issued in the name of the commission and shall include all governmental entities for which coverage was requested in the procurement document.

2. The company or companies selected must name a servicing agent resident in North Carolina who shall issue all certificates, collect all premiums, process all claims, and be responsible for all processing, service and administration of the program of insurance provided.

“§ 143B-427. *Payment a public purpose.*—The payment by any county or municipality of funds as premiums for professional liability insurance through the plan provided herein, covering the law enforcement officers or public officials or employees of such subdivision of government, is declared to be for a public purpose.”

Sec. 2. No additional appropriations will be required.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## S. B. 268

## CHAPTER 326

### AN ACT TO PERMIT THE CITY OF CLINTON TO INCREASE ITS PARKING PENALTY.

Whereas, the City of Clinton has been notified by its city attorney that the North Carolina Attorney General's Office has advised that the provision in Section 30(b) of Chapter 15 of the Clinton City Code, which provision creates a presumption that the registered owner of a motor vehicle, which was in violation of the limited parking time specified in the ordinance, is presumed to have been the violator of the ordinance and is thus subject to a penalty of five dollars (\$5.00), is preempted by the provisions of G.S. 20-162.1, which provides that a city parking ordinance may rely on such a presumption but may provide for a penalty of only one dollar (\$1.00); and

Whereas, G.S. 20-162.1 was enacted in the year 1953, when a dollar was worth more in actual spending power than a quarter; and

Whereas, a penalty of one dollar (\$1.00) has not proved to be a sufficient deterrent to stop overtime parking in the downtown business area of Clinton or in many other municipalities in North Carolina; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The last sentence of G.S. 20-162.1 is rewritten to read as follows:

“Any person convicted pursuant to this section shall be subject to a penalty of one dollar (\$1.00) except for persons convicted in the City of Clinton. These persons shall be subject to a penalty of five dollars (\$5.00).”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

S. B. 425

## CHAPTER 327

AN ACT TO PERMIT THE GASTON COUNTY BOARD OF EDUCATION  
TO CONSTRUCT SCHOOL SIDEWALKS ON PUBLIC RIGHTS-OF-WAY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 115-131, the Gaston County Board of Education is authorized to construct sidewalks on the right-of-way of any public street or highway adjacent to or in the immediate vicinity of any public school building when the board finds that such sidewalk is necessary or desirable for the safety of children attending that school and when permission to construct such sidewalk has been given by the agency having authority to license encroachments on the right-of-way.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

S. B. 429

## CHAPTER 328

AN ACT TO AMEND CHAPTER 421 OF THE SESSION LAWS OF 1969  
RELATING TO THE RALEIGH FIREMEN'S SUPPLEMENTAL  
RETIREMENT FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of Section 2 of Chapter 421 of the Session Laws of 1969 is amended by striking out the phrase “six hundred dollars (\$600 00)” and substituting the phrase “eight hundred dollars (\$800.00)”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

S. B. 434

## CHAPTER 329

AN ACT RELATING TO THE EXTRATERRITORIAL POWERS OF THE  
TOWNS OF SMITHFIELD AND SELMA.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to the extraterritorial powers regarding planning and regulation of development granted to the Town of Smithfield by G.S. 160A-360, the Board of Commissioners of the Town of Smithfield may also exercise such powers in that area lying more than one mile beyond the town corporate limits and between the corporate limits and the boundary line described in Section 3 of this act. The Board of Commissioners of the Town of

Smithfield may also acquire, construct, establish, enlarge, improve, maintain, own and operate any public enterprise, as defined by G.S. 160A-311, in that area lying more than one mile beyond the town corporate limits and between the corporate limits and the boundary line described in Section 3 of this act.

**Sec. 2.** In addition to the extraterritorial powers regarding planning and regulation of development granted to the Town of Selma by G.S. 160A-360, the Town Council of the Town of Selma may also exercise such powers in that area lying more than one mile beyond the town corporate limits and between the corporate limits and the boundary line described in Section 3 of this act. The Town Council of the Town of Selma may also acquire, construct, establish, enlarge, improve, maintain, own and operate any public enterprise, as defined by G.S. 160A-311, in that area lying more than one mile beyond the town corporate limits and between the corporate limits and the boundary line described in Section 3 of this act.

**Sec. 3.** The powers granted to the Town of Smithfield and to the Town of Selma, respectively, by G.S. 160A-360, G.S. 160A-312 and this act, shall terminate at the following boundary line:

Beginning at a monument in the eastern right of way of Interstate Highway No. 95, said monument being the southeast corner of a tract of land now owned by Sylvania Electric Products, Inc.; thence the line runs as Sylvania's eastern property line North 26 deg 36 min 30 sec West 2,069.67 feet to a concrete monument in the line of the Ken Hinton-Leo Daughtry Property; thence as the Hinton-Daughtry line South 86 deg 47 min East 269.63 feet to a stake, a corner of the Hinton-Daughtry tract; thence continuing as the Hinton-Daughtry line North 02 deg 59 min East 519.40 feet to a point in the northern right of way of Seaboard Coast Line Railroad; thence as said right of way South 59 deg 12 min West 53.0 feet to a stake, Ronald Coe, Jr., corner; thence as the Coe line North 08 deg 31 min West 700.0 feet to a point in U. S. Highway No. 301; thence crossing said highway North 56 deg 21 min West 80.0 feet to a stake, a corner of the Hinton-Daughtry tract; thence as the Hinton-Daughtry line North 27 deg 48 min West 306.3 feet to a stake; thence North 62 deg 12 min East 303.0 feet to a stake; thence North 00 deg 13 min West 498.9 feet to a stake, a corner of the Hinton-Daughtry tract; thence as a new line North 35 deg 00 min West 3,275.00 feet to a point in the line between two tracts of land owned by Rudolph Howell, said point being located where the path leading from U. S. Highway No. 301 and running beside the County Drive-Inn Theatre intersects the aforementioned property line; thence as the Howell line North 57 deg 00 min East 700.0 feet to a point in the center line of U. S. Highway No. 70-A; thence as the center line of U. S. Highway No. 70-A approximately 1.55 miles to a point where the center line of N. C. S. R. 1929 intersects the center line of U. S. Highway No. 70-A.

**Sec. 4.** Within the extraterritorial area of the Town of Smithfield and the Town of Selma, as defined by this act, each municipality shall have the sole responsibility for providing public enterprisory services, as defined by G.S. 160A-311, and neither municipality shall extend its public enterprisory services into the extraterritorial area of the other municipality without the written consent of the governing board of the other municipality.

**Sec. 5.** Neither the Town of Smithfield nor the Town of Selma shall extend its corporate limits into the extraterritorial area of the other, as

established by this act, without the written consent of the governing board of the other municipality.

**Sec. 6.** The agreement entered into between the Town of Selma and the Town of Smithfield, dated November 8, 1977, by which the towns agreed to observe the boundary line set forth herein for purposes of extraterritorial zoning, subdivision control and utility extension, is ratified, confirmed and validated in all respects.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## S. B. 449

## CHAPTER 330

AN ACT TO BRING ASHE COUNTY UNDER G.S. 47-30, DEALING WITH RECORDING OF PLATS, WITH CERTAIN EXCEPTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47-30(k) is amended by deleting the word "Ashe,".

**Sec. 2.** G.S. 47-30(b) is repealed.

**Sec. 3.** G.S. 47-30(a) is amended by deleting the phrase "not more than 21 inches by 30 inches", and inserting in lieu thereof the words "not more than 18 inches by 24 inches".

**Sec. 4.** This act shall apply to Ashe County only.

**Sec. 5.** This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## S. B. 456

## CHAPTER 331

AN ACT TO AMEND CHAPTER 633 OF THE 1977 SESSION LAWS OF NORTH CAROLINA RELATING TO GASTON COUNTY SO THAT TEN-MONTH EMPLOYEES MAY BE PAID ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH AND SO THAT THE FILING PERIOD FOR CANDIDATES WOULD CLOSE PRIOR TO THE AVAILABILITY OF ABSENTEE BALLOTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 633 of the 1977 Session Laws is amended as follows:

(1) by rewriting the second sentence of Section 4 to read as follows:

"Each candidate shall file a notice of candidacy with the board of elections indicating whether he is running as a member at large or from a particular township at any time after 12:00 noon on the Friday preceding the sixteenth Saturday and before 12:00 noon on the Friday preceding the twelfth Saturday before the general election."; and

(2) by adding the following new section thereto:

"Sec. 23. Notwithstanding the provisions of Section 115-157(1) and (2) of the General Statutes of North Carolina, the Gaston County Board of Education shall 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 10th day of April, 1979.



## S. B. 493

## CHAPTER 332

AN ACT TO EXTEND THE PUBLIC STAFF OF THE UTILITIES COMMISSION, AND TO AMEND A PORTION OF G.S. 62-70(g) PERTAINING TO EX PARTE COMMUNICATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 23 of Chapter 468 of the 1977 Session Laws is repealed.

**Sec. 2.** Article IV, Chapter 62, Section 70(g) is hereby amended by deleting from the first sentence of said paragraph the words "with regard to matters affecting the rates charged or proposed to be charged" and inserting in lieu thereof the words "regarding the level of rates specifically proposed to be charged."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## S. B. 520

## CHAPTER 333

AN ACT TO AMEND CHAPTER 662 OF THE 1963 SESSION LAWS OF NORTH CAROLINA RELATING TO THE FIRE PROTECTION DISTRICT FOR THE UNINCORPORATED TOWN OF BADIN, NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 662 of the 1963 Session Laws is hereby amended by deleting all of Section 8 of said act.

**Sec. 2.** All laws and clauses of laws in conflict with this act hereby are repealed.

**Sec. 3.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1979.

## H. B. 363

## CHAPTER 334

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILSON.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article III of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) is amended by rewriting said Article to read as follows:

"Article III. Governing Body.

"Section 3.1. Structure of Governing Body: Number of Members. The governing body of the City of Wilson is the City Council, which has six (6) members, and the Mayor.

"Section 3.2. Manner of Election of City Council. Qualified voters of the entire City elect the members of the City Council.

"Section 3.3. Term of Office of Members of the City Council. Members of the City Council are elected to two-year terms.

"Section 3.4. Election of Mayor. The qualified voters of the entire City elect the Mayor.

“Section 3.5. Term of Office of Mayor. The Mayor shall be elected to a two-year term of office.

“Section 3.6. Voting Rights of Mayor. Where 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.”

**Sec. 2.** That Article IV of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) be amended to read as follows:

“Article IV. Elections.

“Section 4.1. Conduct of City Elections. The Mayor and members of City Council shall be elected on a nonpartisan basis and the results determined by plurality, as provided by G.S. 163-292.”

**Sec. 3.** That Article VII of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) is hereby amended to read as follows:

“Article VII. Administrative Offices and Employees.

“Section 7.1. The City Clerk. The City Manager may appoint a City Clerk to keep a journal of the proceedings of the City Council and 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 Manager may direct.

“Section 7.2. Finance Officer. The City Manager may appoint a Finance Officer to perform the duties specified under the Local Government Budget and Fiscal Control Act contained in Chapter 159 of the North Carolina General Statutes.

“Section 7.3. Consolidation of Functions. The City Manager may, with the approval of the City Council, consolidate any two or more of the positions of City Clerk, Finance Officer or any other positions, or may assign the functions of any one or more such positions to the holder or holders of any other such positions. The City Manager may also, with the approval of the City Council, himself perform all or any part of the functions of any positions or offices in lieu of appointing other persons to perform the same.”

**Sec. 4.** That Article VIII of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) entitled “Disposal of Property” be and is hereby repealed in its entirety.

**Sec. 5.** That Article IX of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) entitled “Finance and Taxation” be and it is hereby repealed in its entirety.

**Sec. 6.** That Article X of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) entitled “Police” be and it is hereby repealed in its entirety.

**Sec. 7.** That Section 11.1 of Article XI of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) be amended by rewriting said section to read as follows:

“Section 11.1. Presentation of Claims; Suit upon Claims. (a) In order to preserve a claim against the City of Wilson arising in contract or in tort, notice must be given and the cause of action commenced in accordance with Section 1-539.15 of the North Carolina General Statutes.”

**Sec. 8.** That the statutory reference to “Article IX, Chapter 160 of the General Statutes” contained in Section 12.5 and 12.6 of the revised and

consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) be amended by substituting therefor "Article X, Chapter 160A of the North Carolina General Statutes".

**Sec. 9.** That Article XIV of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) entitled "Regulatory Powers" be amended by repealing Sections 14.1, 14.2 and 14.3 and by substituting therefor the following sections to read as follows:

**"Article XIV. Regulatory Powers.**

**"Section 14.1. Conditional Use Zoning.** In addition to the authority granted under Article 19 of Chapter 160A of the North Carolina General Statutes to adopt zoning regulations, the City Council is hereby authorized to establish conditional use zoning districts to coincide and correlate with the issuance of conditional use permits. Such districts shall be established and amended under rules, regulations and guidelines as may be established by City Council. Notwithstanding Section 160A-388 of the North Carolina General Statutes, the City Council may reserve to itself the right to issue conditional use permits with such reasonable conditions as the Council determines to be desirable in promoting the public health, safety and general welfare.

**"Section 14.2. Payments in Lieu of Property.** A subdivision control ordinance adopted pursuant to the Part 2 of Article 19 of Chapter 160A of the North Carolina General Statutes may provide that a developer will be allowed to pay funds to the City whereby the City 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 within the immediate area."

**Sec. 10.** That Article XV of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) be amended by rewriting said Article to read as follows:

**"Article XV. Special Assessments and Charges.**

**"Section 15.1. Alternative Methods of Assessing Costs of Improvements.** In addition to, and as alternatives to, the method provided in Article 10 of Chapter 160A of the North Carolina General Statutes for assessing the cost of improvements against the benefited property, the City Council, if in its opinion, it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments in accordance with the provisions of this Article. In lieu of assessing the total cost of a particular project as provided in G.S. 160A-218, the City Council may annually, between the first day of January and the first day of July of each year, determine the average cost of installing such improvements and on the basis of such determination may make assessments of such average cost during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of improvements completed during the preceding calendar year. It may also include the anticipated increase in labor and material costs based upon the average of such increases during the preceding five calendar years. The assessment of the average costs of such improvements shall not be made until after the particular project to be assessed has been completed. The purpose of this section is to distribute more equitably the cost of the installation of public works improvements throughout the City; to permit a property owner to know in advance what the cost of installation of the improvements benefiting his property will be; and to permit the most expeditious assessment of costs against

the property after completion of the installation of such improvements. The actual cost of acquisition of right-of-way may also be assessed as a part of the cost of an individual project. If the right-of-way cost has not been determined and assessed with the assessment of the average installation cost at the time of the completion of the project, such costs may be assessed separately when they are determined.

“Section 15.2. Acreage Charges for Water and Sewer Connections. In addition to, and as alternatives to the water and sewer service charges authorized by G.S. 160A-314 and other connection charges authorized by law, the City Council may establish and collect acreage charges for making connection to the city water and sewerage systems, both inside and outside the corporate limits, to aid in the financing of new water mains and sewer outfall lines and the replacement or enlargement of existing mains and outfall lines. Such charges shall apply uniformly to all properties to which water or sewer service is extended subsequent to the establishment of such charges; provided, the City Council may establish higher acreage charges for property to be developed for commercial, institutional, or industrial use than those established for property to be developed for other uses, and may base acreage charges for residential development on the number of dwelling units per acre of land.”

**Sec. 11.** That Article XVI of the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) be repealed in its entirety.

**Sec. 12.** That Chapter 151 of the 1963 Session Laws prohibiting members of the Board of Adjustment, Planning Board, Board of Appeals for Airport Zoning, and the Recreation Commission of the City of Wilson from serving more than two consecutive terms of 3 years is hereby repealed and declared null and void.

**Sec. 13.** That Chapter 723 of the 1961 Session Laws relating to the appointment and terms of office of the City of Wilson Recreation Commission be and it is hereby repealed and declared null and void.

**Sec. 14.** That Chapter 634 of the 1961 Session Laws relating to the appointment and terms of office of members of the City of Wilson Planning Board be and it is hereby repealed and declared null and void.

**Sec. 15.** That Chapter 633 of the 1961 Session Laws relating to the appointment and terms of office of members of the City of Wilson Board of Adjustment be and it is hereby repealed and declared null and void.

**Sec. 16.** That Chapter 378 of the 1941 Public-Local Laws authorizing the Town of Wilson to acquire and operate an airport is hereby repealed and declared null and void.

**Sec. 17.** That Chapter 635 of the 1961 Session Laws relating to the appointment and terms of office of members of the City of Wilson Board of Appeals for Airport Zoning be and it is hereby repealed and declared null and void.

**Sec. 18.** That the revised and consolidated Charter of the City of Wilson (Chapter 136 of the 1969 Session Laws) be amended by adding the following Article to be numbered VIII which shall read as follows:

“Article VIII. Purchasing.

“Section 8.1. Contracts Requiring Use of Formal Bid Procedure. Notwithstanding the provisions of G.S. 143-129, the City of Wilson shall not be required to use the formal bid procedure for construction or repair work



requiring the estimated expenditure of \$30,000 or less or for the purchase or lease-purchase of apparatus, materials, supplies, or equipment requiring an estimated expenditure of \$10,000 or less; notwithstanding the provisions of G.S. 143-132, the City of Wilson may let public contracts on construction of repair work with estimated costs between \$30,000 and \$50,000 on receipt of at least two competitive bids without readvertising upon first finding that readvertising is not in the public interest."

**Sec. 19.** The purpose of this act is to revise the Charter of the City of Wilson to eliminate unnecessary repetition of the general law and to eliminate, wherever possible, variations from the general law. It is intended to continue without interruption those rights and privileges conferred to the City of Wilson by the general law as embodied in Chapter 160A of the North Carolina General Statutes so that all such rights and privileges are preserved and continue to inure to the City of Wilson.

**Sec. 20.** No provision of this act is intended, nor shall be construed to affect in any way any rights or interest, 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.

**Sec. 21.** No law heretofore repealed expressly or by implications, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein or any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

**Sec. 22.** (a) All existing ordinances, resolutions, franchises and contracts of the City of Wilson and all existing rules and regulations of departments or agencies of the City of Wilson, not inconsistent with the provisions of this act, shall continue in full force or 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 Wilson or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**Sec. 23.** 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. 24.** Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed, or superceded, 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 superceded.

**Sec. 25.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 26.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

H. B. 596

**CHAPTER 335**

AN ACT TO REPEAL G.S. 24-1.1B TO DELETE SEPARATE PROVISIONS FOR CONTRACT RATES ON LOANS TO NONPROFIT ORGANIZATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 24-1.1B is hereby repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

H. B. 649

**CHAPTER 336**

AN ACT TO ALLOW WOMEN TO SERVE ON THE STATE ABC BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-14(a) is amended by deleting the word "men".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

H. B. 683

**CHAPTER 337**

AN ACT TO ADD AIRPORTS AS A PURPOSE FOR WHICH THE CITY OF STATESVILLE MAY EXERCISE THE POWER OF EMINENT DOMAIN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 146 of the Session Laws of 1975, as amended by Chapter 56 of the Session Laws of 1977, is further amended by inserting at the end of line 7 the word and punctuation "airports,".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

H. B. 749

**CHAPTER 338**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF BLACK MOUNTAIN, CONCERNING THE CORPORATE LIMITS.

Whereas, the Session Laws of 1969, Chapter 1034, "An Act to Amend the Charter of the Town of Black Mountain, North Carolina to Extend its Corporate Limits and to Increase the Number of Aldermen Composing its Board of Aldermen." have been found by the Board of Aldermen to require further amendment and that such amendment would be in the best interest of the Town of Black Mountain; and

Whereas, 19 lots forming a portion of its extended corporate limits were annexed by the Town of Black Mountain in August, 1966, by ordinance; and

Whereas, two of the 19 lots were not eligible for annexation by the Town of Black Mountain although these two lots were included in the extended corporate limits set forth in Section 1 of Chapter 1034 of the Session Laws of 1969; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 1034, Session Laws of 1969, is hereby amended on line one by striking out the number "746" and substituting therefor the number "747" and by striking out the number "1915" and substituting therefor the number "1951".

**Sec. 2.** Section 1 of Chapter 1034, Session Laws of 1969 is further amended by deleting lines 52 through 73 in their entirety and inserting in lieu thereof the following:

"Also the following property: Beginning at a stake on the western margin of North Fork Road, said stake being located in the City limits line: and runs thence North 57 deg. 30 min. East across North Fork Road 185 feet to a stake; thence North 43 deg. 32 min East 68 feet to a stake; thence North 32 deg. 45 min. East 90 feet to a stake; thence South 70 deg. East 100 feet to a stake; thence North 18 deg. East 142 feet to a stake; thence South 82 deg. East 100 feet to a stake; thence South 83 deg. East 50 feet to a stake; thence South 85 deg. 15 min. East 50 feet to a stake; thence South 61 deg. 45 min. West 100 feet to a stake; thence South 51 deg. 15 min. West 60 feet to a stake; thence South 42 deg. 30 min. West 50 feet to a stake; thence South 18 deg. 30 min. West 45 feet to a stake; thence South 13 deg. 30 min. West 180 feet to a stake; thence South 9 deg. 30 min. West 165 feet to a stake; thence South 3 deg. West 112 feet to a stake; thence South 8 deg. West 121 feet to an iron pin; thence South 84 deg. East 379 feet to an iron pin; thence North 46 deg. 30 min. East 380 feet to a stake; thence South 56 deg. 30 min East 270 feet to a stake and being in the Northwestern margin of Daniel Lane; thence South 36 deg. West 100 feet to an iron pin; thence South 32 deg. 45 min. West 185 feet to a stake; thence South 43 deg. 32 min. West 65 feet to a stake; thence South 57 deg. 30 min West 181 feet to a stake located on the Western margin of North Fork Road and the City limit line; thence South 41 deg. East 40 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 11th day of April, 1979.

## H. B. 750

## CHAPTER 339

### AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF GRAHAM AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Graham is hereby revised and consolidated to read as follows:

#### "THE CHARTER OF THE CITY OF GRAHAM.

#### "ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. Incorporation. The City of Graham, North Carolina in the County of Alamance, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'City of Graham', hereinafter at times referred to as the 'City'.

"Section 1.2. Powers. The City of Graham 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 Graham, specifically, or upon municipal corporations, generally, by this Charter, by the State Constitution, or by general or local law.

"Section 1.3. Corporate Limits. The corporate limits of the City of Graham shall be those existing at the time of ratification of this Charter, as the same are set forth on an official map of the City, and as the same may be altered from time to time in accordance with law. An official map showing the current boundaries of the City, entitled 'Map of the City of Graham, North Carolina', and a current metes and bounds description of the corporate limits shall be maintained in the office of the City 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 shall be made.

#### "ARTICLE II. MAYOR AND CITY COUNCIL.

"Section 2.1. Governing Body. The 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 City Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.

"Section 2.2. Council; Composition; Terms of Office. The City Council shall be composed of five members, each of whom shall continue to be elected by and from the qualified voters of the City for a term of either two or four years, in the manner provided by Article III of this Charter.

"Section 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected by the City Council in the manner provided by Article III of this Charter to serve for a term of two years, or until his successor is elected and qualified. The Mayor shall be the official head of the City government and shall preside at all meetings of the Council. He shall have the right to vote on all matters before the Council, but he has no right to break a tie vote in which he participated. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the City.

"Section 2.4. Mayor Pro Tempore. In accordance with applicable State law, the City Council shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor in the Mayor's absence or disability. In the event of a vacancy in the office of the Mayor, the Mayor Pro Tempore shall perform the duties of the Mayor until the vacancy is filled. The Mayor Pro Tempore shall serve in such capacity for a term of two years.

#### "ARTICLE III. ELECTIONS.

"Section 3.1. Regular Municipal Elections; Conduct and Method of Election. 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 according to the nonpartisan plurality method of election.

"Section 3.2. Election of Council Members. At each regular municipal election, there shall be elected three City Council members. The two candidates receiving the highest number of votes shall be elected for four-year terms. The candidate receiving the third highest number of votes shall be elected for a two-year term. Newly elected members of the Council shall fill the seats of those Council members whose terms are then expiring.

"Section 3.3. Election of the Mayor. At the organizational meeting held after each regular municipal election, the Mayor shall be elected by the City Council from among its own members to serve for a term of two years.



“Section 3.4. Election of the Mayor Pro Tempore. At the organizational meeting held after each regular municipal election, the Mayor Pro Tempore shall be elected by the City Council from among its own members to serve for a term of two years.

“ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

“Section 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.

“Section 4.2. City Manager. The City Council shall appoint a City Manager who shall be the head of the administrative branch of City government, and who shall be responsible to the Council for the proper administration of the affairs of the City. The Manager shall be appointed on the basis of merit only, and he shall serve at the pleasure of the Council. In exercising his duties as chief administrator, the Manager shall have the following powers and duties:

A. He shall appoint and suspend or remove all City employees whose appointment or removal is not otherwise provided for by law, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt.

B. He shall direct and supervise the administration of all departments, offices, and agencies of the City, subject to the general direction and control of the Council, except as otherwise provided by law.

C. He shall attend all meetings of the Council and recommend any measures that he deems expedient.

D. He shall see that all laws of the State, the City Charter and the ordinances, resolutions and regulations of the Council are faithfully executed within the City.

E. He shall prepare and submit the annual budget and capital program to the City.

F. He shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of the fiscal year.

G. He shall make any other reports that the Council may require concerning the operations of the City departments, offices, and agencies subject to his direction and control.

H. He shall perform any other duties that may be required and authorized by the Council.

“Section 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, 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 Council; and to perform other duties required by law or as the Council may direct. The Council may employ other legal counsel from time to time, in addition to the City Attorney, as may be necessary to handle adequately the legal affairs of the City.

“Section 4.4. City Clerk and Treasurer. The City Council shall appoint a City Clerk and Treasurer 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 Council may direct. The City Clerk and Treasurer shall also perform the duties of the finance officer, as required by the Local Government Budget and Fiscal Control Act.

“Section 4.5. City Tax Collector. The Council shall provide for the appointment of a City 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.

“Section 4.6. Other Administrative Officers and Employees. Consistent with applicable State laws, the 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. SPECIAL PROVISIONS.

“Section 5.1. Assessments for Street and Sidewalk Improvements; Petition Unnecessary. 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 cost thereof against abutting property owners in accordance with the provisions of this section.

B. The Council 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 Council as a fact:

- (1) That the street improvement project does not exceed 1,200 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 improvement, 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 street 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 section.

C. For the purposes of this section, the term ‘street improvement’ shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of rights-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 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 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 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 section, 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.

F. The effect of the act of levying assessments under the authority of this section 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.

"Section 5.2. Junk Yards. A. It shall be unlawful for any person, firm or corporation to create, maintain or operate a 'junk yard' within the City, or within one mile of the city limits.

B. The term 'junk yard' shall be understood and construed to mean any place where automobiles or other unused machinery, or any other type or form of debris are piled out in the open view of the general public traveling upon any street, highway or road within the City, or within one mile from the city limits of the City, it being expressly understood that the junking, collecting, or piling in any one place of six or more old, unused cars shall constitute a 'junk yard', provided, however, that the term 'junk yard' shall not include the following:

- (1) Any area which lies within the corporate limits of any town or city other than the City, or
- (2) Any completely enclosed building, regardless of the use thereof, or
- (3) Any tract of contiguous land outside the corporate limits of the City containing 10 or more acres in area whereon no old, unused automobiles or trucks, unused machinery, or scrap metal is piled, stored, stacked, or otherwise kept and maintained within 150 feet of any adjoining property owner other than adjoining railroad rights-of-way.

C. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00) nor imprisoned for more than 30 days for each offense.

D. Each day's maintenance or operation of a 'junk yard', as defined in this section, shall constitute a separate offense."

**Sec. 2.** The purpose of this act is to revise the Charter of the City of Graham 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 Graham.

(b) Any acts concerning the operation of the Burlington-Graham Alcoholic Beverage Control System.

(c) 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 67, Session Laws of 1961

Chapter 747, Session Laws of 1961

**Sec. 5.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (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 Graham and all existing rules or regulations of departments or agencies of the City of Graham, 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 Graham 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 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.** 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 11th day of April, 1979.



## H. B. 772

## CHAPTER 340

## AN ACT TO REPEAL LOCAL LAWS RELATING TO USE OF INTOXICATING LIQUORS AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

*The General Assembly of North Carolina enacts:*

**Section 1.** All laws or clauses of laws of a private, local or special nature as well as all statutes or provisions of statutes which specifically refer to The University of North Carolina at Chapel Hill and its environs, including the Town of Chapel Hill and the County of Orange, for the purpose of prohibiting or otherwise regulating the sale, barter, transportation, importation, exportation, delivery, purchase or possession of intoxicating liquors there and which conflict with any provision of Chapter 18A of the General Statutes are hereby repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

## H. B. 780

## CHAPTER 341

## AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF LINCOLNTON AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Lincolnton is hereby revised and consolidated to read as follows:

**“THE CHARTER OF THE CITY OF LINCOLNTON.**

**“ARTICLE I. INCORPORATION, CORPORATE POWERS AND  
BOUNDARIES.**

“Section 1.1. Incorporation. The City of Lincolnton, North Carolina in the County of Lincoln, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the ‘City of Lincolnton’, hereinafter at times referred to as the ‘City’.

“Section 1.2. Powers. The City of Lincolnton 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 Lincolnton specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

“Section 1.3. Corporate Limits. The corporate limits of the City of Lincolnton shall be those existing at the time of ratification of this Charter, as the same are set forth on an official map of the City, and as the same may be altered from time to time in accordance with law. An official map showing the current boundaries of the City, entitled ‘Map of the City of Lincolnton, North Carolina’, or a current metes and bounds description of the corporate limits shall be maintained in the office of the City Clerk, and shall be available for public inspection. Upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the City shall be made.

**“ARTICLE II. MAYOR AND BOARD OF ALDERMEN.**

“Section 2.1. Governing Body. The Board of Aldermen, 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 Board of

Aldermen may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.

“Section 2.2. Board of Aldermen; Composition; Length of Terms. The Board of Aldermen shall be composed of four (4) members, each of whom shall be elected by the qualified voters of the City for a term of four (4) years, in the manner provided by Article III of this Charter.

“Section 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected by the qualified voters of the City to serve for a term of two years, in the manner provided by Article III of this Charter. The Mayor shall preside at meetings of the Board of Aldermen, but shall vote only when there is an equal number of votes in the affirmative and in the negative.

“Section 2.4. Mayor Pro Tempore. In accordance with applicable State law, the Board of Aldermen shall elect one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. In the event of a vacancy in the office of the Mayor, the Mayor pro tempore shall perform the duties of the Mayor until the vacancy is filled. The Mayor pro tempore shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

### “ARTICLE III. ELECTIONS.

“Section 3.1. Method of Election. Regular municipal elections shall be held in the City every two years in odd-numbered years and shall be conducted in accordance with State law governing municipal elections. The Mayor and members of the City Council shall be elected according to the partisan primary and election method.

“Section 3.2. Election of the Mayor; Term of Office. At each regular municipal election in the City, a Mayor shall be elected for a term of two years by and from the qualified voters of the City voting at large.

“Section 3.3. Election of the Board of Aldermen; Term of Office; Ward Representation. (a) The Board of Aldermen shall continue to serve four-year staggered terms of office as set forth herein. At the regular municipal election to be held in 1979, and every four years thereafter, there shall be elected two members to the Board of Aldermen, one member from Ward Two and one member from Ward Four, to serve terms of four years each. At the regular municipal election in 1981, and every four years thereafter, there shall be elected two members to the Board of Aldermen, one member from Ward One and one member from Ward Three, to serve terms of four years each.

(b) Every person who is a candidate for the Board of Aldermen and every person who is elected to the Board of Aldermen shall reside in the ward which the person represents or seeks to represent, but all candidates shall be voted upon and elected by all the qualified voters of the City.

(c) If a member of the Board of Aldermen has been elected from a ward and during his tenure of office moves from his ward to another ward within the City, the Board member will not forfeit his office but will continue to serve as Alderman for the remaining term for which he was elected.

“Section 3.4. Wards and Ward Boundaries. (a) The City shall be divided into four wards - Ward One, Ward Two, Ward Three and Ward Four.

(b) The boundaries of the four wards shall be those existing at the time of the ratification of this Charter, as the same are set forth on an official map or written description of the City. The official map or written description showing the current ward boundaries shall be maintained in the office of the City Clerk,

and shall be available for public inspection. Upon alteration of the City's corporate limits, the Board of Aldermen shall have the authority to revise the ward boundaries, in accordance with State law.

**"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.**

"Section 4.1. Form of Government. The City shall operate under the Mayor-Council form of government, in accordance with Part 3 of Article 7, Chapter 160A of the General Statutes.

"Section 4.2. City Administrator. The Board of Aldermen may appoint a City Administrator to act as the chief administrator of City government, and who is to be responsible to the Board of Aldermen for the proper administration of the affairs of the City. The City Administrator shall serve at the pleasure of the Board of Aldermen and shall perform such duties and responsibilities as may be assigned by the Board of Aldermen.

"Section 4.3. City Attorney. The Board of Aldermen 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 Attorney to prosecute and defend suits against the City; to advise the Mayor, Board of Aldermen 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; and to perform other duties required by law or as the Board of Aldermen may direct. The Board of Aldermen may employ other legal counsel from time to time, in addition to the City Attorney, as may be necessary to handle adequately the legal affairs of the City.

"Section 4.4. City Clerk. The Board of Aldermen shall appoint a City 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 City, and to perform such other duties as may be required by law or as the Board of Aldermen may direct.

"Section 4.5. City Tax Collector. The Board of Aldermen shall appoint a City Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the City, subject to the General Statutes, the provisions of this Charter and the ordinances of the City. The City Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes by municipalities.

"Section 4.6. City Treasurer. The Board of Aldermen shall appoint a City Treasurer, or 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 may be required by the Board.

"Section 4.7. Consolidation of Functions. The Board of Aldermen may consolidate any two or more positions of the City Administrator, City Clerk, City Tax Collector and City Treasurer, 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 and State law.

"Section 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 City government in order to promote the orderly and efficient administration of the affairs of the City.

**"ARTICLE V. RETIREMENT.**



“Chapter 1. General Retirement Benefits.

“Section 5.1. Retirement Benefits for City Employees. (a) Employees of the City, retired employees of the City, and former employees of the City who contributed to the Retirement Benefit Fund established for the City of Lincoln by Chapter 199 of the Session Laws of 1967, shall be refunded such moneys as he or she has paid into the fund without interest, during the year 1974-1975.

(b) The Board of Aldermen is hereby authorized to appropriate, from nontax revenues of the City, funds for retirement benefits to be granted any qualified employee, former employee or retired employee of the City. All such benefits shall be in addition to any retirement benefits the employee may receive from the North Carolina Local Governmental Employees' Retirement System or any other retirement benefits received from any other source.

(c) The Board of Aldermen shall create a separate fund, to be known as the Retirement Fund, and to be disbursed by voucher drawn by the City Treasurer and countersigned by the Mayor. Such retirement funds are to be accumulated out of nontax moneys of the City.

(d) Should the retirement fund, at any time, be insufficient to make the monthly payment, the City shall place in the retirement fund the amount sufficient to make the monthly payments, the funds to be paid out of nontax moneys.

(e) Employees of the City, whether paid wages or salary, including the City Clerk, City Treasurer, City Attorney, and any and all other employees of the City, may voluntarily file notice with the City Clerk to be entered on the roll of pension.

(f) Employees at age 62 or over and with 25 years of accumulated employment with the City will receive retirement pay of fifty dollars (\$50.00) per month.

(g) An employee who has an accumulated employment with the City for 10 years or more and who becomes disabled or unable to work (while an employee of the City) shall be entitled to retirement benefits of fifty dollars (\$50.00) per month.

(h) The provisions of G.S. 160A-163 shall not apply to the retirement benefits authorized by this act.

Sections 5.2 through 5.20 reserved.

“Chapter 2. Firemen's Supplemental Retirement Fund.

“Section 5.21. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City, 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 Lincoln 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, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this Chapter.

“Section 5.22. 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 shall:

(a) prior to January 31 of each calendar year, transfer to the Supplemental Retirement Fund all earnings on investments of the Local Relief Fund;



(b) as soon as practicable after January 1 of each year, but in no event later than July 1, divide funds belonging to the Supplemental Retirement Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 5.23.

"Section 5.23. Supplemental Retirement Benefits. Each retired fireman of the City who has previously retired with 20 years service or more as a city fireman, and who retired subsequent to attaining the age of 55 years, 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 City; 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).

"Section 5.24. Intention. It is the intention of this Chapter to authorize the disbursement as supplemental retirement benefits only of the funds belonging to the Supplemental Retirement Fund.

"Section 5.25. Investment of Funds. The Board of Trustees is hereby authorized and directed to invest all of the funds of the Local Firemen's Relief Fund in one or more of the investments named in or authorized by G.S. 159-30.

"Section 5.26. Acceptance of Gifts. The Board of Trustees is hereby authorized to accept any gifts, grants, bequests, or donations of money, properties or any other gifts or grants for the use of the Supplemental Retirement Fund.

"Section 5.27. 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 premium on the bond of the Treasurer.

"Section 5.28. City Authorized to Make Payment. The Board of Aldermen is hereby authorized and may at its discretion make appropriations and disburse funds to the Supplemental Retirement Fund.

#### "ARTICLE VI. ALCOHOLIC BEVERAGE CONTROL.

"Section 6.1. Board of Alcoholic Control. There shall continue to be a City board of alcoholic control to be composed of a chairman and two other members, appointed by the Mayor and Board of Aldermen, who shall be well known for their character, ability, and business acumen. The board shall be known and designated as "The City of Lincolnton Board of Alcoholic Control". The chairman and other two members of the board shall continue to serve three-year staggered terms. After their 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 Board of Aldermen.

"Section 6.2. Powers and Duties of Board. The City of Lincolnton Board of Alcoholic Control shall have all of the powers and duties imposed by Section 18A-17 of the General Statutes 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, except that no city liquor store authorized under this Article shall be located or operated within 450 feet of any school or church in the City. The City of Lincolnton Board of Alcoholic Control and the operation of any city liquor store authorized under the provisions of

this Article shall be subject to 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 Article. Whenever the word 'County' Board of Alcoholic Control appears in Article 2 of Chapter 18A, it shall include City of Lincolnton Board of Alcoholic Control.

"Section 6.3. ABC Officers. The City of Lincolnton Board of Alcoholic Control may appoint one or more persons to serve as ABC officers. Such officers shall have the same power and authority as granted county ABC officers in G.S. 18A-20 and shall have jurisdiction throughout Lincoln County.

"Section 6.4. Distribution of Revenue. The Board of Alcoholic Control shall, out of the gross revenues 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 remaining net revenues, as determined by quarterly audit, shall be distributed quarterly by the Board of Alcoholic Control as follows: Fifteen percent (15%) to the general fund of Lincoln County; eighty-five percent (85%) to the general fund of the City of Lincolnton to be expended for any governmental purpose for which the City may expend tax and nontax revenues.

#### "ARTICLE VII. SPECIAL PROVISIONS.

"Section 7.1. Assessments for Street and Sidewalk Improvements; Petition Unnecessary. (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 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 of Aldermen as a fact:

- (1) that the street improvement project does not exceed 1,200 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 improvement; 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 street 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 section.

(c) For the purposes of this section, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of rights-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 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 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 Board 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 section, 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.

(f) The effect of the act of levying assessments under the authority of this section 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.

"Section 7.2. 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 any purpose authorized by law through 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. 136-66.3(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 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."

**Sec. 2.** The purpose of this act is to revise the Charter of the City of Lincolnton 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 Lincolnton.

(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:

Private Laws 1899, Chapter 369  
Private Laws 1901, Chapter 256  
Private Laws 1903, Chapter 306  
Private Laws 1905, Chapter 298  
Private Laws 1907, Chapter 249  
Private Laws 1907, Chapter 251  
Private Laws 1907, Chapter 340  
Private Laws 1907, Chapter 355  
Private Laws, Extra Session 1908, Chapter 45  
Private Laws 1909, Chapter 374  
Private Laws 1911, Chapter 209  
Public-Local Laws, Extra Session 1913, Chapter 88  
Private Laws 1915, Chapter 283  
Private Laws 1915, Chapter 392  
Public-Local Laws of 1917, Chapter 227  
Private Laws 1921, Chapter 48  
Private Laws 1921, Chapter 237  
Private Laws, Extra Session 1921, Chapter 50  
Private Laws 1923, Chapter 107  
Private Laws 1923, Chapter 209  
Private Laws, Extra Session 1924, Chapter 16  
Private Laws 1927, Chapter 44  
Private Laws 1931, Chapter 153  
Private Laws 1933, Chapter 33  
Private Laws 1935, Chapter 201  
Public-Local Laws 1937, Chapter 85  
Public-Local Laws 1939, Chapter 33  
Public-Local Laws 1941, Chapter 89  
Public-Local Laws 1941, Chapter 249  
Session Laws 1945, Chapter 197  
Session Laws 1949, Chapter 155  
Session Laws 1955, Chapter 381  
Session Laws 1957, Chapter 698  
Session Laws 1963, Chapter 1077  
Session Laws 1967, Chapter 131  
Session Laws 1967, Chapter 546  
Session Laws 1969, Chapter 158  
Session Laws 1969, Chapter 198  
Session Laws 1969, Chapter 230  
Session Laws 1969, Chapter 762  
Session Laws 1973, Chapter 209  
Session Laws 1973, (2nd Session 1974), Chapter 978  
Session Laws 1975, Chapter 416  
Session Laws 1977, Chapter 200  
Session Laws 1977, Chapter 353



**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 Lincolnton and all existing rules or regulations of departments or agencies of the City of Lincolnton, 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 Lincolnton 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 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.** 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 nearly 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 11th day of April, 1979.

## H. B. 785

## CHAPTER 342

### AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF DALLAS AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Dallas is hereby revised and consolidated to read as follows:

“THE CHARTER OF THE TOWN OF DALLAS.

“Article I.

“Incorporation, Corporate Powers and Boundaries.

“Section 1.1. *Incorporation.* The Town of Dallas, North Carolina in the County of Gaston, and the inhabitants thereof, shall continue to be a municipal

body politic and corporate, under the name and style of the 'Town of Dallas' (hereinafter at times referred to as the 'Town').

"Section 1.2. *Powers.* The Town of Dallas 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 specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Section 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 Board of Aldermen.

"Section 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.

"Section 2.2. *Selection of the Mayor; Term of office; Duties.* The Mayor shall be elected by the qualified voters of the Town for a term of two years, in the manner provided by Article III 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. The Mayor shall have the right to vote on matters before the Board only where there is an equal number of votes in the affirmative and in the negative.

"Section 2.3. *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.

"Section 2.4. *Board of Aldermen; Composition; Terms of Office.* The Board of Aldermen shall be composed of five members, each of whom shall be elected for a term of two years in the manner provided by Article III of this Charter; provided that they shall serve until their successors are elected and qualified.

"Article III.

"Elections.

"Section 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.

"Section 3.2. *Method of election; Officers elected at large.* The Mayor and members of the Board of Aldermen shall be elected according to the nonpartisan plurality method of election, as provided in G.S. 163-292. The Mayor and members of the Board shall be elected by all the qualified voters of the Town.

## “Article IV.

## “Organization and Administration.

“Section 4.1. *Form of government; Authority over employees.* 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. The Board of Aldermen shall have the authority to appoint and remove all employees. The Board may delegate to a department head the authority to suspend an employee, but final action on any suspension shall be taken by the Board.

“Section 4.2. *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. It shall be the duty of the Town Attorney to prosecute and defend suits brought by 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 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 required by law or as the Board may direct.

“Section 4.3. *Town Clerk.* The Board of Aldermen 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 may direct.

“Section 4.4. *Town Tax Collector.* The Board of Aldermen shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other moneys belonging 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 by municipalities.

“Section 4.5. *Other administrative officers and employees.* Consistent with applicable State laws, the Board of Aldermen may establish other positions, appoint 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.”

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Dallas 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 Dallas.

(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:

Laws of N.C. 1862-63, Ch. 44 (Private)

Private Laws of 1869-70, Ch. 107

Private Laws of 1874-75, Ch. 14  
Private Laws of 1876-77, Ch. 9  
Private Laws of 1901, Ch. 65  
Private Laws of 1905, Ch. 273  
Private Laws of 1913, Ch. 343  
Private Laws of 1913, Ch. 351  
Private Laws of 1915, Ch. 119  
Private Laws of 1933, Ch. 49  
Session Laws of 1949, Ch. 777  
Session Laws of 1951, Ch. 963  
Session Laws of 1955, Ch. 204  
Sessions Laws of 1957, Ch. 70  
Session Laws of 1957, Ch. 283  
Session Laws of 1957, Ch. 850  
Session Laws of 1961, Ch. 183  
Session Laws of 1961, Ch. 504  
Session Laws of 1963, Ch. 161  
Session Laws of 1963, Ch. 900  
Session Laws of 1963, Ch. 977  
Session Laws of 1965, Ch. 100  
Session Laws of 1965, Ch. 776  
Session Laws of 1967, Ch. 612  
Session Laws of 1973, Ch. 26  
Session Laws of 1975, Ch. 695

**Sec. 5.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (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 provisions of this act that disclaim an intention to repeal or affect enumerated or designated laws.

**Sec. 7.** (a) All existing ordinances and resolutions of the Town of Dallas and all existing rules or regulations of departments or agencies of the Town, 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 Dallas 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.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 11.** This act is effective upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

## H. B. 791

## CHAPTER 343

AN ACT TO EXTINGUISH ANCIENT MINERAL CLAIMS IN CHATHAM COUNTY AND TO REQUIRE THAT OIL, GAS AND MINERAL INTERESTS WITHIN CHATHAM COUNTY BE RECORDED AND LISTED FOR TAXATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1 of the General Statutes is amended by adding a new section to read:

“§1-42.5. *Additional amount mineral claims extinguished; oil, gas and mineral interests to be recorded and listed for taxation.*—(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, or that the record titleholder of any such oil, gas or mineral interest has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of 10 years prior to January 1, 1979, any person having the legal capacity to own land in this State, who has on September 1, 1979, an unbroken chain of title of record to such surface estate of such area of land for at least 50 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 interests in such area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was executed or recorded at least 50 years or more prior to September 1, 1979, 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 such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two years after September 1, 1979, 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 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 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) Within two years from November 1, 1979, 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 interests must be filed in writing in the manner provided by G.S. 1-42.5(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 subsection in a newspaper published in the county or having general circulation in the county once a week for four consecutive weeks prior to November 1, 1979.

**Sec. 2.** This act shall apply to Chatham County only.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

## H. B. 943

## CHAPTER 344

AN ACT TO CLARIFY G.S. 106-22, RELATING TO THE DUTIES OF THE COMMISSIONER AND BOARD OF AGRICULTURE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-22 is amended by adding a new subdivision as follows:

“(16) State Agricultural Policies. - Establish State government policies relating to agriculture.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

## AN ACT TO AMEND CHAPTER 97, ENTITLED "WORKMEN'S COMPENSATION ACT" RELATIVE TO EMPLOYERS SELF INSURANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-93 is rewritten to read as follows:

"§ 97-93. *Employers required to carry insurance or prove financial ability to pay for benefits.*—Every employer subject to the provisions of this Article relative to the payment of compensation shall either: (1) insure and keep insured his liability thereunder in any authorized corporation, association, organization, or in any mutual insurance association formed by a group of employers so authorized, or (2) furnish to the Industrial Commission satisfactory proof of his financial ability either alone or through membership in a group comprised of two or more employers which agree to pool their liabilities under this Article, to pay direct the compensation in the amount and manner and when due, as provided for in this Article. In the case of subdivision (2) above, the commission may require the deposit of an acceptable security, indemnity, or bond to secure the payment of the compensation liabilities as they are incurred. A group of two or more employers formed for the purpose of demonstrating financial ability to pay direct the compensation in the amount and manner and when due shall be governed in all respects by this Article and such rules of the commission as may be promulgated hereunder."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

## AN ACT CREATING THE GRAHAM COUNTY DEVELOPMENT AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Graham County Development Authority; creation; membership. There is hereby created an economic development authority (hereinafter sometimes referred to as the "Authority"). The official name of the Authority shall be "Graham County Development Authority". It shall be a body corporate and politic. It shall consist of 11 members appointed by the Board of Commissioners of Graham County. The composition of the Authority shall be as follows: one member who shall be the Chairman of the Board of Commissioners of Graham County, one member who shall be the Mayor of Robbinsville, North Carolina, two members who shall be representatives of industry, two members who shall be representatives of banks located in Graham County, one who shall represent the real estate industry, one who shall represent agriculture and one who shall represent the tourist industry. The other members shall be selected at large.

Members of the Authority shall be residents of Graham County, North Carolina. The following persons shall be the initial members of the Authority:

Charles L. Fuller	J. Smith Howell
Doyle R. Brock	David E. Crowe
James A. Wall	Berniece A. Lloyd

Thomas P. Garden  
Roger Hyatt  
Eugene McMonigle

Dale W. Cable  
Frank Rodgers

All appointments shall be for a term of three years, except for the Chairman of the Board of Commissioners of Graham County and the Mayor of Robbinsville, who shall serve ex officio. As to the initial members, the following shall serve one-year terms: Roger Hyatt, Berniece A. Lloyd and Dale W. Cable; the following shall serve two-year terms: Doyle R. Brock, J. Smith Howell and David E. Crowe; and the following shall serve three-year terms: Charles L. Fuller, James A. Wall and Thomas P. Garden. The date from which terms shall run shall be the date of enactment of this act. Appointments to fill vacancies occurring during the regular terms shall be made by the board of commissioners. The appointments of all members shall run until their successors are appointed and qualified.

The members of the Authority shall elect a chairman and a vice-chairman from the membership of the Authority. They shall also elect a secretary who need not be a member of the Authority.

A majority of the members shall constitute a quorum for the transaction of business and an affirmative vote of the majority of the members present at a meeting of the Authority shall be required to constitute action of the Authority.

**Sec. 2.** Purpose of the Authority. The purpose of the Authority shall be to stimulate, foster, coordinate, plan, improve and encourage economic development in order to relieve poverty, dependency, chronic unemployment, underemployment and to promote the improvement and development of the economy of Graham County.

**Sec. 3.** General powers of the Authority. The general powers of the Authority shall be:

- (1) to sue and be sued;
- (2) to have a seal;
- (3) to make rules and regulations, not inconsistent with this act, for its organization and internal management;
- (4) to employ persons deemed necessary to carry out functions and duties assigned to them by the Authority and to fix their compensation, within the limit of available funds;
- (5) to retain and employ counsel, auditors, engineers and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice;
- (6) to acquire, through gifts, purchase or otherwise, to maintain and to operate such facilities, including real property and improvements, as may be necessary or convenient for the operations of the Authority;
- (7) to borrow money as permitted by general law;
- (8) to make or enter into contracts, agreements, deeds, leases, conveyances or other instruments, including contracts and agreements with the United States and the State of North Carolina;
- (9) to acquire, through gifts, purchase or otherwise, and hold securities and other intangible personal property and, specifically, without limitation, to acquire by gifts all or a majority of the shares of the Graham County Railroad Company, a North Carolina corporation, owning the assets associated with the operation of the Graham County Railroad, to hold such shares as shareholder



of the Graham County Railroad Company and to cause the Graham County Railroad to be operated, either directly or by leasing its facilities to others, all for the purposes set out in Section 2 above;

(10) to surrender to the County of Graham any property no longer required by the Authority.

**Sec. 4.** Termination. In the event the existence of the Authority is terminated for any reason, all property and assets of the Authority shall automatically become the property of the County of Graham and the County of Graham shall succeed to all rights, obligations and liabilities of the Authority.

**Sec. 5.** Insofar as the provisions of this act are not consistent with the provisions of any other act or law, public or private, the provisions of this act shall be controlling.

**Sec. 6.** This act shall take effect from and after its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

## S. B. 342

## CHAPTER 347

AN ACT TO PROVIDE THAT SEVEN PERCENT (7%) OF THE NET PROFITS OF THE SYLVA ABC STORE SHALL BE SPENT ON ALCOHOLISM PROGRAMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 406 of the Session Laws of 1967 is amended in Section 6 by adding the following to the end of subsection (a) of that section:

"Seven percent (7%) of the net profits to the Town of Sylva for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics. Expenditures for this purpose may be made either for programs carried on by the town or as appropriations to nonprofit corporations or agencies sponsoring or engaging in such education, research or rehabilitation."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

## S. B. 362

## CHAPTER 348

AN ACT TO MAKE TECHNICAL AMENDMENTS TO G.S. CHAPTER 18A IN ORDER TO IMPLEMENT THE ORGANIZATION ACT OF 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-31.1(a) is hereby amended by substituting the words "Department of Human Resources" for the words "Commissioner for Health Services."

**Sec. 2.** G.S. 18A-38(e)(1) is hereby amended by substituting the words "Department of Human Resources" for the words "Commission for Health Services."

**Sec. 3.** G.S. 18A-38(f) is hereby amended by substituting the words "Department of Human Resources" for the words "Commission for Health Services."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

## S. B. 390

## CHAPTER 349

AN ACT TO DEFINE A "SUBDIVISION" FOR THE PURPOSE OF  
SUBDIVISION REGULATIONS IN TRANSYLVANIA COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** For purposes of Part 2 of Article 18 of Chapter 153A of the General Statutes, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations authorized by Part 2, Article 18 of Chapter 153A of the General Statutes:

A. the combination or recombination of portions of previously recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

B. the division of land into parcels of one acre or more where each parcel fronts upon a State-maintained road;

C. the public acquisition by purchase of strips of land for the widening or opening of streets;

D. the conveyance of a lot or tract to a grantee who would have been an heir of the grantor if the grantor had died intestate immediately prior to the conveyance;

E. the conveyance of a lot or tract for the purpose of dividing lands among the tenants in common, all of whom inherited by intestacy or by will, the land from a common ancestor;

F. the division of land into parcels of five acres or more where the grantor records a road right-of-way agreement prior to or simultaneously with the recording of the deed, which said agreement provides for access to the parcel by a right-of-way of at least 30 feet in width and contains an agreement for construction and maintenance of the road.

**Sec. 2.** G.S. 153A-335 shall not be applicable in Transylvania County.

**Sec. 3.** This act shall apply only to Transylvania County.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

## S. B. 437

## CHAPTER 350

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE  
TOWN OF RUTHERFORDTON AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Rutherfordton is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF RUTHERFORDTON.

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND  
BOUNDARIES.

"Section 1.1. Incorporation. The Town of Rutherfordton, 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 Rutherfordton', (hereinafter at times referred to as the 'Town').

"Section 1.2. Powers. The Town of Rutherfordton 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 Rutherfordton, specifically, or upon municipal corporations, generally, by this Charter, by the State Constitution, or by general or local law.

"Section 1.3. Corporate Limits. The corporate limits of the Town of Rutherfordton shall be those existing at the time of ratification of this Charter, as the same are set forth on an official map of the Town, and as the same may be altered from time to time in accordance with law. The official map of the Town showing the current boundaries of the Town, entitled 'Map of the Town of Rutherfordton, North Carolina', and a current metes and bounds description of the corporate limits shall be maintained 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 and description of the Town shall be made.

#### "ARTICLE II. MAYOR AND COUNCIL.

"Section 2.1. Governing Body. The Mayor and 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.

"Section 2.2. Council; Composition; Terms of Office. The Town Council shall be composed of four members, each of whom shall be elected by and from the qualified voters of the Town for terms of two years each in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Section 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected by and from the qualified voters of the Town in the manner provided by Article III of this Charter to serve for a term of two years, or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Council. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Section 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the 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.

"Section 2.5. Meetings of the Council. In accordance with the General Statutes, the 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.

"Section 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.

“Section 2.7. Voting Requirements; Quorum. Official action of the Council shall, unless provided otherwise 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.

“Section 2.8. Qualifications for Office; Vacancies. The qualifications of governing body members and the filling of vacancies on the governing body shall be in accordance with applicable provisions of the General Statutes.

#### “ARTICLE III. ELECTIONS.

“Section 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 Council shall be elected according to the nonpartisan plurality method.

“Section 3.2. Election of the Mayor. At the regular municipal election in 1979, and biennially thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by all the voters of the Town voting at large.

#### “ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

“Section 4.1. Form of Government. 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.

“Section 4.2. Town Attorney. The 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, 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 Council; and to perform other duties required by law or as the Council may direct.

“Section 4.3. Town Clerk. The Council shall provide for the appointment of 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 Council may direct.

“Section 4.4. Town Treasurer. The Council shall provide for the appointment of Town Treasurer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

“Section 4.5. Town Tax Collector. The Council 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 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.

“Section 4.6. Consolidation of Functions. The Town Council may consolidate any two or more positions of Town Clerk, Tax Collector and Treasurer, 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.

"Section 4.7. Other Administrative Officers and Employees. Consistent with applicable State laws, the 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. SPECIAL PROVISIONS.

"Section 5.1. Assessments for Street and Sidewalk Improvements; Petition Unnecessary. A. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town 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 Council 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 assessments 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 Council as a fact:

- (1) That the street improvement project does not exceed 1,200 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 improvement, 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 street in accordance with the street classification and improvement standards established by the Town thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Section.

C. For the purposes of this Section, the term street improvement shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of rights-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 Town 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 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 Council may order the cost of the 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 Section, the Town 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 Section 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.

“Section 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 of 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 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.

“Section 5.3. Sale of Property. The Town Council shall have full power at all times to sell, at public or private sale, any real or personal property belonging to said town, other than property in use as town hall, fire department, and other public uses, notwithstanding provisions of G.S. 160A-266 to the contrary.

“Section 5.4. Alcoholic Beverage Control Stores. A. The governing body of the Town of Rutherfordton may, on its own motion, and shall, upon receipt of petition signed by qualified voters of the Town equal in number to fifteen percent (15%) of the votes cast for Mayor in the most recent regular town election, call and conduct a special election in the Town upon the question of whether Alcoholic Beverage Control stores shall be established in the Town and/or whether ‘off-premises’ sales of malt beverages shall be permitted. Such election or elections may be held notwithstanding the provisions of G.S. 18A-52(d) (h) and (i). No new registration of voters shall be necessary for such special election, and all qualified voters of the town who are registered prior to the registration period for such special election, and all who register during such period shall be eligible and entitled to vote in such special election. 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 Town of Rutherfordton. The governing body shall cause public notice of any such special election to be posted at the Town Hall and published in a newspaper having general circulation in the town at least 15 days preceding the day of the election.

B. At such special election, ballots shall be provided which contain the words, ‘For Town Alcoholic Beverage Control Stores’ and ‘Against Town Alcoholic Beverage Control Stores’ and/or, ‘For off-premises sales of malt beverages’ and ‘Against off-premises sales of malt beverages’. The Town Council shall determine whether both questions are to be included on the same ballot or

separate ballots. Appropriate squares shall be printed to the left of each phrase so that each voter may designate with an 'X' his preference. The cost of conducting the election shall be appropriated from the General Fund of the Town of Rutherfordton.

C. If a majority of the votes cast at any such special election authorized under this section shall be cast 'For Town Alcoholic Beverage Control Stores' then it shall thereafter be lawful for such store or stores to be established and operated within the town, and the Town Council will then immediately create and appoint the Town of Rutherfordton Alcoholic Beverage Control Board, to be composed of a chairman and two other members. The member designated chairman by the Town Council shall serve for a term of three years; one member for a term of two years; and one member for a term of one year. After serving the initial terms, successors shall be appointed for terms of three years. Any vacancy on such board shall be filled by the Town Council for the unexpired term. Compensation of the members of the Board shall be fixed by the Town Council. If a majority of the votes cast in any such election authorized under this section shall be cast 'For off-premises sales of malt beverages' then the off-premises sale of malt beverages shall thereafter be lawful in the Town of Rutherfordton.

D. The Town of Rutherfordton Alcoholic Beverage Control Board shall have all the powers granted to, and duties imposed upon, county alcoholic control boards by G.S. 18A-17, except that G.S. 18A-17 (14) shall not apply to the Rutherfordton Board of Alcoholic Beverage Control, and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control as granted by G.S. 18A-15; provided, however, that the location of stores and the purchase or lease of real property shall be subject to the approval of the Town Council.

The Rutherfordton Board of Alcoholic Beverage Control on a quarterly basis shall, after retaining a sufficient and proper working capital and making payment of salaries and expenses, distribute the net profits out of the operation of said alcoholic beverage control store(s) in the following manner, and none other:

Five percent (5%) to the Rutherford County Department of Mental Health to be specifically used for operation and programs of the Green Street Center for Alcohol and Drug Abuse Rehabilitation, for so long as the Center shall be located in the corporate limits of the Town of Rutherfordton.

Ten percent (10%) to the Rutherford County Board of Education for specific use in meeting capital outlay needs at Rutherfordton-Spindale High School.

Five percent (5%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at Rutherfordton Elementary School.

Five percent (5%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at New Hope Middle School.

Five percent (5%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at Ruth Elementary School.

Twenty percent (20%) to the Town of Rutherfordton Parks and Recreation Commission to be used for capital improvements, maintenance and programs in its Recreational activities.

Twenty-five percent (25%) to the Town Council of Rutherfordton for use in law enforcement through the Town Police Department.

Twenty-five percent (25%) to the Town Council of Rutherfordton to be used for any lawful purposes the board may deem necessary and essential.

All agencies outside of the government of the Town of Rutherfordton which receive net proceeds from the Town Alcoholic Beverage Control Board, shall be required to file an annual report to the Town Council, specifying how all proceeds were expended.

E. Subsequent elections on Alcoholic Beverage Control stores or off-premises sales of malt beverages shall not be held within two years of any previous election on the question, provided an election on one question shall not prevent an election on the other question.

If a subsequent election is held and the majority of the votes are cast 'Against Town Alcoholic Beverage Control Stores' the Town of Rutherfordton Alcoholic Beverage Control Board shall, within three months of certification of such election, dispose of all alcoholic beverages on hand and all of the assets under the control of said board, and convert the same into cash and turn the same over to the Town Treasurer. If a subsequent election is held and the majority of the votes are cast 'Against off-premises sales of malt beverages' then the off-premises sale of malt beverages shall cease to be lawful in the Town of Rutherfordton."

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Rutherfordton 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 Rutherfordton.

(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 38, Private Laws 1787  
Chapter 47, Private Laws 1793  
Chapter 83, Private Laws 1819  
Chapter 48, Private Laws 1832-33  
Chapter 57, Private Laws 1841  
Chapter 316, Private Laws 1851  
Chapter 270, Private Laws 1855  
Chapter 21, Private Laws 1866  
Chapter 132, Public Laws 1868-69  
Chapter 1, Private Laws 1869  
Chapter 146, Private Laws 1887  
Chapter 139, Private Laws 1899



Chapter 453, Public Laws 1901  
Chapter 317, Private Laws 1901  
Chapter 308, Private Laws 1903  
Chapter 592, Public Laws 1905  
Chapter 420, Private Laws 1907  
Chapter 435, Private Laws 1907  
Chapter 30, Private Laws 1911  
Chapter 216, Private Laws 1913  
Chapter 253, Private Laws 1913  
Chapter 18, Private Laws, Extra Session 1913  
Chapter 132, Private Laws 1917  
Chapter 159, Private Laws 1917  
Chapter 17, Private Laws 1919  
Chapter 125, Private Laws 1919  
Chapter 134, Private Laws 1921  
Chapter 89, Private Laws 1923  
Chapter 42, Private Laws, Extra Session 1924  
Chapter 50, Private Laws, Extra Session 1924  
Chapter 68, Private Laws, Extra Session 1924  
Chapter 46, Private Laws 1927  
Chapter 21, Private Laws 1929  
Chapter 34, Private Laws 1929  
Chapter 157, Private Laws 1929  
Chapter 7, Private Laws 1933  
Chapter 117, Private Laws 1933  
Chapter 95, Private Laws 1935  
Chapter 102, Private Laws 1935  
Chapter 170, Private Laws 1935  
Chapter 254, Private Laws 1935  
Chapter 232, Public-Local Laws 1939  
Chapter 310, Private Laws 1941  
Chapter 9, Session Laws 1943  
Chapter 232, Session Laws 1943  
Chapter 625, Session Laws 1945  
Chapter 557, Session Laws 1945  
Chapter 267, Session Laws 1953  
Chapter 370, Session Laws 1961

**Sec. 5.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (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.** All existing ordinances and resolutions of the Town of Rutherfordton and all existing rules or regulations of departments or agencies of the Town of Rutherfordton, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

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 Rutherfordton 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 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.** 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 its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

## S. B. 438

## CHAPTER 351

### AN ACT TO ALLOW THE TOWN OF LAKE LURE TO VOTE ON BEER AND WINE SALES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the population limitation in G.S. 18A-52, the Town of Lake Lure is authorized to hold malt beverage and unfortified wine elections as provided in G.S. 18A-52 and G.S. 18A-53.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

## S. B. 448

## CHAPTER 352

### AN ACT AMENDING G.S. 143-129 RELATING TO THE LETTING OF PUBLIC CONTRACTS BY THE CITY OF CHARLOTTE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3, Chapter 1158 of the Session Laws of 1973 (2nd Session, 1974) is amended by deleting the words "the City of Charlotte and".

**Sec. 2.** G.S. 143-129 is hereby amended by deleting the words and figures "two thousand five hundred dollars (\$2,500)" as the same appears in line 5 and substituting in lieu thereof the words and figures "ten thousand dollars (\$10,000)".

**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 12th day of April, 1979.

## S. B. 455

## CHAPTER 353

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF LAKE LURE, RUTHERFORD 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 Lake Lure shall call a special 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 Rutherford 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 shall not be necessary, and all qualified voters who are properly registered prior to registration for the election and those who register for the election shall be 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 Lake Lure.

**Sec. 3.** There shall be submitted to the qualified voters of the Town of Lake Lure 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 such stores shall be set up or operated in the Town of Lake Lure 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 Lake Lure 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 Lake Lure 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 Lake Lure Board of Alcoholic Beverage Control. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Lake Lure 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 Lake Lure to be used for any and all purposes for which tax and nontax revenues may be expended by the town. The Town Council shall expend a sum not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics. The Town Council may expend the remaining net profits for any authorized purpose.

**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 Lake Lure. Thereafter, all public, local, and private laws applicable to the sale of intoxicating beverages within the Town of Lake Lure 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 Lake Lure 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 number of registered voters in the town that voted in the election for the governing body of the town in the last election, 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 12th day of April, 1979.

## H. B. 166

## CHAPTER 354

## AN ACT TO REPEAL ACTS OF THE GENERAL ASSEMBLY RELATING TO NEW HANOVER COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The following acts of the General Assembly of the State of North Carolina, to the extent that such acts apply to the County of New Hanover, North Carolina, are repealed:

Laws of 1777, Chapters 2, 5, 26, 29 and 35  
Laws of 1778, Chapters 1 and 4  
Laws of 1779, Chapters 6 and 18  
Laws of 1781, Chapter 17  
Laws of 1782, Chapters 28 and 34  
Laws of 1783, Chapters 24 and 29  
Laws of 1784, Chapters 17, 26, 27 and 51  
Laws of 1785, Chapters 2, 34, 35 and 49  
Laws of 1786, Chapters 22, 32, 44 and 50  
Laws of 1787, Chapters 21, 30 and 52  
Laws of 1788, Chapters 11 and 39  
Laws of 1789, Chapters 4 and 16  
Laws of 1790, Chapter 31  
Laws of 1791, Chapters 26, 27, 28, 44, 60 and 70  
Laws of 1792, Chapters 20, 29, 31 and 53  
Laws of 1793, Chapter 48  
Laws of 1794, Chapters 50, 53, 63, 65, 67, 78 and 88  
Laws of 1796, Chapters 30 and 89  
Laws of 1797, Chapters 27 and 42  
Laws of 1798, Chapters 59, 63, 72 and 98  
Laws of 1799, Chapter 54  
Laws of 1801, Chapter 110  
Laws of 1802, Chapters 40, 46, 77 and 103  
Laws of 1803, Chapters 45, 64, 70 and 95  
Laws of 1804, Chapters 20, 58 and 89  
Laws of 1805, Chapters 23 and 45  
Laws of 1806, Chapters 1, 15, 40, 60 and 84  
Laws of 1807, Chapters 23, 73, 75 and 85  
Laws of 1808, Chapters 45 and 104  
Laws of 1810, Chapters 8, 71, 79 and 135  
Laws of 1811, Chapters 2, 9 and 24  
Laws of 1812, Chapters 45, 62, 91, 108 and 121  
Laws of 1813, Chapters 90 and 108  
Public Laws of 1815, Chapters 14 and 15  
Private Laws of 1815, Chapter 48  
Public Laws of 1816, Chapter 19  
Private Laws of 1816, Chapters 92 and 111  
Public Laws of 1817, Chapter 28

Private Laws of 1817, Chapters 32, 41, 48 and 86  
Public Laws of 1818, Chapter 18  
Private Laws of 1818, Chapters 42 and 47  
Private Laws of 1819, Chapter 134  
Public Laws of 1820, Chapter 31  
Private Laws of 1820, Chapters 69 and 96  
Private Laws of 1821, Chapters 70 and 117  
Private Laws of 1822, Chapters 81 and 137  
Public Laws of 1823, Chapters 1 and 44  
Private Laws of 1823, Chapters 74, 81 and 110  
Private Laws of 1824, Chapters 55, 76 and 77  
Public Laws of 1825, Chapter 5  
Private Laws of 1825, Chapter 83  
Private Laws of 1826, Chapter 54  
Private Laws of 1827-28, Chapter 161  
Private Laws of 1828-29, Chapters 112, 123 and 165  
Private Laws of 1829-30, Chapters 43, 81 and 86  
Private Laws of 1830-31, Chapters 139, 153 and 156  
Public Laws of 1831-32, Chapter 45  
Private Laws of 1831-32, Chapters 58, 91, 102 and 104  
Private Laws of 1832-33, Chapters 89 and 147  
Private Laws of 1833-34, Chapters 94, 143 and 146  
Private Laws of 1834-35, Chapters 142 and 152  
Private Laws of 1835, Chapters 49 and 157  
Public Laws of 1836-37, Chapter 19  
Public Laws of 1842-43, Chapter 51  
Private Laws of 1842-43, Chapter 42  
Public Laws of 1844-45, Chapter 49  
Private Laws of 1844-45, Chapter 41  
Public Laws of 1846-47, Chapters 39 and 40  
Private Laws of 1846-47, Chapter 192  
Public Laws of 1848-49, Chapters 52 and 60  
Private Laws of 1848-49, Chapters 135 and 190  
Public Laws of 1850-51, Chapters 27 and 116  
Public Laws of 1852, Chapters 38, 69 and 134  
Private Laws of 1852, Chapter 221  
Public Laws of 1854-55, Chapters 16, 20 and 26  
Private Laws of 1854-55, Chapters 88, 128 and 271  
Public Laws of 1856-57, Chapters 31 and 41  
Public Laws of 1858-59, Chapters 23 and 59  
Private Laws of 1858-59, Chapters 116 and 120  
Public Laws of 1860-61, Chapter 29  
Private Laws of 1860-61, Chapters 85, 154 and 194  
Public Laws of 1864-65, Chapter 9  
Private Laws of 1865, Special Session, Chapter 16  
Public Laws of 1866-67, Chapters 80 and 128  
Public Laws of 1868, Special Session, Chapters 20, 33  
and 59  
Public Laws of 1868-69, Chapters 16, 24, 25, 185, 255  
and 256

- Private Laws of 1868-69, Chapters 10, 15 and 47  
Public Laws of 1869-70, Chapters 37 and 235  
Private Laws of 1869-70, Chapters 53 and 89  
Public Laws of 1870-71, Chapters 47, 160, 161, 192  
and 257  
Private Laws of 1870-71, Chapters 6 and 59  
Public Laws of 1871-72, Chapters 5, 13 and 67  
Private Laws of 1871-72, Chapters 94 and 119  
Public Laws of 1872-73, Chapters 42, 163 and 171  
Private Laws of 1872-73, Chapter 73  
Public Laws of 1873-74, Chapters 2, 97 and 137  
Private Laws of 1873-74, Chapters 2, 97 and 120  
Public Laws of 1874-75, Chapters 1 and 239  
Private Laws of 1874-75, Chapters 155 and 163  
Public Laws of 1876-77, Chapters 19, 46, 61, 119, 154,  
174, 182, 206, 218, 227, 242, 285, 290 and 292  
Private Laws of 1876-77, Chapters 21, 61, 70 and 85  
Public Laws of 1879, Chapters 91, 112, 283, 297 and  
330  
Private Laws of 1879, Chapter 72  
Public Laws of 1880, Special Session, Chapter 13  
Public Laws of 1881, Chapters 23, 181, 234, 280, 294,  
296, 308 and 331  
Public Laws of 1883, Chapters 215, 226, 300, 345, 372,  
382, 386 and 414  
Public Laws of 1885, Chapters 17, 21, 63, 105, 126, 167,  
180, 312 and 414  
Public Laws of 1887, Chapters 11, 60, 66, 82, 95, 122,  
132, 188, 322 and 355  
Public Laws of 1889, Chapters 7, 46, 59, 149, 423, 437,  
463 and 521  
Private Laws of 1889, Chapter 231  
Public Laws of 1891, Chapters 14, 105, 128, 198, 199,  
338, 345, 349, 375, 377, 429 and 499  
Public Laws of 1893, Chapters 261, 291, 408, 418 and 505  
Private Laws of 1893, Chapters 33, 54 and 199  
Public Laws of 1895, Chapters 156, 159, 173, 314, 336,  
383 and 412  
Private Laws of 1895, Chapters 16, 45, 91, 159, 173 and  
225  
Public Laws of 1897, Chapters 3, 13, 200, 315 and 359  
Private Laws of 1897, Chapter 129  
Public Laws of 1899, Chapters 3, 17, 175, 217, 256, 262,  
290, 418, 440, 471, 488, 507, 511, 515, 581, 633,  
634, 672, 706 and 719  
Private Laws of 1899, Chapters 164, 232, 348 and 355  
Public Laws of 1901, Chapters 28, 29, 32, 34, 49, 173,  
241, 314, 329, 548, 700, 729, 771 and 772  
Private Laws of 1901, Chapters 12, 201, 367 and 403  
Public Laws of 1903, Chapters 216, 355, 533, 554, 624,

and 662

Private Laws of 1903, Chapters 2 and 35

Public Laws of 1905, Chapters 252, 340, 373, 409, 447,  
517, 569, 646, 708, 745, 795, 819 and 837

Private Laws of 1905, Chapters 4, 6, 7 and 8

Public Laws of 1907, Chapters 82, 145, 175, 187, 269,  
454, 548, 625, 752, 768, 924, and 1018

Private Laws of 1907, Chapters 34, 38, 138, 241 and 347

Public Laws of 1908, Special Session, Chapters 8 and 57

Private Laws of 1908, Special Session, Chapter 13

Public Laws of 1909, Chapters 37, 52, 302, 308, 342,  
392, 398, 445, 739, 757 and 787

Public Laws of 1911, Chapter 60

Public-Local Laws of 1911, Chapters 55, 60, 140, 146,  
160, 217, 367, 397, 464 and 650

Private Laws of 1911, Chapters 75, 169, 184 and 461

Public Laws of 1913, Chapters 50, 84 and 196

Public-Local Laws of 1913, Chapters 74, 86, 146, 254,  
265, 293, 309, 316, 319, 400, 454, 495, 509, 558,  
561, 761 and 771

Private Laws of 1913, Chapters 375 and 473

Public Laws of 1913, Special Session, Chapters 42 and 61

Public-Local Laws of 1913, Special Session, Chapters  
102, 156, 236, 253 and 273

Public Laws of 1915, Chapters 70, 101, 162, 184, 200,  
264 and 280

Public-Local Laws of 1915, Chapters 13, 66, 68, 72, 147,  
196, 215, 218, 219, 248 and 656

Private Laws of 1915, Chapters 148 and 184

Public Laws of 1917, Chapters 33, 66, 179 and 290

Public-Local Laws of 1917, Chapters 213, 316, 477, 606,  
610, 650, 665, 667, 673, 677 and 680

Public Laws of 1919, Chapters 167, 209 and 333

Public-Local Laws of 1919, Chapters 318, 458, 466, 483,  
495, 514, 568, 585, 589 and 603

Public Laws of 1920, Special Session, Chapter 13

Public-Local Laws of 1920, Special Session, Chapter 130

Public Laws of 1921, Chapters 49, 69 and 79

Public-Local Laws of 1921, Chapters 95, 146, 257, 335,  
345, 353, 389, 422, 491, 505, 546 and 553

Private Laws of 1921, Chapters 5 and 57

Public Laws of 1921, Special Session, Chapter 42

Public-Local Laws of 1921, Special Session, Chapters  
169, 186, 229 and 246

Public Laws of 1923, Chapters 132 and 175

Public-Local Laws of 1923, Chapters 17, 85, 177, 268,  
277, 360, 361, 428, 518, 552, 594, 605, 607, 613,  
and 614

Public-Local Laws of 1924, Special Session, Chapters  
154, 187 and 190



- Public Laws of 1925, Chapters 111, 233, 305 and 314  
Public-Local Laws of 1925, Chapters 287, 302, 437, 454,  
and 595  
Public Laws of 1927, Chapter 41  
Public-Local Laws of 1927, Chapters 241, 277, 317, 390,  
449, 556, 636 and 700  
Public-Local Laws of 1929, Chapters 147, 274, 351, 353,  
441 and 489  
Public Laws of 1931, Chapter 58  
Public-Local Laws of 1931, Chapters 43, 45, 70, 75, 77,  
92, 111, 241, 366, 400 and 419  
Private Laws of 1931, Chapters 136 and 180  
Public Laws of 1933, Chapters 40, 172, 422, 540, 548,  
and 559  
Public-Local Laws of 1933, Chapters 92, 94, 183, 225,  
344 and 484  
Private Laws of 1933, Chapter 188  
Public Laws of 1935, Chapters 14, 17, 237, 338 and 415  
Public-Local Laws of 1935, Chapters 27, 41, 73, 170,  
299, 310, 314, 315, 316, 352, 373, 389, 390, 407,  
415, 433, 440, 459, 493, 510 and 537  
Private Laws of 1935, Chapter 179  
Public Laws of 1937, Chapters 292, 297 and 411  
Public-Local Laws of 1937, Chapters 8, 18, 106, 118,  
221, 250, 342, 483, 581 and 644  
Public Laws of 1939, Chapters 109, 251, 274 and 310  
Public-Local Laws of 1939, Chapters 224, 324, 410, 438,  
470, 501, 513, 575 and 578  
Public Laws of 1941, Chapters 75, 99, 208 and 365  
Public-Local Laws of 1941, Chapters 1, 23, 50, 96, 227,  
298, 364 and 476  
Private Laws of 1941, Chapters 10 and 17  
Session Laws of 1943, Chapters 371, 544 and 618  
Session Laws of 1945, Chapters 188, 453, 607, 841 and  
1060  
Session Laws of 1947, Chapters 135, 142, 579, 619, 768,  
781, 872, 883 and 1038  
Session Laws of 1949, Chapters 394, 396, 535, 780, 992  
and 1050  
Session Laws of 1951, Chapters 625, 686, 701, 709, 862,  
906, 1039, 1123 and 1226  
Session Laws of 1953, Chapters 134, 513, 514, 553, 581,  
628, 634, 684, 752, 786, 788, 1270 and 1272  
Session Laws of 1955, Chapters 422, 663, 669, 1011, 1116  
and 1356  
Session Laws of 1957, Chapters 29, 32, 37, 137, 460,  
470, 502, 616, 1056, 1071 and 1160  
Session Laws of 1959, Chapters 120, 217, 444, 471, 474,  
907 and 1135  
Session Laws of 1961, Chapters 73, 146, 265, 621, 901

and 1189

Session Laws of 1963, Chapters 108, 404, 444, 554, 788,  
796, 1068, 1124, 1165 and 1218

Session Laws of 1965, Chapters 307 and 704

Session Laws of 1967, Chapters 224, 270, 691, 715, 954,  
1063 and 1270

Session Laws of 1969, Chapters 189, 245, 302, 371, 544,  
564, 559, 958, 985 and 1054

Session Laws of 1971, Chapters 95, 222, 269, 313, 381,  
777 and 882

Session Laws of 1973, Chapter 538

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1979.

H. B. 787

## CHAPTER 355

AN ACT TO AMEND CHAPTER 146 OF THE 1941 PUBLIC-LOCAL LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first paragraph of Section 1 of Chapter 146, Public-Local Laws of 1941, is amended to increase the membership of the Greenville Utilities Commission by one member, who shall be a bona fide resident of the city and who shall be appointed by the Greenville City Council for a term of five years. The first person to fill this position shall hold office from the date of the appointment until the first regular council meeting in March, 1984.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

S. B. 203

## CHAPTER 356

AN ACT TO SET THE SAME APPLICATION PERIOD AS LISTING PERIOD FOR SENIOR CITIZENS AND DISABLED PERSONS USING THE HOMESTEAD EXCLUSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first sentence of G.S. 105-277.1(c) is amended to read as follows:

“(c) Application. Applications for the exclusions provided by this section are to be filed during the regular listing period, but, shall be accepted at anytime up to and through April 15 of the calendar year for which they are to be effective.”

**Sec. 2.** This act is effective with respect to taxable years beginning on and after January 1, 1980.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

H. B. 283

## CHAPTER 357

## AN ACT TO REVISE THE PROCEDURES FOR HANDLING VOTER CHALLENGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-85 is rewritten to read as follows:

“§ 163-85. *Challenge procedure other than on day of primary or election.*—(a) Any registered voter of the county may challenge the right of any person to register, remain registered or vote in such county. No such challenge may be made after the close of the registration books, pursuant to G.S. 163-67, before each primary, general, or special election.

(b) Challenges shall be made to the county board of elections. Each challenge shall be made separately, in writing, under oath and on forms prescribed by the State Board of Elections, and shall specify the reasons why the challenged voter is not entitled to register, remain registered, or vote. When a challenge is made, the board of elections shall cause the word ‘challenged’ to be written in pencil on the registration records of the voter challenged. The challenge shall be signed by the challenger and shall set forth the challenger’s address.

(c) Such challenge may be made only for one or more of the following reasons:

- (1) that a person is not a resident of the State of North Carolina, or
- (2) that a person is not a resident of the county in which the person is registered, or
- (3) that a person is not a resident of the precinct in which the person is registered, or
- (4) that a person is not 18 years of age, or if the challenge is made within 60 days before a primary, that the person will not be 18 years of age by the next general election, or
- (5) that a person has been adjudged guilty of a felony and is ineligible to vote under G.S. 163-55(2), or
- (6) that a person is disqualified from voting under G.S. 122-55.2(c) because such person has been adjudicated incompetent under the provisions of Chapter 35 of the General Statutes and has not been restored to legal capacity, or
- (7) that a person has been disqualified from voting under G.S. 163-276 and the period of disqualification has not expired, or
- (8) that a person is not a citizen of the United States, or
- (9) with respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered.

(d) When a challenge is made, the county board of elections shall schedule a preliminary hearing on the challenge, and shall take such testimony under oath and receive such other evidence proffered by the challenger as may be offered. The burden of proof shall be on the challenger, and if no testimony is presented, the board shall dismiss the challenge. If the challenger presents evidence and if the board finds that probable cause exists that the person challenged is not qualified to vote, then the board shall schedule a hearing on the challenge.

(e) The presentation of a letter mailed by returnable first-class mail to the voter at the address listed on the voter registration card and returned because the person does not live at the address shall constitute prima facie evidence that the person no longer resides in the precinct.”

**Sec. 2.** G.S. 163-86 is rewritten to read as follows:

“§ 163-86. *Hearing on challenge.*—(a) A challenge made under G.S. 163-85 shall be heard and decided before the date of the next primary or election, except that if the board finds that because of the number of challenges, it cannot hold all hearings before the date of the election, it may order the challenges to be heard and decided at the next time the challenged person appears and seeks to vote, as if the challenge had been filed under G.S. 163-87. Unless the hearing is ordered held under G.S. 163-87, it shall be heard and decided by the board of elections.

(b) At least 10 days prior to the hearing scheduled under G.S. 163-86(c), the board of elections shall mail by first-class mail, a written notice of the challenge to the challenged voter, to the address of the voter listed in the registration records of the county. The notice shall state succinctly the grounds asserted, and shall state the time and place of the hearing. If the hearing is to be held at the polls, the notice shall state that fact and shall list the date of the next scheduled election, the location of the voter's polling place, and the time the polls will be open. A copy of the notice shall be sent to the person making the challenge and to the chairman of each political party in the county.

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

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

After swearing the challenged registrant, the board shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, the board shall tender to him the following oath or affirmation:

‘You do solemnly swear (or affirm) that you are a citizen of the United States; that you are at least 18 years of age or will become 18 by the date of the next general election; that you have or will have resided in this State and in the precinct for which registered for 30 days by the date of the next general election; that you are not disqualified from voting by the Constitution or the laws of this State; that your name is \_\_\_\_\_, and that in such name you were duly registered as a voter of \_\_\_\_\_ precinct; and that you are the person you represent yourself to be, so help you, God.’

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

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



(d) Appearance by challenged registrant. The challenged registrant shall appear in person at the challenge hearing. If he is unable to appear in person, he may be represented by another person and must tender to the county board of elections an affidavit that he is a citizen of the United States, is at least 18 years of age or will become 18 by the date of the next general election, has or will have resided in this State and in the precinct for which registered for 30 days by the date of the next general election, is not disqualified from voting by the Constitution or laws of this State, is named \_\_\_\_\_ and was duly registered as a voter of \_\_\_\_\_ precinct in such name, and is the person represented to be by the affidavit.”

**Sec. 3.** G.S. 163, Article 8, is amended by adding a new section G.S. 163-88.1 to read as follows:

“§ 163-88.1. *Request for challenged ballot.*—(a) If the decision of the registrar and judges pursuant to G.S. 163-88 is to sustain the challenge, the challenged voter may request a challenged ballot by submitting an application to the registrar, such application shall include as part thereof an affidavit that such person possesses all the qualifications for voting and is entitled to vote at the election. The form of such affidavit shall be prescribed by the State Board of Elections and shall be available at the polls.

(b) Any person requesting a challenged ballot shall have the letter ‘C’ entered at the appropriate place on the voter’s permanent registration record. The voter’s name shall be entered on a separate page in the pollbook entitled ‘Challenged Ballot’, and serially numbered. The challenged ballot shall be the same type of ballot used for absentee voters, and the registrar shall write across the top of the ballot ‘Challenged Ballot #—’, and shall insert the same serial number as entered in the pollbook. The registrar shall deliver to such voter a challenged ballot together with an envelope marked ‘Challenged Ballot’ and serially numbered. The challenged voter shall forthwith mark the ballot in the presence of the registrar in such manner that the registrar shall not know how the ballot is marked. He shall then fold the ballot in the presence of the registrar so as to conceal the markings and deposit and seal it in the serially numbered envelope. He shall then deliver such envelope to the registrar. The registrar shall retain all such envelopes in an envelope provided by the county board of elections, which he shall seal immediately after the polls close, and deliver to the board chairman at the canvass.

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

**Sec. 4.** G.S. 163, Article 8, is amended by adding new sections G.S. 163-90.1 through G.S. 163-90.3, to read as follows:

“§ 163-90.1. *Burden of proof.*—(a) Challenges shall not be made indiscriminately and may only be made if the challenger knows, suspects or reasonably believes such a person not to be qualified and entitled to vote.

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

“§ 163-90.2. *Action when challenge sustained, overruled, or dismissed.*—(a) When any challenge is sustained for any cause listed under G.S. 163-85(c), the board shall cancel the voter registration of the voter and shall remove his card from the book, but shall maintain such record for at least six months and during the pendency of any appeal.

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

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

“§ 163-90.3. *Making false affidavit perjury.*—Any person who shall knowingly make any false affidavit or shall knowingly swear or affirm falsely to any matter of thing required by the terms of this Article to be sworn or affirmed shall be guilty of perjury.”

**Sec. 5.** G. S. 163-153(6) is amended by adding the following language before the period:

“, and any voter of the county who has challenged a voter in that precinct if the challenge is heard at the polls under G.S. 163-87 and G.S. 163-88, while entering and explaining a challenge.”

**Sec. 6.** In the case of any challenge pending on the date of ratification of this act, the board of elections shall notify the challenger of the pendency of the challenge. Unless the challenger resubmits the challenge under this act within 60 days of notification, the board of elections shall dismiss the challenge.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

## H. B. 460

## CHAPTER 358

AN ACT TO AMEND CHAPTERS 122 AND 143B TO PROVIDE FOR THE ADDITION OF THE PHRASE “MENTAL RETARDATION, AND SUBSTANCE ABUSE (ALCOHOL AND DRUG ABUSE)” TO AREA MENTAL HEALTH PROGRAM TITLES AND TO ADD THE PHRASE “SUBSTANCE ABUSE” TO THE TITLE OF THE DIVISION OF MENTAL HEALTH AND MENTAL RETARDATION SERVICES OF THE DEPARTMENT OF HUMAN RESOURCES, TO ALLOW AREA BOARD MEMBER COMPENSATION, TO PERMIT THE USE OF STATE FUNDS FOR CERTAIN CONTRACTS, AND TO REQUIRE BIENNIAL PROGRAM REPORTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-35.35 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authorities” on line 7 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and

“authority” on line 11. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “program” on line 17.

**Sec. 2.** G.S. 122-35.36 is hereby amended by inserting the phrase “, Mental Retardation, and Substance Abuse” between the words “Mental Health” and “Authority” on line 3 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 8. Also insert the phrase “, Mental Retardation, and Substance Abuse” between the words “Mental Health” and “Board” on line 12. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 14. Also insert the phrase “, mental retardation, and substance abuse” after the words “mental health” on line 43.

**Sec. 3.** G.S. 122-35.37 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 5 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authorities” on line 7.

**Sec. 4.** G.S. 122-35.38 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “programs” on line 10. Also insert the phrase “, Mental Retardation, and Substance Abuse” between the words “Mental Health” and “Authority” on line 2. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “activities” on line 4. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “services” on line 6. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “services” on line 8. Also insert the phrase “, mental retardation, and substance abuse” between the words “health” and “service” on line 12. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “service” on line 14.

**Sec. 5.** G.S. 122-35.39 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 2 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 7. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “board” on line 8. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “board” on line 10. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 11. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “board” on line 14. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “board” on line 16.

**Sec. 6.** G.S. 122-35.40 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “board” on line 1 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “health” and “board” on line 2. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “board” on line 8. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental

health” and “board” on line 20. Also insert the phrase “, mental retardation, and substance abuse” after the words “mental health” on line 24. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “board” on line 29.

**Sec. 7.** G.S. 122-35.41 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 9 of that section.

**Sec. 8.** The title to Article 2F of Chapter 122 is hereby amended by rewriting that title to read as follows: “Area Mental Health, Mental Retardation, and Substance Abuse (Alcohol and Drug Abuse) Programs.”

**Sec. 9.** The title to Part 2 of Article 2F is hereby amended by rewriting that title to read as follows: “Authorization of Area Mental Health, Mental Retardation, and Substance Abuse Services.”

**Sec. 10.** The title to Part 3 of Article 2F is hereby amended by rewriting that title to read as follows: “Responsibilities of Area Mental Health, Mental Retardation, and Substance Abuse Authorities.”

**Sec. 11.** The title to Part 4 of Chapter 122 is hereby amended by rewriting that title to read as follows: “Appropriations for Mental Health, Mental Retardation, and Substance Abuse Service Programs.”

**Sec. 12.** G.S. 122-35.43 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authorities” on line 3 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authorities” on line 18.

**Sec. 13.** G.S. 122-35.44 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 3 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “program” on line 6. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on lines 15, 21, and 25.

**Sec. 14.** G.S. 122-35.45 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 3 of that section. Also insert the phrase “, Mental Retardation, and Substance Abuse” between the words “Mental Health” and “Authority” on line 7. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 8. Also insert the phrase “, mental retardation, and substance abuse” between the words “health” and “authority” on line 9. Also insert the phrase “, Mental Retardation, and Substance Abuse” between the words “Mental Health” and “Director” on line 11. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “director” on line 13 in two places.

**Sec. 15.** G.S. 122-35.46 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “employees” on line 1 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “employees” on line 2. Also insert the phrase “, mental retardation, and substance abuse” before the word “authority” on line 3. Also insert the phrase



“, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 7.

**Sec. 16.** G.S. 122-35.47 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 1 of that section. Also insert the phrase “, mental retardation, and substance abuse” after the words “area mental health” on line 5. Also insert the phrase “, mental retardation, and substance abuse” between the words “health” and “service” on line 9.

**Sec. 17.** G.S. 122-35.48 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “health” and “authorities” on line 2 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on lines 4 and 8.

**Sec. 18.** G.S. 122-35.49 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 1 of that section. Also insert the phrase “, mental retardation, and substance abuse” after the phrase “mental health” on line 3. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 6.

**Sec. 19.** G.S. 122-35.50 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 1 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “health” and “authority” on line 2.

**Sec. 20.** G.S. 122-35.51 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “facility” on line 1 of that section.

**Sec. 21.** G.S. 122-35.52 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 4 of that section.

**Sec. 22.** G.S. 122-35.54 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” after the words “mental health” on line 2 of that section. Also insert the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authorities” on line 6.

**Sec. 23.** The section headings of G.S. 122-35.37, G.S. 122-35.38, G.S. 122-35.39, G.S. 122-35.40, G.S. 122-35.46, G.S. 122-35.50, and G.S. 122-35.55 are hereby rewritten to read, respectively, as follows:

“§ 122-35.37. *Establishment of mental health, mental retardation, and substance abuse services.*”

“§ 122-35.38. *Designation of the Department of Human Resources as the State Mental Health, Mental Retardation, and Substance Abuse Authority.*”

“§ 122-35.39. *Designation of the local governmental units to specify responsible area mental health, mental retardation, and substance abuse authority.*”

“§ 122-35.40. *Structure of area mental health, mental retardation, and substance abuse board.*”

“§ 122-35.46. *Salary plans for area mental health, mental retardation, and substance abuse employees.*”

*“§ 122-35.50. Appeal by area mental health, mental retardation, and substance abuse authority.”*

*“§ 122-35.55. Allocation of State matching funds to area mental health, mental retardation, and substance abuse authorities.”*

**Sec. 24.** G.S. 122-35.56 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authorities” on line 3 of that section.

**Sec. 25.** G.S. 122-35.57 is hereby amended by inserting the phrase “, mental retardation, and substance abuse” between the words “mental health” and “authority” on line 3 of that section.

**Sec. 26.** Whenever the terms, in singular or plural forms, “area mental health authority,” “area mental health program,” “area mental health board,” “area mental health director,” and “area mental health employee” appear in the General Statutes, then those terms are hereby amended to read “area mental health, mental retardation, and substance abuse authority,” “area mental health, mental retardation, and substance abuse program,” “area mental health, mental retardation, and substance abuse board,” “area mental health, mental retardation, and substance abuse director,” and “area mental health, mental retardation, and substance abuse employee”, respectively.

**Sec. 27.** Whenever the phrase “Division of Mental Health and Mental Retardation Services” appears in any statute or law of this State or any bill ratified after this bill during this Session of the General Assembly, unless an express contrary intent is specified in such bill, it shall be deleted and the phrase “Division of Mental Health, Mental Retardation, and Substance Abuse Services” shall be substituted therefor if appropriate to the context. Such changes will be made in, including, but not limited to, the following areas of the General Statutes: G.S. 122-58.4(c) as the same appears in the 1977 Cumulative Supplement to Volume 3B, lines 17 and 18; G.S. 122-58.16 as the same appears in the 1977 Cumulative Supplement to Volume 3B, lines 2 and 3; and G.S. 122-85(a) as the same appears in the 1977 Cumulative Supplement to Volume 3B, lines 13 and 14. G.S. 122-58.22(e)(2) as the same appears in the 1978 Interim Supplement is hereby amended by deleting the phrase “Division of Mental Health Services” and substituting the phrase “Division of Mental Health, Mental Retardation, and Substance Abuse Services” therefor on line 4 of that subdivision. G.S. 143B-140 is hereby amended by striking the phrase “Division of Mental Health and Mental Retardation Services” on lines 16 and 17 of that section and substituting the phrase “Division of Mental Health, Mental Retardation, and Substance Abuse Services” therefor.

**Sec. 28.** Part 2 of Article 2F of Chapter 122, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by adding a new section to read as follows:

*“§ 122-35.40A. Compensation of area mental health, mental retardation, and substance abuse board members.—(a) Area Board members may receive as compensation for their services per diem and a subsistence allowance for each day during which they are engaged in the official business of the Board. Rates will be established by the Board and they shall not exceed those rates authorized by G.S. 138-5 for State boards.*

*(b) Area Board members may be reimbursed for all necessary travel expenses and registration fees in amounts fixed by the Board.”*

**Sec. 29.** G.S. 122-35.53, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

“§ 122-35.53. *Allocation of all funds to area mental health, mental retardation, and substance abuse authorities.*—(a) All State appropriations shall be allocated to area mental health, mental retardation, and substance abuse authorities in accordance with the annual plan and budget adopted by the area mental health, mental retardation, and substance abuse authority and approved by the Department of Human Resources. However, the area mental health, mental retardation, and substance abuse authorities are empowered to receive and allocate non-State resources for the purpose of capital improvements and equipment acquisitions as long as such expenditures are made in the support of the annual plan of work. The final share of State funds will be allocated on the basis of actual expenses and reported in a manner prescribed by the Department. Unexpended State appropriations will be remitted to the Department of Human Resources within 120 days after the close of the fiscal year.

(b) Unless otherwise specified by the Department of Human Resources, State appropriations to area mental health, mental retardation, and substance abuse authorities shall be used exclusively for the operating costs of the programs. Provided, however:

- (1) The Department may specify that designated State funds may be used by the area mental health, mental retardation, and substance abuse authorities in contracting with private, nonprofit corporations operating group homes for the mentally retarded, mentally ill, or substance abuser.
- (2) Such State funds may be used under the terms of the contract between the authority and the private, nonprofit corporation to make a lump sum down payment or periodic payments on a real property mortgage in the name of such private, nonprofit corporation; however, upon termination, default, or nonrenewal of the contract by either party thereto, in the discretion of the Department of Human Resources State funds spent as mortgage payments shall be returned to the authority from said corporation in accordance with the rules and regulations adopted by the Department.
- (3) A private nonprofit corporation receiving funds under this subsection shall be subject to the provisions of G.S. 159-40 which apply to private nonprofit corporations.

(c) All real property purchased for use by the area mental health, mental retardation, and substance abuse authority shall be provided by local or federal funds and the title to such real property and the authority to acquire same shall be held by the county where the property is located.

(d) The authority to lease real property shall be held by the area mental health, mental retardation, and substance abuse authority.

(e) Equipment necessary for the operation of the area mental health, mental retardation, and substance abuse authorities shall be provided by the local, State, federal or donated funds or any combination thereof.

(f) Title to personal property and the authority to acquire or lease same, including lease-purchase arrangements, shall be held by the area mental health, mental retardation, and substance abuse authority.

(g) All community mental health, mental retardation and substance abuse funds shall be expended in accordance with rules and regulations of the Department of Human Resources and in accordance with the minimum standards set by the Commission for Mental Health and Mental Retardation Services. Failure to comply with such rules, regulations and minimum standards may be grounds for the Department of Human Resources to cease participation in the funding of the particular mental health, mental retardation, or substance abuse program. The Department may withdraw funds from a specific program of services not being administered in accordance with an approved plan and budget after written notice and subject to an appeal in accordance with G.S. 122-35.52."

**Sec. 30.** G.S. 122-35.44(c) as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out the word "biannually" immediately following the word "least" and immediately preceding the word "thereafter" in the first line of such subsection and substituting the word "biennially" therefor.

**Sec. 31.** G.S. 122-35.55 as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out the word "biannually" immediately following the word "reviewed" and immediately preceding the word "by" in line four of such section and substituting the word "biennially" therefor.

**Sec. 32.** G.S. 122-35.55 is hereby amended by rewriting the third sentence of that section to read as follows:

"Area mental health, mental retardation, and substance abuse funds used for matching State funds shall include, but not be limited to, fees from services (including Medicare and the local and federal share of Medicaid receipts), fees from agencies under contract, gifts and donations, and county and municipal funds."

**Sec. 33.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

## H. B. 520

## CHAPTER 359

AN ACT TO AMEND G.S. 55-36 WITH RESPECT TO THE VALIDITY OF CORPORATE INSTRUMENTS SIGNED BY A CORPORATION'S ASSISTANT VICE-PRESIDENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55-36 is amended in line 6 by adding a comma after the word "president", deleting the word "or" which follows the word "president", and inserting the phrase "or an assistant vice-president" after the word "vice-president".

**Sec. 2.** Subsection (b) of G.S. 55-36 is amended by adding after "vice-president," the following: "an assistant vice-president,".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.



## H. B. 687

## CHAPTER 360

## AN ACT TO PREVENT THE USE OF ARTIFICIAL LIGHT IN AREAS INHABITED BY GAME OR NONGAME ANIMALS IN GREENE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any person who, between the hour of ten o'clock p.m. on any day and one-half hour before sunrise on the following day, deliberately flashes or displays an artificial light from or attached to a motor-driven conveyance or from any means of conveyance attached to the motor-driven conveyance so as to cast the beam thereof beyond the surface of a roadway or in any field, woodland or forest in an area frequented or inhabited by game or nongame animals shall be guilty of a misdemeanor. Every person occupying the vehicle or conveyance at the time of the violation shall be deemed *prima facie* guilty of the violation as a principal.

**Sec. 2.** The provisions of this act shall not apply to opossum or raccoon hunters accompanied by opossum or raccoon hunting dogs, or to frog hunters in or within 20 feet of water.

**Sec. 3.** The provisions of this act do not apply to the person while on land owned by him in fee simple or in which he has a life estate or a person who leases land for agricultural purposes, but the fact of such ownership shall be a matter of defense in any prosecution for violation of this act.

**Sec. 4.** The North Carolina Wildlife Resources Commission is authorized to issue permits to use lights for wildlife research purposes only.

**Sec. 5.** Each person violating the provisions of this act shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or imprisoned not less than two days or more than 30 days, or both, in the discretion of the court.

**Sec. 6.** This act applies to Greene County only.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

## S. B. 240

## CHAPTER 361

## AN ACT TO AMEND CHAPTER 121 OF THE GENERAL STATUTES RELATING TO FEES CHARGED BY THE DEPARTMENT OF CULTURAL RESOURCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 121-5(d), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by adding after the last sentence the words: "The Department may answer written inquiries for nonresidents of North Carolina and for such service charge a search and handling fee not to exceed ten dollars (\$10.00), the receipts from which fee shall be used to defray the cost of providing such service."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

## S. B. 344

## CHAPTER 362

## AN ACT TO PERMIT THE PAYMENT OF INTEREST ON DEFERRED INTEREST AS AGREED UPON BY THE PARTIES TO A LOAN.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 24-1.1A is amended by adding to it new subsections (g) and (h) to read as follows:

“(g) The parties to a home loan governed by G.S. 24-1.1A(a) (1) or (2) may contract in writing to defer payments of interest and for payment of interest on deferred interest as agreed upon by the parties. The parties may agree in writing that said deferred interest may be added to the principal balance of the loan. This subsection shall not be construed to limit payment of interest upon interest in connection with other types of loans.

(h) The parties to a home loan governed by G.S. 24-1.1(A)(a) (1) or (2) may agree in writing to a mortgage or deed of trust which provides that periodic payments may be graduated during parts of or over the entire term of the loan. The parties to such a loan may also agree in writing to a mortgage or deed of trust which provides that periodic disbursements of part of the loan proceeds may be made by the lender over a period of time agreed upon by the parties, or over a period of time agreed upon by the parties ending with the death of the borrower(s). Such mortgages or deeds of trust may include provisions for adding deferred interest to principal or otherwise providing for charging of interest on deferred interest as agreed upon by the parties. This subsection shall not be construed to limit other types of mortgages or deeds of trust or methods or plans of disbursement or repayment of loans that may be agreed upon by the parties.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

## S. B. 453

## CHAPTER 363

## AN ACT TO REQUIRE THAT DATED SALES CONFIRMATION SLIPS ACCOMPANY ALL SALES OF FARM PRODUCTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Article 20 is added to Chapter 106 of the General Statutes to read:

“Article 20

“Records of Sales of Farm Products

“§ 106-203. *Dated sales confirmation slips, inapplicable to consumers.*—(a) In every sales transaction of farm or horticultural crops, or animal products, the buyer, broker, or authorized agent shall give to the seller a sales confirmation slip bearing the date of the sales transaction.

(b) This section shall not apply if the buyer is a natural person and/or the farm or horticultural crops, or animal products are purchased primarily for a personal, family, or household purpose.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

## S. B. 495

## CHAPTER 364

AN ACT TO VALIDATE CERTAIN DEEDS AND CONVEYANCES OF LAND IN THIS STATE MADE BY ANY CORPORATION PRIOR TO JANUARY 1, 1969, WHERE SAID CORPORATION HAS BEEN DISSOLVED FOR AT LEAST SEVEN YEARS AND THE DEED OR CONVEYANCE HAS BEEN ON RECORD FOR AT LEAST SEVEN YEARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55-160 is hereby amended by deleting the phrase "January 1, 1939" on line 2 of that section and inserting in lieu thereof the phrase "January 1, 1969".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

## H. B. 301

## CHAPTER 365

AN ACT TO AUTHORIZE THE TOWN OF CARRBORO TO ADOPT AN ORDINANCE PROHIBITING HOUSING DISCRIMINATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Aldermen of the Town of Carrboro is authorized to adopt ordinances designed to ensure that all housing opportunities in the Town of Carrboro 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 procedure related directly or indirectly to the sale or rental of public or private housing that affects or may tend to affect the availability or desirability of housing on an equal basis to all persons, without regard to race, color, religion, sex or national origin. However, ordinances adopted pursuant to the authority contained in this act shall not apply to the rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence. Any ordinance passed pursuant to this authorization may be enforced by any method authorized for enforcement of ordinances generally in G.S. 160A-175. In addition, any ordinance adopted pursuant to this authorization may provide that any person aggrieved by any act, practice, activity or procedure prohibited by such ordinance may seek equitable relief in the appropriate division of the General Court of Justice.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 558

**CHAPTER 366****AN ACT TO CHANGE RETIREMENT BENEFITS OF THE NORTH WILKESBORO SUPPLEMENTARY PENSION FUND.***The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 120 of the 1969 Session Laws is rewritten to read as follows:

“Sec. 4(a). 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:

Retirement Age	Amount
20 years service and at least 55	\$30.00
21 years service and at least 56	\$32.00
22 years service and at least 57	\$34.00
23 years service and at least 58	\$36.00
24 years service and at least 59	\$38.00
25 years service and at least 60	\$40.00.

(b) Retired members of the fire department who were receiving monthly pensions under the provisions of former Section 4 of this act shall be entitled to receive in lieu thereof monthly pensions in the applicable amounts as set forth in subsection (a) of this section, beginning with the full calendar month following the ratification of this act.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 588

**CHAPTER 367****AN ACT TO INCREASE FROM THREE TO FIVE MEMBERS THE SIZE OF THE MECKLENBURG DRAINAGE COMMISSION.***The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 493 of the Public-Local Laws of 1917, is amended by rewriting Section 2 to read:

“Sec. 2. The Mecklenburg Drainage Commission shall be composed of five members to be appointed by the Board of Commissioners of Mecklenburg County for terms commencing January 1 of each year (or as soon thereafter as appointed), and ending December 31 of each year.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.



H. B. 589

**CHAPTER 368**

AN ACT TO MODIFY THE APPOINTMENT PROCESS FOR TRUSTEES OF THE PUBLIC LIBRARY OF CHARLOTTE AND MECKLENBURG COUNTY AS ESTABLISHED BY CHAPTER 710 OF THE SESSION LAWS OF 1965, AND TO REPEAL CHAPTER 218 OF THE SESSION LAWS OF 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of Section 2 of Chapter 710 of the Session Laws of 1965 is hereby amended by striking out said subsection (a) and inserting in lieu thereof the following:

“(a) The said Public Library of Charlotte and Mecklenburg County shall be governed by a board of seven trustees. Six trustees shall be appointed by the Board of County Commissioners of Mecklenburg County and one shall be appointed by the Charlotte-Mecklenburg Board of Education. No person shall be eligible to serve as a trustee during the time he holds any elective public office. The four trustees currently in office who were selected by the Chairman of the Board of County Commissioners of Mecklenburg County and the Mayor of the City of Charlotte pursuant to Chapter 710 of the Session Laws of 1965 shall serve the remainders of the terms for which they were appointed. Two additional trustees shall be appointed by the board of county commissioners for terms to expire on January 1, 1980, and one additional trustee shall be appointed by the Charlotte-Mecklenburg Board of Education for a term to expire on January 1, 1982. Thereafter, all terms of office for trustees shall be four years, except that an appointment to fill a vacancy of an unexpired term shall be for the remainder of the unexpired term only, and provided that all trustees shall continue in office until their successors are qualified and appointed. Any trustee appointed by the board of county commissioners may be removed with or without cause at any time by a four-fifths vote of the board of county commissioners. The trustee appointed by the Charlotte-Mecklenburg Board of Education may be removed with or without cause at any time by a two-thirds vote of the members of that board. A trustee shall be removed upon missing three consecutive meetings of the board of trustees without good cause. All trustees shall serve without compensation.”

**Sec. 2.** Subsection (d) of Section 3 of Chapter 710 of the Session Laws of 1965 shall be amended by deleting the words “and the council of the City of Charlotte,” so that subsection (d) reads simply “To sell, encumber, convey or otherwise dispose of real property, by and with the consent and approval of the Board of County Commissioners of Mecklenburg County.”

**Sec. 3.** Chapter 218 of the Session Laws of 1973 is repealed.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 632

**CHAPTER 369**

AN ACT TO REGULATE POSSESSION AND USE OF FIREARMS ON HIGHWAYS IN MOORE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 6 of Chapter 447 of the 1977 Session Laws is amended to read:

“Sec. 6. This act applies only to the counties of Scotland and Moore.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 648

**CHAPTER 370**

AN ACT TO VALIDATE A RETIREMENT ALLOWANCE PAID BY THE TOWN OF WAKE FOREST.

*The General Assembly of North Carolina enacts:*

**Section 1.** The payments by the Town of Wake Forest to Otis Nuckles since his retirement are hereby validated, ratified, and confirmed.

**Sec. 2.** The Town of Wake Forest is authorized at its option, to pay monthly to Otis Nuckles a sum of money not to exceed the amount he would have received each month if he had been a member of the North Carolina Local Governmental Employees Retirement System.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 673

**CHAPTER 371**

AN ACT TO AMEND NORTH CAROLINA GENERAL STATUTE 160A-272 RELATING TO THE LEASE OF WATERFRONT DOCKS OWNED BY THE TOWN OF BEAUFORT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The public docks, piers and wharf area owned by the Town of Beaufort and located within the Urban Renewal Area of the Town of Beaufort consisting of a two-block area located on the south side of Front Street between Turner and Queen Streets in the Town of Beaufort may be leased or rented upon such terms and conditions as the Board of Commissioners for the Town of Beaufort may determine, including leases for longer than 10 years if the Board of Commissioners for the Town of Beaufort determine that said docks, piers and wharf area will not be needed for the Town of Beaufort for the term of said lease. Notwithstanding the provisions of G.S. 160A-272, the town may lease such property for longer than 10 years as long as it follows the requirements of G.S. 160A-272 for leases of 10 years or less.

**Sec. 2.** The Town of Beaufort is hereby authorized to renew or extend any leases currently in effect on the public docks, piers and wharf area owned by the Town of Beaufort for periods in excess of 10 years upon such terms and upon such conditions as the town council may determine pursuant to a resolution of the town council authorizing the extension or renewal of any present leases on said property which may be adopted at a regular council

meeting upon 10 days public notice. Notwithstanding the provisions of G.S. 160A-272, the town may renew or extend such leases for periods longer than 10 years as long as it follows the requirements of G.S. 160A-272 for leases of 10 years or less.

**Sec. 3.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## H. B. 690

## CHAPTER 372

AN ACT TO PROVIDE FOR A NONPARTISAN ELECTION OF THE  
CABARRUS COUNTY BOARD OF EDUCATION AT THE TIME OF THE  
GENERAL ELECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Education of Cabarrus County shall consist of five members who shall be elected by the qualified voters of the Cabarrus County School District. The election shall be nonpartisan and shall be held at the same time as the general election is held for county officers. The election shall be held and conducted, insofar as is practicable, by the county board of elections in accordance with the general election laws of the State, except as otherwise provided herein.

**Sec. 2.** All candidates shall file for office no later than noon on the eleventh Friday before the election. No filing fee shall be required. The names of all persons filing for membership on the Cabarrus County Board of Education shall be placed on a ballot without party designation.

**Sec. 3.** In the election held in 1980, the two persons receiving the highest number of votes shall be elected for a term of six years. In the election held in 1982, the two persons receiving the highest number of votes shall be elected for a term of six years. In the election held in 1984, the person receiving the highest number of votes shall be elected for six years. Biennially thereafter, the number of candidates equal to the number of members to be elected, who receive the highest number of votes, shall be declared elected for a term of six years. The persons elected to the board of education shall take office on the first Monday in December in the year elected, and shall serve until their successors shall be elected and qualified.

**Sec. 4.** The terms of the two members of the present school board which expire on July 1, 1980, shall expire the first Monday in December, 1980, the terms of the two members of the present school board which expire July 1, 1982, shall expire the first Monday in December, 1982; and the term of the member of the present school board which expires July 1, 1984, shall expire the first Monday in December, 1984.

**Sec. 5.** Any vacancy occurring on the county board of education by death, resignation or otherwise, shall be filled by the remaining members of the board of education, and the person chosen shall serve for the unexpired term and until his successor is elected and qualified.

**Sec. 6.** Chapter 153, Session Laws of 1967, is repealed.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 693

**CHAPTER 373**

AN ACT TO AUTHORIZE THE CITY OF TURKEY TO CREATE A SQUIRREL SANCTUARY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The City of Turkey is hereby authorized by ordinance to create and establish a squirrel sanctuary within the city limits. If a squirrel sanctuary is created it shall be unlawful for any person to hunt, kill, trap or otherwise take a squirrel within the city limits except pursuant to a permit issued under G.S. 113-87.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 765

**CHAPTER 374**

AN ACT TO REMOVE MACON COUNTY FROM THE COUNTIES EXEMPTED FROM WORKMEN'S COMPENSATION ON DEPUTY SHERIFFS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-2(2) and G.S. 97-2(3) are amended by deleting the word "Macon,".

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

H. B. 794

**CHAPTER 375**

AN ACT TO ALLOW WAKE COUNTY TO TOW CARS FROM FIRE LANES IN UNINCORPORATED AREAS OF THE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The definition of "abandoned motor vehicle" found in G.S. 153A-132(b) is amended by rewriting paragraph (1) thereof to read as follows:

"(1) Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking or is left on private property in a properly designated fire lane in violation of an ordinance prohibiting parking in such a designated fire lane;"

**Sec. 2.** This act applies only to Wake County.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.



## H. B. 946

## CHAPTER 376

AN ACT TO AMEND CHAPTER 135 TO MAKE THE SALARY OF THE DIRECTOR OF THE STATE RETIREMENT SYSTEM SUBJECT TO CHAPTER 126.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-6(g) as the same appears in the 1974 Replacement Volume of the General Statutes is hereby amended by deleting the third sentence thereof and substituting therefor the following:

"The salary of the Director of the Retirement System is subject to the provisions of Chapter 126 of the General Statutes of North Carolina."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## S. B. 163

## CHAPTER 377

AN ACT TO AMEND G.S. 20-28 (a) TO CONFORM ITS REVOCATION AND SUSPENSION PROVISIONS TO THOSE CONTAINED IN G.S. 20-19(d) AND (e).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-28(a) is hereby amended by placing a period after the word "offense" on line 8 of the first paragraph thereof and deleting the remainder of the first paragraph.

**Sec. 2.** G.S. 20-28(a) is further amended by deleting the second paragraph and inserting in lieu thereof the following paragraph:

"Provided, however, any person whose license has been suspended or revoked under this section for 12 months may apply for a license after 90 days; any person whose license has been suspended or revoked under this section for two years may apply for a license after 12 months; any person whose license has been suspended or revoked under this section permanently may apply for a license after three years. Upon the filing of such application the Division may, with or without a hearing, issue a new license upon satisfactory proof that the former licensee has not been convicted within the suspension or revocation period of a violation of any provision of the motor vehicle laws, liquor laws or drug laws of North Carolina or any other state. The new license may be issued upon such terms and conditions as the Division may see fit to impose for the balance of the suspension or revocation period. When the suspension or revocation period is permanent the terms and conditions imposed by the Division may not exceed three years."

**Sec. 3.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## S. B. 164

## CHAPTER 378

AN ACT TO AMEND G.S. 20-28.1 TO CONFORM ITS SUSPENSION AND REVOCATION PROVISIONS TO THOSE CONTAINED IN G.S. 20-19(d) AND (e).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-28.1(c) is hereby rewritten to read as follows:

“(c) Any person whose driving privilege has been suspended or revoked under this section for 12 months may apply for a license after 90 days; any person whose license has been suspended or revoked under this section for two years may apply for a license after 12 months; any person whose license has been suspended or revoked under this section permanently may apply for a license after three years. Upon the filing of such application the Division may, with or without a hearing, issue a new license upon satisfactory proof that the former licensee has not been convicted within the suspension or revocation period of a violation of any provision of the motor vehicle laws, liquor laws, or drug laws of North Carolina or any other state. The new license may be issued upon such terms and conditions which the Division may see fit to impose for the balance of the suspension or revocation period. When the suspension or revocation period is permanent, the terms and conditions imposed by the Division may not exceed three years.”

**Sec. 2.** G.S. 20-28.1(d) is hereby repealed.

**Sec. 3.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## S. B. 274

## CHAPTER 379

AN ACT TO REPEAL CHAPTER 243 OF THE 1945 SESSION LAWS PERTAINING TO A VETERANS SERVICE OFFICER FOR JOHNSTON COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 243 of the 1945 Session Laws is repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## S. B. 406

## CHAPTER 380

AN ACT TO PLACE THE CITY OF CHARLOTTE UNDER THE PROVISIONS OF G.S. 20-219.2 WHICH PROVIDES FOR REMOVAL OF UNAUTHORIZED VEHICLES FROM PRIVATE LOTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-219.2(c) is amended by deleting the words “City of Durham”, and inserting in lieu thereof the words “Cities of Durham and Charlotte”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## S. B. 411

## CHAPTER 381

AN ACT AMENDING CHAPTER 926 OF THE 1947 SESSION LAWS, AS AMENDED, RELATING TO MEMBERSHIP ON THE BOARD OF TRUSTEES OF THE CHARLOTTE FIREMEN'S RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 926 of the 1947 Session Laws, as amended, is hereby further amended by inserting the following words after the words "City Manager":

"or some other city department head or employee, as designated by the City Manager,".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## S. B. 439

## CHAPTER 382

AN ACT TO AMEND THE CHARTER OF THE CITY OF NEWTON TO REPEAL THE REQUIREMENT THAT THE CITY MANAGER RESIDE WITHIN THE CITY AND CHANGING THE FILING DATE FOR THE HICKORY AND CATAWBA SCHOOL BOARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5.1 of the Charter of the City of Newton, as enacted by Chapter 112 of the Session Laws of 1967, is amended by rewriting the third sentence thereof to read as follows:

"The city manager need not be a resident of the city during his tenure, unless the Board of Aldermen shall require him to be, but he may not reside in any other municipality."

**Sec. 2.** Section 4 of Chapter 930, Session Laws of 1971 is amended by deleting the words "6:00 p.m. on the third Friday", and inserting in lieu thereof the words "5:00 p.m. on the ninth Friday".

**Sec. 3.** Section 3 of Chapter 874, Session Laws of 1969 is amended by deleting the words "by 12:00 noon on or before the Friday preceding the sixth Saturday", and inserting in lieu thereof the words "no later than 12:00 noon on the first Monday in February".

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## S. B. 466

## CHAPTER 383

## 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.** If during the preceding budget year any public school administrative unit in Wayne County receives or is entitled to receive noncategorical 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, 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 noncategorical 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 "noncategorical 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, Title 20, U.S.C.S. 236, *et seq.*, 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 1979-1980.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.



## H. B. 895

## CHAPTER 384

## AN ACT TO AUTHORIZE THE ISSUANCE OF MIXED BEVERAGE PERMITS TO QUALIFIED ESTABLISHMENTS AT AIRPORTS OPERATED BY CITIES VOTING FOR MIXED BEVERAGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-15(3)c3 is amended by adding the following to the end of that subdivision:

“When the spirituous liquor is purchased at a city ABC store by a mixed beverage permit holder for premises located at an airport outside the city, the ABC board share of the ten dollar (\$10.00) addition shall be divided equally among the ABC boards of all the cities in that county that have authorized the sale of mixed beverages.”

**Sec. 2.** G.S. 18A-29.1 is amended by rewriting subsection (b) to read as follows:

“(b) The mixed beverages purchase-transportation permit may be issued only by the chairman, a member, or the general manager or supervisor of the local alcoholic beverage control board for the county or city within which the premises holding the mixed beverages permit is located. However, if the authorization for mixed beverage sales has been by a city election, and the permit holder's premises is located at an airport outside the city, the purchase-transportation permit may be issued by the chairman, a member, or the general manager or supervisor of the city ABC board for any city which is in the same county as the airport and which has authorized the sale of mixed beverages. The local ABC board may designate a special store within the system to sell alcoholic beverages to be used in mixed beverages.”

**Sec. 3.** G.S. 18A-30 is amended in subsection (7) by adding the following after the first sentence of that subsection:

“When the sale of mixed beverages has been authorized in a city, permits may also be issued to qualified establishments that are outside the city but are within the same county and are on the property of an airport operated by the city or by an airport authority in which the city participates, provided the airport enplanes at least 150,000 passengers annually.”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## H. B. 252

## CHAPTER 385

## AN ACT TO EXPAND THE ORANGE COUNTY ABC BOARD AND PROVIDE THAT IT SHALL BE APPOINTED BY THE BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-16(a), G.S. 18A-16(c), and G.S. 18A-16(d) shall not apply to Orange County.

**Sec. 2.** (a) There is hereby created the Orange County Board of Alcoholic Control to consist of five members. The members of the board shall be chosen for three-year terms by the Orange County Board of Commissioners.

(b) The terms of office of the members of the Orange County Board of Alcoholic Control shall be as follows: Two members shall serve for their first

term a period of three years, two members shall serve for their first term a period of two years and the other member shall serve his first term for a period of one year, all terms beginning with the date of their appointment. After each term has expired, each successor in office shall serve for a period of three years and shall be appointed in the same manner as provided in this section. The members shall annually elect from among their own members a chairman.

(c) Any member of the Orange County Board of Alcoholic Control may be removed by the Orange County Board of Commissioners whenever such board finds that a member is unfit to serve. If any member of the county board is removed hereunder, his successor shall be selected to serve out the time for which such member was originally selected.

(d) Upon the death or resignation of any member of the Orange County Board of Alcoholic Control, before the expiration of the term of office for which said member has been appointed his replacement shall fill out the remainder of the unexpired term.

(e) The several members of the Orange County Board of Alcoholic Control shall give bond for the faithful performance of their duties, in the penal sum of five thousand dollars (\$5,000). This bond shall be payable to the State of North Carolina and to Orange County with some corporate surety, which surety shall be satisfactory to and approved by the county attorney of said county and the Chairman of the State Board and shall be deposited with the Chairman of the State Board. The State Board for and on behalf of the State of North Carolina and Orange County shall each be secured therein to the full amount of the penalty thereof, and the recovery or payment of any sums due thereunder to either shall not diminish or affect the right of the other obligee in said bond to recover the full amount of the said penalties thereof. The giving and the approval of such bond shall be a part of the qualification of said members, and no member shall be entitled to exercise any of the functions or powers incident to his appointment until and unless the said bond has been given and approved as herein provided. The Orange County Board of Commissioners shall be authorized to relieve any member of the Orange County Board of Alcoholic Control who does not handle any money or funds from furnishing such bond, and shall be further authorized to require bond in excess of five thousand dollars (\$5,000) of any member of the board handling money or funds if the Orange County Board of Commissioners deem it advisable to increase such bond.

**Sec. 3.** The salaries of the members of the Orange County Board of Alcoholic Control shall be set by the Orange County Board of Commissioners.

**Sec. 4.** The terms of the current members of the Orange County Board of Alcoholic Control shall expire when the Board of Commissioners makes its initial appointments under this act.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## H. B. 306

## CHAPTER 386

AN ACT TO AMEND G.S. 110-136 TO PERMIT GARNISHMENT OF UP TO FORTY PERCENT (40%) OF WAGES FOR CHILD SUPPORT AND TO MAKE TECHNICAL PROCEDURAL CHANGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 110-136, as found in the 1978 Interim Supplement, is amended by substituting the phrase "forty percent (40%)" for the phrase "25 percent (25%)" in the following lines: line 8 of subsection (a), line 10 of subsection (b), and lines 4 and 5 of subsection (c).

**Sec. 2.** G.S. 110-136(b), as found in the 1978 Interim Supplement, is amended by rewriting the last sentence to read: "The time period for answering or otherwise responding to pleadings, motions and other papers issued pursuant to this section shall be in accordance with the time periods set forth in G.S. 1A-1, Rules of Civil Procedure, except that the alleged employer third-party garnishee shall have 10 days from the date of service of process to answer both the motion to join him as a defendant garnishee and the motion for the wage garnishment order."

**Sec. 3.** G.S. 110-136(c), as found in the 1978 Interim Supplement, is amended on line 4 by inserting the phrase "held pursuant to this section," between the words, "hearing" and "the".

**Sec. 4.** G.S. 110-136(c), as found in the 1978 Interim Supplement, is amended on line 7 by inserting the words, "certified or" between the words, "by" and "registered".

**Sec. 5.** G.S. 110-136(c), as found in the 1978 Interim Supplement, is amended by striking the first sentence.

**Sec. 6.** G.S. 110-136(b), as found in the 1978 Interim Supplement, is amended by deleting the word "petition" in two places as the same appears on lines 2 and 3 and substituting therefor on line 2 the word "move" and substituting therefor on line 3 the word "motion".

**Sec. 7.** G.S. 110-136(b), as found in the 1978 Interim Supplement, is further amended by rewriting the sentence beginning on line 11 with the words "The petition" and ending on line 13 with the word and number "Rule 4." to read as follows: "The motion for the wage garnishment order along with a motion to join the alleged employer as a third-party garnishee defendant shall be served on both the responsible parent and the alleged employer in accordance with the provisions of G.S. 1A-1, Rules of Civil Procedure."

**Sec. 8.** G.S. 110-136, as found in the 1978 Interim Supplement, is further amended by adding a new subsection (c) between subsections "(b)" and "(c)" to read as follows:

"(c) In addition to the foregoing method for instituting a continuing wage garnishment proceeding for child support through motion, the mother, father, custodian, or guardian of the child or any designated representative interested in the support of a dependent child may in an independent proceeding petition the court for an order of continuing wage garnishment. The petition shall be verified and shall state that the responsible parent is under court order or has entered into a written agreement pursuant to G.S. 110-132 or 110-133 to provide child support, that said parent is delinquent in such child support or has been erratic in making child-support payments, the name and address of the alleged-employer garnishee of the responsible parent, the responsible parent's monthly

disposable earnings from said employer (which may be based on information and belief), and the amount sought to be garnished, not to exceed forty percent (40%) of the responsible parent's monthly disposable earnings. The petition shall be served on both the responsible parent and his alleged employer in accordance with the provisions for service of process set forth in G.S. 1A-1, Rule 4. The time period for answering or otherwise responding to process issued pursuant to this section shall be in accordance with the time periods set forth in G.S. 1A-1, Rules of Civil Procedure."

**Sec. 9.** G.S. 110-136, as found in the 1978 Interim Supplement, is further amended by re-lettering subsection "(c)" to read as subsection "(d)".

**Sec. 10.** G.S. 50-13.4(f)(4), as found in the 1976 Replacement to Volume 2A, is amended by rewriting the last sentence of that subdivision to read as follows: "Additionally, in accordance with the provisions of G.S. 110-136, a continuing wage garnishment proceeding for wages due or to become due may be instituted by motion in the original child support proceeding or by independent action through the filing of a petition."

**Sec. 11.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1979.

## H. B. 507

## CHAPTER 387

### AN ACT TO MAKE IMPAIRMENT OF THE OPERATION OF RAILROADS ILLEGAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 36 of Chapter 14 of the General Statutes is amended by adding a new Section 14-279.1 to read as follows:

"§ 14-279.1. *Unlawful impairment of operation of railroads.*—Any person who, without authorization of the affected railroad company, shall willfully do or cause to be done any act to railroad engines, equipment, or rolling stock so as to impede or prevent movement of railroad trains or so as to impair the operation of railroad equipment shall be guilty of a misdemeanor."

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## S. B. 30

## CHAPTER 388

### AN ACT TO AMEND VARIOUS MARINE FISHERIES STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-128, as the same appears in the 1978 Replacement Volume 3A, Part II of the General Statutes, is amended by deleting the words "Commercial and Sports" in line four and substituting therefor "Marine", by deleting the words "commercial and sports" in line nine and substituting therefor the word "marine" and by deleting the words "Commercial and sports" in line 15 and substituting therefor the word "Marine".

**Sec. 2.** G.S. 113-155.1, as the same appears in the 1978 Replacement Volume 3A, Part II of the General Statutes, is amended by rewriting the section as follows:



"The receipt of a current and valid commercial fishing license issued by the department shall serve as proper identification of the licensee as a commercial fisherman."

**Sec. 3.** G.S. 113-162, as the same appears in the 1978 Replacement Volume 3A, Part II of the General Statutes, is amended by denominating the existing paragraph as subsection "(a)" and by adding a new subsection "(b)" to read as follows:

"(b) A violation of this section is punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00)."

**Sec. 4.** G.S. 113-163, as the same appears in the 1978 Replacement Volume 3A, Part II of the General Statutes, is amended by adding a new subsection "(c)" to read as follows:

"(c) The following records collected and compiled by the Department shall not be considered public records within the meaning of Chapter 132 of the General Statutes, but shall be confidential and shall be used only for the equitable and efficient administration and enforcement of this Article or for determining conservation policy, and shall not be disclosed except when required by the order of a court of competent jurisdiction: All records, accounts and reports which licensees are required by the Department to make, keep and exhibit pursuant to the provisions of this section, and all records, accounts and memoranda compiled by the Department from records, accounts and reports of licensees and from investigations and inspections, containing data and information concerning the business and operations of licensees reflecting their assets, liabilities, inventories, revenues and profits; the number, capacity, capability and type of fishing vessels owned and operated; the type and quantity of fishing gear used; the catch of fish or other seafood by species in numbers, size, weight, quality and value; the areas in which fishing was engaged in; the location of catch; the time of fishing, number of hauls, and the disposition of the fish and other seafood. The Department may compile statistical information in any aggregate or summary form which does not directly or indirectly disclose the identity of any licensee-source of the information, and any compilation of such statistical information by the Department shall be a public record open to inspection and examination by any person, and may be disseminated to the public by the Department."

**Sec. 5.** G.S. 113-187(d), as the same appears in the 1978 Replacement Volume 3A, Part II of the General Statutes, is amended by adding the following sentence at the end of subsection (3):

"Or juveniles of any other species of major economic importance."  
and by adding a new subsection (5) to read as follows:

"(5) using or attempting to use any trawl net or dredge in designated primary nursery areas."

**Sec. 6.** G.S. 113-221(e), as the same appears in the 1978 Replacement Volume 3A, Part II of the General Statutes, is amended by rewriting the first paragraph to read as follows:

"The Marine Fisheries Commission may delegate to the secretary the authority to issue proclamations suspending or implementing, in whole or in part, particular regulations of the commission which may be affected by variable conditions. Such proclamations are to be issued by the secretary or by a person designated by the secretary. All proclamations must state the hour and date upon which they become effective and must be issued at least 48 hours in

advance of the effective date and time. In those situations in which the proclamation prohibits the taking of certain fisheries resources for reasons of public health, the proclamation can be made effective immediately upon issuance. Persons violating any proclamation which is made effective immediately shall not be charged with a criminal offense during the time between the issuance and 48 hours after such issuance unless such person had actual notice of the issuance of such proclamation. Fisheries resources taken or possessed by any person in violation of any proclamation may be seized regardless of whether such person had actual notice of the proclamation. A permanent file of the text of all proclamations shall be maintained in the office of the secretary or the person designated by the secretary to issue proclamations. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding. Article 2 and Article 5 of Chapter 150A of the General Statutes are not applicable to proclamations issued in accordance with this section and proclamations need not be filed with any clerks of superior court."

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## S. B. 327

## CHAPTER 389

AN ACT TO AUTHORIZE THE CITY OF HICKORY TO LEASE A TRACT OF LAND THROUGH PRIVATE NEGOTIATIONS TO THE HICKORY MUSEUM OF ART, INC.

*The General Assembly of North Carolina enacts:*

**Section 1.** The City of Hickory is authorized to lease the property described in Section 3, in whole or in part, to the Hickory Museum of Art, Inc., in order that an art museum and related improvements and facilities may be erected on such property, notwithstanding the fact that the city originally accepted a gift of such property upon the condition that the property be used as a park, and notwithstanding the fact that the city may have dedicated or set aside such property for use as a park.

**Sec. 2.** The City of Hickory is authorized to lease, for periods of time which may exceed 10 years, the property described in Section 3, or any portion thereof, to the Hickory Museum of Art, Inc., for purposes of an art museum and related improvements and facilities, by private negotiation, with or without monetary consideration, notwithstanding the requirements of Article 12 of G.S. Chapter 160A or any other provision of law.

**Sec. 3.** The property to which Sections 1 and 2 apply is described as follows:

BEING all of Lot Nos. 8, 9, 9A, 10 and 11 of Block 8 as shown on Catawba County Tax Map No. 19H, and as described in deeds recorded in Book 758, Page 638; Book 961, Page 104; Book 973, Page 485; and Book 1170, Page 324, in the Office of the Register of Deeds for Catawba County, North Carolina.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## S. B. 407

## CHAPTER 390

## AN ACT TO AMEND SUBCHAPTER A OF CHAPTER VI OF THE CHARTER OF THE CITY OF CHARLOTTE, BY ADDING PROVISIONS RELATING TO FAIR HOUSING.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subchapter A of Chapter VI of the Charter of the City of Charlotte, Chapter 713, Section 1, Session Laws of 1965, as amended, is further amended by adding a new Article, designated "Article IX" and to appear as follows:

**"ARTICLE IX.**

**"Fair Housing.**

"Sec. 6.151. Equal Housing. The City Council shall have the power to adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, or national origin 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 Superior General Court of Justice for appropriate legal and equitable remedies, including but not limited to, mandatory and prohibitory injunctions and orders of abatement, attorney's fees and punitive damages, and the court shall have jurisdiction to grant such remedies.

"Sec. 6.152. Exemptions. Any ordinance enacted pursuant to this Article may provide for exemption from its coverage:

- (1) 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;
- (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, 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;
- (5) 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.

"Sec. 6.153. Enforcement. (a) The City Council may create or designate a committee to assume the duty and responsibility of enforcing ordinances adopted pursuant to this Article. Such committee may be granted any authority deemed necessary by the City Council for the proper enforcement of any fair housing ordinance, including, but not limited to, 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 ordinance; compel the attendance of witnesses at hearings; administer oaths; and examine witnesses under oath or affirmation;
- (3) apply to the Superior 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 ordinance has occurred, to petition the General Court of Justice for appropriate civil relief on behalf of the aggrieved person or persons.

"Sec. 6.154. Complaints and other records. The City Council may provide that neither complaints filed with any committee pursuant to the ordinance 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 what is now Chapter 132 of the General Statutes.

"Sec. 6.155. Committee meetings. The City Council may provide that the statutory provisions relating to meetings of governmental bodies, presently embodied in Article 33B 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 said committee is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to the ordinance."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

S. B. 408

## CHAPTER 391

AN ACT AMENDING CHAPTER IX, SUBCHAPTER E, SECTION 9.82, OF THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO AWARD AND APPROVAL OF CONTRACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter IX, Subchapter E, Section 9.82, of the Charter of the City of Charlotte is hereby amended by deleting in its entirety the present section and inserting in lieu thereof the following:

"Sec. 9.82. Award and approval of certain contracts. The city manager is hereby authorized to award, approve, and execute contracts on behalf of the city when the amount of such contract does not exceed ten thousand dollars (\$10,000); provided that the city council shall have approved a sufficient



appropriation in the annual budget for the current fiscal year for the general purpose specified in the contract.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## S. B. 462

## CHAPTER 392

## AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GIBSONVILLE AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Gibsonville is hereby revised and consolidated to read as follows:

“THE CHARTER OF THE TOWN OF GIBSONVILLE.

“ARTICLE I.

“Incorporation, Corporate Powers and Boundaries.

“Section 1.1. Incorporation. The Town of Gibsonville, North Carolina located in the counties of Guilford and Alamance, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the ‘Town of Gibsonville’ (hereinafter at times referred to as the ‘Town’).

“Section 1.2. Powers. The Town of Gibsonville 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 specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

“Section 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. Upon alteration of the corporate limits made pursuant to law, the corresponding changes to the official map of the Town shall be made.

“ARTICLE II.

“Mayor and Board of Aldermen.

“Section 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.

“Section 2.2. Selection of the Mayor; Term of Office; Duties. The Mayor shall be elected by the qualified voters of the Town for a term of four years, in the manner provided by Article III 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. The Mayor shall have the right to vote on matters before the Board only where there is an equal number of votes in the affirmative and in the negative.

“Section 2.3. 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. In the event of a vacancy in the office of the Mayor, the Mayor pro tempore shall perform the duties of the Mayor until the vacancy is filled. 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.

"Section 2.4. Board of Aldermen; Composition; Terms of Office. The Board of Aldermen shall be composed of five members, each of whom shall be elected for a term of four years in the manner provided by Article III of this Charter.

#### "ARTICLE III.

##### "Elections.

"Section 3.1. Regular Municipal Elections; Conduct. (a) 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.

(b) At the regular municipal election to be held in 1979, and every four years thereafter, the Mayor and three members of the Board of Aldermen shall be elected by the qualified voters of the Town. 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 by the qualified voters of the Town.

"Section 3.2. Method of Election; Officers Elected At-Large. The Mayor and members of the Board of Aldermen shall be elected according to the nonpartisan plurality method of election, as provided in G.S. 163-292. The Mayor and members of the Board shall be elected at-large by the qualified voters of the Town.

#### "ARTICLE IV.

##### "Organization and Administration.

"Section 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.

"Section 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, and shall receive such compensation as the Board shall determine. In exercising the duties of chief administrator, the Manager shall have the power and responsibility to:

- (1) Appoint and suspend or remove all Town officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies or ordinances as the Board may adopt.
- (2) 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.
- (3) Attend all meetings of the Board, unless excused therefrom, and shall recommend any measures deemed expedient.
- (4) See that all laws of the State, the Town Charter, and the ordinances, resolutions and regulations of the Board are faithfully executed within the Town.

- (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 as of 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.

“Section 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. It shall be the duty of the Town Attorney to prosecute and defend suits brought by 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 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; and to perform other duties required by law or as the Board may direct. The Board of Aldermen may employ other legal counsel from time to time, in addition to the Town Attorney, as may be necessary to handle adequately the legal affairs of the Town.

“Section 4.4. Town Clerk. The Board of Aldermen 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 may direct.

“Section 4.5. Town Tax Collector. The Board of Aldermen shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other moneys belonging 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 by municipalities.

“Section 4.6. 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.

##### “Special Provisions.

“Section 5.1. Liens for Utility Charges. In case any charge for utility service or for the use of utility facilities, including but not limited to water supply and distribution, is not paid within 10 days after it becomes due, the same shall become a lien upon the property served or in connection with which the service or facility is used, provided that the owner of the property is in actual possession thereof at the time the service for which the charge hereunder is made was rendered. The lien may be foreclosed in the manner that special assessment liens may be foreclosed pursuant to G.S. 105-374(g) or G.S. 105-375(e).

“Section 5.2. Personal Interest. Neither the Mayor nor any member of the Board of Aldermen, nor any officer or employee of the Town shall have a

financial interest, direct or indirect, in any contract with the Town, or be financially interested, directly or indirectly, in the sale to the Town of any land, materials, supplies or services, except on behalf of the Town as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the Town found guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge expressed or implied of the person or corporation contracting with the Town, shall render the contract voidable by the Board of Aldermen."

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Gibsonville 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 Gibsonville.

(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:

Private Laws of 1870-71, Ch. 20

Private Laws 1893, Ch. 235

Private Laws of 1905, Ch. 163

Private Laws 1921, Regular Session, Ch. 128

Private Laws 1929, Ch. 216

Public Laws 1935, Ch. 395

Private Laws 1935, Ch. 180

Private Laws 1935, Ch. 191

Public-Local Laws 1939, Ch. 388

Session Laws 1949, Ch. 620

Session Laws 1949, Ch. 705

Session Laws 1953, Ch. 868

Session Laws 1955, Ch. 783

Session Laws 1957, Ch. 675

Session Laws 1959, Ch. 381

Session Laws 1959, Ch. 382

Session Laws 1961, Ch. 488

Session Laws 1961, Ch. 900

Session Laws 1965, Ch. 66

Session Laws 1967, Ch. 297

Session Laws 1969, Ch. 391

**Sec. 5.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (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 provisions 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 Gibsonville and all existing rules or regulations of departments or agencies of the Town of Gibsonville, 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 Gibsonville 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.** 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 18th day of April, 1979.

S. B. 512

## CHAPTER 393

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GARLAND AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Garland is hereby revised and consolidated to read as follows:

“THE CHARTER OF THE TOWN OF GARLAND.

“ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

“Section 1.1. Incorporation. The Town of Garland, North Carolina in the County of Sampson, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the ‘Town of Garland’, (hereinafter at times referred to as the ‘Town’).

“Section 1.2. Powers. The Town of Garland 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 Garland specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

“Section 1.3. Corporate Limits. The corporate limits of the Town of Garland 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.

“Section 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.

“Section 2.2. Board of Commissioners; Composition; Terms of Office. The Board of Commissioners 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, they shall serve until their successors are elected and qualified.

“Section 2.3. Election of the Mayor; Term of Office; Duties. The Mayor shall be elected directly by the voters of the Town in the manner provided by Article III of this Charter for a term of two years; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. He shall have the right to vote only if there are an equal numbers of votes in the affirmative and the negative on any matter before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

“Section 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 shall serve in such capacity at the pleasure of the remaining members of the Board.

“Section 2.5. Meetings of the Board. In accordance with the General Statutes, the 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.

“Section 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.

**"ARTICLE III. ELECTIONS.**

**"Section 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 Board of Commissioners shall be elected according to the nonpartisan plurality method of elections.

**"Section 3.2. Election of the Board of Commissioners; Election of Mayor.** At the regular municipal elections in 1979 and quadrennially thereafter, there shall be elected three commissioners to fill the seats of those officers whose terms are then expiring. At the regular municipal elections in 1981 and quadrennially thereafter, there shall be elected two commissioners to fill the seats of those commissioners whose terms are then expiring. A mayor shall be elected at each regular municipal election.

**"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.**

**"Section 4.1. Form of Government.** 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.

**"Section 4.2. 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. It shall be the duty of the Town Attorney to prosecute and 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 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 Board of Commissioners; and to perform other duties required by law or as the Board of Commissioners may direct.

**"Section 4.3. Town Clerk.** The Board of Commissioners 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.

**"Section 4.4. Town Tax Collector.** The Board of Commissioners shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other moneys belonging 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 by municipalities.

**"Section 4.5. Consolidation of Functions.** The Board of Commissioners may consolidate any two or more positions of 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.

**"Section 4.6. 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. BOARDS AND COMMISSIONS.**

"Section 5.1. Board of Alcoholic Beverage Control. (a) Whereas a majority of the votes cast at a special election authorized by a local act of the 1969 General Assembly were cast 'For Town Alcoholic Beverage Control Stores', it shall be lawful for the Garland Alcoholic Beverage Control Board to establish, maintain and operate such stores within the Town of Garland.

(b) The Board of Commissioners shall create the Town of Garland Alcoholic Beverage Control Board, to be composed of three members. Members of the Alcoholic Beverage Control Board shall be appointed by the Board of Commissioners. Terms shall be for three years with one member's term expiring in each calendar year. All terms shall begin with the date of appointment and any vacancy on such Board shall be filled by the Board of Commissioners for the unexpired term. Compensation of the members of the Board shall be fixed by the Board of Commissioners. Each year the Board of Commissioners shall name one of the three members of the Alcoholic Beverage Control Board to serve as Chairman for a term of one year. Any vacancy in the office of Chairman shall be filled by the Board of Commissioners for the unexpired term.

(c) The Town of Garland Alcoholic Beverage Control Board shall have all the powers granted to, and duties imposed upon, county Alcoholic Control Boards by G.S. 18A-17, except the powers contained in G.S. 18A-17(14), and shall be subject to the powers and authority of the State Board of Alcoholic Control as granted by G.S. 18A-15. The Town of Garland Alcoholic Beverage Control Board and the operation of any town Alcoholic Beverage Control stores authorized under the provisions of this section shall be subject to the provisions of the North Carolina General Statutes relating to the regulation of intoxicating liquor, except to the extent which the same, may be in conflict with the provisions of this section. Whenever the word 'county' Board of Alcoholic Beverage Control appears in Chapter 18A of the General Statutes it shall include the Town of Garland Alcoholic Beverage Control Board, except as otherwise provided in this section.

(d) The net annual revenue from the operation of Alcoholic Beverage Control stores remaining after payment of all costs and operating expenses and after retaining sufficient working capital in an amount determined by the Town of Garland Alcoholic Control Board shall be paid to the Town of Garland. The Board of Commissioners of the Town of Garland shall appropriate for law enforcement purposes an amount not less than five percent (5%) nor more than ten percent of such net annual revenue, and shall assign to one of its police officers the additional duty of enforcing the Alcoholic Beverage Control laws, and in performing such duties, such officers shall have county-wide jurisdiction; provided, that in lieu of assigning such additional duty to one of its police officers, the Board of Commissioners may, in its discretion, appropriate such amount for support of a joint Alcoholic Beverage Control law enforcement effort with any other municipalities in Sampson County, upon such terms and conditions as it deems wise. So much of the net annual revenue then remaining, after such appropriations for law enforcement purposes, may be used for any authorized Town purpose or function. The Town Alcoholic Beverage Control Board may, with the approval of the Board of Commissioners of the Town, appropriate or pay out the funds authorized by this section on a quarterly basis after sufficient working capital has initially been set aside.



**"ARTICLE VI. PUBLIC IMPROVEMENTS.**

"Section 6.1. 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.

"Section 6.2. 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 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."

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Garland 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 Garland;

(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 44, Private Laws of 1907

Chapter 121, Private Laws of 1923

Chapter 118, Private Laws of 1933

Chapter 471, Session Laws of 1953

Chapter 243, Session Laws of 1957

Chapter 1024, Session Laws of 1957

Chapter 18, Session Laws of 1961

Chapter 23, Session Laws of 1961

Chapter 144, Session Laws of 1969

Chapter 344, Session Laws of 1973.

**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 Town of Garland and all existing rules or regulations of departments or agencies of the Town of Garland, 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 Garland 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.** 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 18th day of April, 1979.

## S. B. 618

## CHAPTER 394

AN ACT AUTHORIZING THE WATAUGA COUNTY BOARD OF EDUCATION TO ESTABLISH ORDINANCES REGULATING TRAFFIC AND PARKING ON PROPERTY OWNED OR LEASED BY THE WATAUGA COUNTY BOARD OF EDUCATION AND ADMINISTERED BY THE WATAUGA COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** (a) All of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State and the operation of motor vehicles and other modes of conveyance thereon are applicable to all streets, alleys, driveways, parking lots, and parking structures on Watauga County Board of Education Property; hereinafter referred to as "board property". As used herein, "board property" shall mean all property owned or leased by the Watauga County Board of Education and administered by the Watauga County Board of Education.

(b) The Watauga County Board of Education may by ordinance prohibit, regulate, divert, control and limit pedestrian or vehicular traffic and the parking of motor vehicles and other modes of conveyance on all board property. In fixing speed limits the Watauga County Board of Education is not subject to G.S. 20-141(f) or (g), but may fix any speed limit reasonable and safe under the

circumstances as conclusively determined by the Watauga County Board of Education.

(c) The Watauga County Board of Education may by ordinance provide for the registration of motor vehicles and other modes of conveyance maintained or operated on any board property by any student, faculty member, or employee of the Watauga County Board of Education, and may fix fees for such registration. The ordinance may make it unlawful for any person to operate an unregistered motor vehicle or other modes of conveyance on any board property when the vehicle is required by the ordinance to be registered.

(d) The Watauga County Board of Education may by ordinance set aside parking lots and other parking facilities on board property for use by students, faculty, and employees of the Watauga County Board of Education and members of the general public attending, visiting or making use of any of the facilities of the Watauga County Board of Education. The Watauga County Board of Education may issue permits to park in these lots and garages and may charge a fee therefor. The Watauga County Board of Education may also by ordinance make it unlawful for any person to park a motor vehicle or other mode of conveyance in any lot or other parking facility without procuring the requisite permit and displaying it on the vehicle.

(e) The Watauga County Board of Education may by ordinance 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 board property and may by ordinance prohibit the forgery, counterfeiting, unauthorized transfer, or unauthorized use of them.

(f) The violation of any ordinance adopted under any portion of this act is a misdemeanor punishable by a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than 30 days, in the discretion of the court. An ordinance 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.

(g) An ordinance adopted under any portion of this act may provide that violation subjects the offender to a civil penalty. Penalties may be graduated according to the seriousness of the offense or the number of prior offenses by the person charged. The Watauga County Board of Education may establish procedures for the collection of these penalties and they may be enforced by civil action in the nature of debt. The Watauga County Board of Education may also provide for appropriate administrative sanctions if an offender does not pay a validly due penalty or upon repeated offenses. Appropriate administrative sanctions include, but are not limited to, revocation of parking permits, termination of vehicle registration, and termination or suspension of enrollment in or employment in the Watauga County school system.

(h) An ordinance adopted under any portion of this act may provide that any vehicle parked in violation thereof may be removed from board property by the Watauga County Board of Education or by an agent of the Watauga County Board of Education to a storage area or garage. If a vehicle is so removed, the owner, as a condition of regaining possession of the vehicle, shall be required to pay to the Watauga County Board of Education all reasonable costs incidental to the removal and storage of the vehicle and any fine or penalty due for the violation. And further, the cost of any such removal constitutes a lien on the



vehicle that may be enforced in the manner provided by law for enforcement of mechanics' and materialmen's liens.

(i) Evidence that a motor vehicle or other mode of conveyance was found parked or unattended in violation of an ordinance of the Watauga County Board of Education is prima facie evidence that the vehicle was parked by:

(1) the person holding a parking permit for the vehicle; or

(2) if no parking permit was issued for the vehicle, the person in whose name the vehicle was registered with the Watauga County Board of Education; or

(3) if no Watauga County Board of Education parking permit has been issued for the vehicle and the vehicle is not registered with the Watauga County Board of Education, the person in whose name it is registered with the North Carolina Department of Motor Vehicles or the corresponding agency of another state or nation.

The rule of evidence established by this subsection applies only in civil, criminal or administrative action or proceedings concerning violations of ordinances of the Watauga County Board of Education.

(j) The Watauga County Board of Education shall cause to be posted appropriate notice to the public of applicable traffic and parking restrictions.

(k) All ordinances adopted under this act shall be recorded in the minutes of the Watauga County Board of Education. The Watauga County Board of Education shall provide for printing and distributing copies of its traffic and parking ordinances.

(l) All monies received pursuant to this act shall be placed in a trust account administered by the Watauga County Board of Education and may be used to defray the cost of administering and enforcing ordinances adopted under this act, the cost of developing, maintaining and supervising parking areas and facilities on board property, or for other purposes related to parking, traffic, and transportation on board property.

**Sec. 2.** This act shall also apply to Transylvania County.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 522

## CHAPTER 395

### AN ACT TO AMEND CHAPTER 39, ARTICLE 5, SECTION 39-30 OF THE NORTH CAROLINA GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 39, Article 5, Section 39-30 of the General Statutes is hereby amended to read as follows:

“§ 39-30. *Investigation by clerk; bond, or other securities.*—(a) Upon the filing of said application and the certificate of the cost of the improvement, the clerk of the court shall satisfy himself that the land or lots are located in his county and he shall also satisfy himself of the genuineness of the application and certificate of the certified engineer or county surveyor, and shall, if so satisfied, require a good and sufficient bond, in a sum equal to the amount certified by the certified engineer or county surveyor as the approximate cost of the improvement or improvements, with a corporation licensed to do business in the State of North Carolina as surety thereon, conditioned to save the

purchaser or purchasers of each lot or lots harmless to the amount of the estimated and certified cost of the proposed improvement on each lot or lots so purchased; or require (at the option of the person, firm or corporation desiring to offer the lot or lots for sale, provided that such person, firm, or corporation can establish to the satisfaction of the clerk, by sworn financial statement or otherwise, his, their, or its net worth, as of the date of the application, is equal to or greater than fifty percent (50%) of the amount certified as set forth in G.S. 39-29, above) a personal or corporate (as the case may be) guaranty in a sum equal to the amount certified by the certified engineer or county surveyor as the approximate cost of the improvement or improvements, conditioned to save the purchaser or purchasers of each lot or lots harmless to the amount of the estimated and certified cost of the proposed improvement on each lot or lots so purchased.

(b) In lieu of the bond specified in paragraph (a) above, the person, firm or corporation seeking the permit may deposit with said clerk of court certificates of deposit, letters of credit and/or securities satisfactory to the clerk of a fair market value at least equal to one-half of the amount certified by the certified engineer or county surveyor as the approximate cost of the improvement or improvements. The certificates, letters of credit and/or securities so deposited with the clerk of court shall be held in trust for the sole protection and benefit of the purchaser or purchasers of said lot or lots from said person, firm or corporation pursuant to this Article. A pro rata portion of the certificates, letters of credit and/or securities shall be returned to the person, firm or corporation to whom such permit is issued when the clerk of court is satisfied that the value of the deposited certificates, letters of credit and/or securities is in excess of the amount required to equal one-half of the remaining cost of the then uncompleted improvements proposed to be made on each lot covered by the permit, and all the certificates, letters of credit and/or securities shall be returned if the clerk of court is satisfied that all of the improvements represented or agreed to be made have been completed. The clerk of court may sell or transfer any and all of said certificates, letters of credit and/or securities or utilize the proceeds thereof for the purpose specified in paragraph (a) above. With the certificates, letters of credit and/or securities deposited with the clerk of court, the person, firm or corporation applying for such permit pursuant to this section shall at the same time deliver to the clerk of court a power of attorney, in a form acceptable to the clerk of court, executed and acknowledged by the applicant authorizing the sale or transfer of said certificates, letters of credit and/or securities or any part thereof in order to satisfy the obligations pursuant to this section.

(c) Permits issued by the clerk of court pursuant to this section shall constitute a lien on each lot described in said permit to the extent of the amount certified by the certified engineer or county surveyor as the approximate cost of the improvement or improvements thereon agreed to be made by the person, firm, or corporation receiving said permit. Provided, however, said lien shall not attach if a surety bond is posted pursuant to paragraph (a) above, or if certificates, letters of credit and/or securities are deposited pursuant to paragraph (b) above. Provided further, that such lien shall not have priority over any existing perfected lien or security interest.

(d) The clerk shall release by instrument recorded in the office of the register of deeds any lien created under this Article upon a showing satisfactory to the

clerk that all direct improvements to that particular lot pursuant to the application and to the certificate of the certified engineer or county surveyor have been completed.

(e) Upon filing of a sworn, written request by the person, firm or corporation holding a permit pursuant to this Article requesting the cancellation of such permit, the clerk of court shall determine that all work commenced has been completed in accordance with the application and the certificate of the cost of the improvement and that no purchaser or purchasers of lots will be directly damaged by the cancellation of the permit. Upon such finding the clerk of court shall cancel the permit and return to the person, firm or corporation all forms of evidence of bond, certificates of deposit, letters of credit and/or securities posted to secure performance and the clerk of court shall cancel all liens created by this Article. No permit may be reinstated after cancellation except pursuant to the procedures for a new application under this Article."

**Sec. 2.** This act shall be effective upon ratification and shall apply to all applications for permit filed after the effective date.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 591

## CHAPTER 396

### AN ACT TO ADJUST THE AVERAGE FINAL COMPENSATION OF A RETIRED MEMBER OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-3(7)(e) is amended to read as follows:

"(e) Should a teacher or employee who retired on an early or service retirement allowance be restored to service after the attainment of the age of 62 years, his retirement allowance shall be reduced to the extent necessary (if any) so that the sum of the retirement allowance at the time of his retirement and earnings from employment by a unit of the Retirement System for any year (beginning January 1 and ending December 31) will not exceed the member's average final compensation. Provided, however, that under no circumstances will the member's retirement allowance be reduced below the amount of his annuity as defined in G.S. 135-1(3)."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 634

## CHAPTER 397

### AN ACT TO EXTEND THE TOWN LIMITS OF THE TOWN OF ROBERSONVILLE IN MARTIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The town limits of Robersonville in Martin County are hereby extended by the incorporation within the said town limits of the following described property:

Located on the Southern edge of the Town of Robersonville and adjacent to the town limits of the Town of Robersonville, in Robersonville Township, Martin County, State of North Carolina, and described as follows:

Beginning in the Town Limits at a concrete monument on the Northern edge of E. Third Street; thence S. 65 deg. 34 min. W. 1035 feet with the town limits to a marker on the West side of Morton Street Extension; thence with the West side of Morton Street Extension, S. 7 deg. 10 min. West 190 feet to a marker; thence N. 88 deg. 20 min. E. 1308.93 feet to the East side of McLawhorn Drive; thence with the East side of McLawhorn Drive and N. 23 deg. 45 min. W. 610 feet to the North side of Third Street; thence N. 88 deg. 20 min. W. 100 feet to the town limits, the point of beginning, a concrete marker, as shown by map titled Plat of Land Owned by I. L. Smith, drawn by B. R. Leggett under supervision of L. S. Manning, R. L. S., dated December 8, 1974, of record in Map Book 9, page 76, in the office of Register of Deeds of Martin County, North Carolina.

**Sec. 2.** The town limits of Robersonville in Martin County are hereby extended by the incorporation within the said town limits of the following described property:

Located on the Southern area and contingent to the Town Limits of the Town of Robersonville, in Robersonville Township, Martin County, State of North Carolina; and beginning in the center of the intersection of Hargrove Drive and Pope Street; running thence with the center line of Hargrove Drive a distance of 25 feet to Pope Street; running thence with the center line of Pope Street the following courses and distances: S. 05 deg. 15 min. E. 150.0 feet, S. 05 deg. 16 min. E. 133.58 feet, S. 02 deg. 48 min. W. 155.86 feet, across Broad Street in a Southerly direction a distance of 50.0 feet to the Northwest corner of Lot No. 1 of Block H of the Pope Subdivision; thence S. 06 deg. 33 min. E. 134.06 feet to an existing iron pipe; thence S. 85 deg. 16 min. W. 17.0 feet to a new iron pipe; thence S. 85 deg. 16 min. W. 155.0 feet; thence S. 85 deg. 16 min. W. 135.0 feet; thence S. 85 deg. 16 min. W. 135.0 feet to a new iron pipe; thence N. 07 deg. 24 min. W. 139.29 feet to the edge of Hargrove Drive West; thence with the Southern edge of Hargrove Drive West about 85 feet to a corner; thence across Hargrove Drive West in a Northerly direction 50 feet to the Southwest corner of Lot No. 3 of Block I of the Pope Subdivision; thence N. 11 deg. 20 min. W. 150.15 feet; thence N. 05 deg. 11 min. W. 142.61 feet; thence N. 05 deg. 17 min. W. 150.0 feet to a new iron pipe on the South side of Hargrove Drive; thence N. 74 deg. 33 min. E. 26.68 feet to a new iron pipe; thence across Hargrove Drive in a Northerly direction 50.0 feet to the Southwest corner of Lot No. 10 of Block C of the Pope Subdivision; thence N. 05 deg. 20 min. W. 150.0 feet to an existing iron pipe; thence with the old Hargrove-Pope line N. 87 deg. 54 min. E. 495.23 feet to an existing axle; thence with Robert B. Lee's line, N. 87 deg. 54 min. E. about 54.77 feet to a corner; thence running a straight line in a Southerly direction about 170 feet to the point of beginning; and being the same property shown on map entitled PROPERTY OF H. HERBERT POPE, MAE H. POPE, surveyed and drawn by John Brammer under the supervision of Robert L. Spence, R. L. S. L-1128, dated March 27, 1978, and recorded in Map Book 12, page 22, in the office of Register of Deeds of Martin County, North Carolina; and reference is also made to map recorded with deed in Book V-9, page 320, in the office of Register of Deeds of Martin County, North Carolina.

**Sec. 3.** Real and personal property in the territories annexed pursuant to this act is subject to municipal taxes according to the provisions of G.S. 160A-58.10.



**Sec. 4.** This act shall become effective June 30, 1979.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 732

## CHAPTER 398

AN ACT TO PERMIT INCORPORATED CITIES AND TOWNS IN GRANVILLE COUNTY TO INCREASE THEIR LICENSE TAX LEVY ON MOTOR VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of G.S. 20-97 is amended by inserting after the word "Davidson," in line 8 and in line 12 the word "Granville,".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 734

## CHAPTER 399

AN ACT TO RESTATE IN ONE DESCRIPTION THE BOUNDARIES OF THE TOWN OF CAPE CARTERET.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 651, Session Laws of 1975, is repealed.

**Sec. 2.** Section 2 of Chapter 929, Session Laws of 1963, is repealed.

**Sec. 3.** Section 3 of Chapter 727, Session Laws of 1959, is amended to read:

"Sec. 3. Corporate Limits. The corporate limits of the town shall be as follows:

Located in White Oak Township, Carteret County, State of North Carolina, and beginning at the intersection of the northern shore line of Bogue Sound and the eastern right of way of N.C. 58 as established by N.C. Highway Commission Project 6.1610019 as recorded on Pages 19 and 20 in the Carteret County Volume of the Commission's Right of Way Plans Book and running thence from the beginning in a northerly direction along and with the said established right of way approximately 3550 feet to its intersection with the northern right of way of N.C. Highway 24; thence continuing in a northerly direction along and with the said established right of way approximately 2150 feet to its intersection with the city limit line as shown on page 19 of the said Right of Way Plans Book; thence North 42 degrees 04 minutes East with a line shown on a map entitled *Area Annexed to Town of Cape Carteret* prepared by R. T. Burney & Associates and recorded in Map Book 8, Page 7, said map being hereinafter referred to as Burney's Map, for a distance of approximately 50 feet to a corner of the Sugae Moore O'Brien property; thence with the following lines as shown on Burney's Map: North 83 degrees 03 minutes East along and with the O'Brien line 3292.82 feet to Rocky Run; up Rocky Run in a northwesterly direction approximately 1850 feet to a corner of Lionel Pelletier's property; North 55 degrees 53 minutes East along and with Pelletier's line 703 feet to the westerly edge of S.R. 1259 (Old N.C. Highway 58); along and with said edge in a northerly direction 1,116.45 feet to the extended centerline of S.R. 1259; North 22 degrees 47 minutes West along and with the

extended centerline 1368 feet to the extended southern property line of C. Rose; North 88 degrees 11 minutes East and with Rose's southern property line 278.5 feet; North 22 degrees 47 minutes West along and with Rose's eastern property line 238 feet; South 88 degrees 11 minutes West with Rose's northern property line 228.5 feet to the eastern right of way of S.R. 1259; North 22 degrees 47 minutes West along and with said eastern right of way 439.7 feet to Raskett's property; North 86 degrees 17 minutes East along and with Raskett's line 42 feet; North 35 degrees 30 minutes East along and with Raskett's line 570 feet to Machine Branch; down Machine Branch, with its various courses, in a northerly direction approximately 1450 feet to Pettiford Creek; up Pettiford Creek, with its various courses, in an easterly direction approximately 8,000 feet to a concrete monument marking a corner of the E.F. Guthrie Property; South 17 degrees 53 minutes East along and with the Guthrie boundary 1261.83 feet; South 54 degrees 30 minutes East along and with the Guthrie line 1804 feet to the northwestern corner of Quail Wood Acres Subdivision, Section "A", as recorded in Map Book 15, Page 55; thence South 4 degrees 30 minutes West along and with the western Boundary of Quail Wood Acres 1662.74 feet to a corner in Cat Pond Branch, said corner being the northeastern corner of Fox Forest Subdivision, Section "B", as recorded in Map Book 11, Page 19; thence in a northwesterly direction along and with the boundary of said Section "B" North 42 degrees 20 minutes West 733 feet as shown on Burney's Map, to a corner in Cat Pond Branch; thence in a southwesterly direction along and with the boundary of said Section "B", South 55 degrees 40 minutes West 1040 feet, as shown on Burney's Map, to the northeastern corner of Fox Forest Subdivision, Section "A", as recorded in Map Book 9, Page 53; thence in a southwesterly direction along and with the western boundary of said Section "A", South 25 degrees 20 minutes West 705 feet as shown on Burney's Map, to a concrete monument marking Carl Weeks' northwestern corner; thence along and with Weeks' line as shown on Burney's Map South 7 degrees 05 minutes East 859.7 feet to a concrete monument; thence along and with the Weeks' line as shown on Burney's Map North 83 degrees 41 minutes East 322.25 feet to a concrete monument marking the common corner of Weeks and Eula Dennis; thence along and with Eula Dennis' line as shown on Burney's Map South 11 degrees 28 minutes West 381.95 feet; thence along and with Dennis' line as shown on Burney's Map South 17 degrees 17 minutes West 63 feet to the northern right of way of N.C. Highway 24; thence along and with the said northern right of way in an easterly direction approximately 1,185 feet to the northern end of a line running normal to the said northern right of way and passing through Eula Dennis' corner lying in the southern right of way of N.C. Highway 24; thence in a southern direction along and with said line running normal to said northern right of way 100 feet to Eula Dennis' corner lying in said southern right of way; thence along and with the Eula Dennis Boundary as shown on Burney's Map the following courses and distances: South 3 degrees 41 minutes West 397 feet; South 72 degrees 46 minutes West 250 feet; South 1 degree 26 minutes West 1389 feet; South 88 degrees 34 minutes East 436 feet; South 8 degrees 10 minutes West 230.55 feet to the northwestern corner of the Hunting Bay, Inc. Subdivision, Section One, as recorded in Map Book 14, Page 88, thence with the boundary of the said Section One as recorded the following courses and distances; South 8 degrees 46 minutes West 459.35 feet; South 19 degrees 37 minutes 30 seconds West 1213.72 feet; South 39 degrees 28 minutes

20 seconds West 409.1 feet to the northern shore line of Bogue Sound; thence along Bogue Sound in a westerly direction, with names of all topographic features being as shown on Edition 15, dated January 28, 1978 of the Intracoastal Waterway Nautical Chart 11541 as published by the U.S. Department of Commerce, the following lines: in a westerly direction along and with the northern shore line of Bogue Sound approximately 1,300 feet to its intersection with the eastern shore line of Deer Creek at the mouth of Deer Creek; a straight line in a westerly direction across the mouth of Deer Creek and Hunting Island approximately 2,000 feet to the northern shore line of Bogue Sound at Ennett Point; in a westerly direction along and with the northern shore line of Bogue Sound approximately 3,700 feet to the beginning excepting however, from within the corporate limits all or any part of Hunting Island.

Carteret County Register of Deeds Office is the repository for all records herein referenced."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 735

## CHAPTER 400

AN ACT TO ALLOW THE TOWN OF CAPE CARTERET TO INCREASE THE TAX LEVY ON MOTOR VEHICLES TO A MAXIMUM OF FIVE DOLLARS (\$5.00).

*The General Assembly of North Carolina enacts:*

**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 Cape Carteret,".

**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 Cape Carteret".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 833

## CHAPTER 401

AN ACT TO AMEND G.S. 6-21.1 TO RAISE THE JUDGMENT LIMIT TO FIVE THOUSAND DOLLARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The words "two thousand dollars (\$2,000)" are removed from G.S. 6-21.1 and the words "five thousand dollars (\$5,000)" are substituted.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 891

## CHAPTER 402

## AN ACT AMENDING THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT TO MAKE TECHNICAL AMENDMENTS AND PROVIDE FOR PROJECT ORDINANCES FOR GRANTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The last sentence of G.S. 159-8(b) is rewritten to read:

“If the Commission does permit an authority to operate under an altered fiscal year, the Commission’s order shall also modify the budget calendar set forth in G.S. 159-10 through G.S. 159-13 so as to provide a new budget calendar for the altered fiscal year that will clearly enable the authority to comply with the intent of this part.”

**Sec. 2.** G.S. 159-11(d) is amended by adding immediately after the words “capital projects”, the words “and grant projects”.

**Sec. 3.** G.S. 159-13.2 is rewritten to read:

“§ 159-13.2. *Project ordinances.*—(a) Definitions.

(1) In this section ‘capital project’ means a project financed in whole or in part by the proceeds of bonds or notes or a project involving the construction or acquisition of a capital asset.

(2) ‘Grant project’ means a project financed in whole or in part by revenues received from the federal and/or State government for operating or capital purposes as defined by the grant contract.

(b) Alternative budget methods. A local government or public authority may, in its discretion, authorize and budget for a capital project or a grant project either in its annual budget ordinance or in a project ordinance adopted pursuant to this section. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year. A bond order does not constitute a project ordinance.

(c) Adoption of project ordinances. If a local government or public authority intends to authorize a capital project or a grant project by a project ordinance, it shall not begin the project until it has adopted a balanced project ordinance for the life of the project. A project ordinance is balanced when revenues estimated to be available for the project equal appropriations for the project. A project ordinance shall clearly identify the project and authorize its undertaking, identify the revenues that will finance the project, and make the appropriations necessary to complete the project.

(d) Project ordinance filed. Each project ordinance shall be entered in the minutes of the governing board. Within five days after adoption, copies of the ordinance shall be filed with the finance officer, the budget officer, and the clerk to the governing board.

(e) Amendment. A project ordinance may be amended in any manner so long as it continues to fulfill all requirements of this section.

(f) Inclusion of project information in budget. Each year the budget officer shall include in the budget information in such detail as he or the governing board may require concerning each grant project or capital project (i) expected to be authorized by project ordinance during the budget year and (ii) authorized by previously adopted project ordinances which will have appropriations available for expenditure during the budget year.”



**Sec. 4.** G.S. 159-17 is amended in subsections (1) and (2) by adding immediately after the words "budget ordinance" the words "or any project ordinance".

**Sec. 5.** G.S. 159-17(3) is amended by adding immediately after the words "budget ordinance" the first time those words appear the words "or any project ordinance".

**Sec. 6.** G.S. 159-26(b)(2) is rewritten to read:

"Special Revenue Funds. One or more separate funds shall be established for each of the following classes: (i) functions or activities financed in whole or in part by property taxes voted by the people, (ii) service districts established pursuant to the Municipal or County Service District Acts, and (iii) grant project ordinances. If more than one function is accounted for in a voted tax fund, or more than one district in a service district fund, or more than one grant project in a project fund, separate accounts shall be established in the appropriate fund for each function, district, or project."

**Sec. 7.** G.S. 159-28(a) is amended in the second sentence by adding immediately after the words "capital project" the words "or a grant project".

**Sec. 8.** G.S. 159-28(b) is amended in the second sentence by adding immediately after the words "capital project" the words "or a grant project".

**Sec. 9.** G.S. 159-34 is amended by designating the existing language as subsection (a) and by adding a new subsection (b) to read:

"(b) The Local Government Commission has authority to issue rules and regulations for the purpose of improving the quality of auditing and the quality and comparability of reporting pursuant to this section or any similar section of the General Statutes. The rules and regulations may be varied according to the size, purpose or function of the unit, or any other criteria reasonably related to the purpose or substance of the rules or regulations."

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 900

## CHAPTER 403

### AN ACT TO INCREASE MINIMUM COMPENSATION OF PRECINCT ELECTION OFFICIALS AND ASSISTANTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-46 is amended by changing the words and figures appearing in the first sentence of the first paragraph to read "thirty-five dollars (\$35.00)" instead of "twenty-five dollars (\$25.00)" and by changing the words and figures appearing in the second sentence of the first paragraph to read "thirty dollars (\$30.00)" instead of "twenty dollars (\$20.00)" and further amending the third sentence in the first paragraph by changing the words and figures to read "twenty-five dollars (\$25.00)" instead of "fifteen dollars (\$15.00)".

**Sec. 2.** This act shall become effective for all elections conducted after July 1, 1979.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 916

## CHAPTER 404

AN ACT TO AMEND THE UNIFORM COMMERCIAL CODE TO EXTEND TO TWENTY DAYS THE TIME WITHIN WHICH THE PRIORITY OF A PURCHASE-MONEY SECURITY INTEREST MAY BE PROTECTED BY FILING.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 25-9-301(2) is amended by deleting from line two the figure "10" and inserting in lieu thereof the figure "20".

**Sec. 2.** G.S. 25-9-312(4) is amended by deleting from line four the figure "10" and inserting in lieu thereof the figure "20".

**Sec. 3.** This act is effective upon ratification but does not apply to purchase-money security interests arising out of transactions occurring before that time.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

## H. B. 976

## CHAPTER 405

AN ACT TO EXEMPT FROM INTANGIBLES TAX UNITS OF OWNERSHIP IN INVESTMENT TRUSTS COMPOSED PRINCIPALLY OF NORTH CAROLINA OBLIGATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-203 is amended by adding thereto a new paragraph, immediately after the second paragraph thereof, to read as follows:

"The tax herein levied shall not apply to units of ownership in an investment trust, the corpus of which is composed (1) entirely of obligations of this State or (2) entirely of obligations of the United States and of this State, at least eighty percent (80%) of the fair market value of which represents obligations of this State. For the purpose of this paragraph, 'State' includes the State of North Carolina, political subdivisions of this State, and agencies of such governmental units; 'United States' includes the United States and its possessions, and the District of Columbia; 'obligations' includes bonds, notes and other evidences of debt. In order for the exemption provided for in this paragraph to apply, it shall be the duty of the trustees of an investment trust to provide to the Secretary of Revenue, in form satisfactory to him and not later than December 31 of the year with respect to which the exemption applies, information sufficient to establish the applicability of this exemption."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

H. B. 688

**CHAPTER 406****AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF FARMVILLE, PITT COUNTY, NORTH CAROLINA.***The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Farmville is revised to read as follows:

**"ARTICLE 1. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.**

"Section 1.1. Incorporation. The Town of Farmville, Pitt County, North Carolina, and the inhabitants thereof, first incorporated in 1872 shall continue to be a municipality under the name of the Town of Farmville (hereinafter at times referred to as the "Town").

"Section 1.2. Powers. The Town of Farmville shall have and may exercise all the powers, privileges, duties, rights and immunities which now exist by law or which may hereafter be conferred upon it, either expressly, or by implication, by this Charter, or by other laws of the State of North Carolina, whether by general or local law.

The enumeration of particular powers in this Charter shall not be held to be exclusive but rather to be in addition to powers enumerated or implied thereby and it is intended that the Town of Farmville shall have and may exercise all powers granted, permitted or implied under the Constitution and laws of the United States and of North Carolina, whether or not specifically expressed herein.

"Section 1.3. Corporate limits. Corporate limits of the Town of Farmville shall be those existing at the time of ratification of this Charter as set out in metes and bounds or as shown by the official map of the Town and as said map may be modified, enlarged, or in any way changed in accordance with law. The official map of the Town showing the current Town boundaries shall be maintained permanently in the office of the Town Clerk. Upon alteration of the corporate limits made pursuant to law, appropriate changes shall be made to the official map of the Town.

**"ARTICLE 2. THE MAYOR AND BOARD OF COMMISSIONERS.**

"Section 2.1. Mayor. The Mayor of the Town of Farmville must be a qualified voter of the Town and shall be elected by the qualified voters of the Town of Farmville for a term of two years. The Mayor shall preside at all meetings of the Board of Commissioners and shall exercise all other powers and perform such other duties as are or may be conferred or required of the Mayor by the general laws of North Carolina, or the United States, or the ordinances of the Town. The Mayor shall be recognized as the head of the Town Government for all ceremonial purposes, by the General Court of Justice for purposes of serving civil process, and by the Governor for the purposes of military or martial law. In time of danger, the Mayor shall, if authorized under the laws of the Town, State or Federal Government, assume command of the Police Department, maintain order and enforce the law. The Mayor, may, at any time, issue proclamations on such occasions as the Mayor may deem desirable. The Mayor shall vote only in the event of a tie vote of the Board of Commissioners.

"Section 2.2. Mayor Pro Tempore. At its first regular meeting in the month following a regular municipal election, the Board of Commissioners shall choose

one of its members as Mayor Pro Tempore. The Mayor Pro Tempore shall, in the absence or disability of the Mayor, assume the duties of the Mayor.

“Section 2.3. The Board of Commissioners (hereinafter referred to sometimes as the “Town Board”).

The Board of Commissioners shall consist of five members, all qualified voters of the Town, elected by the qualified voters of the Town for a term of four years as provided for in Article 4 of this Charter. The Mayor and each member of the Board of Commissioners may receive a salary, the amount of which shall be set by the budget ordinance. The Mayor and members of the Board of Commissioners shall hold office until their successors are elected and qualified.

“Section 2.4. Vacancies. Should a vacancy occur in the office of Mayor or Board of Commissioners, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners; in the event of a tie, the Mayor may vote. Should the Mayor or a member of the Board of Commissioners cease to possess the qualifications of a voter of the Town of Farmville or be convicted of a felony while in office, such member shall immediately forfeit that office.

### “ARTICLE 3. MEETINGS AND VOTING.

“Section 3.1. Meetings. The regular meeting time of the Board of Commissioners shall be set by the Board at the organizational meeting following elections of the Mayor and Board members. Special meetings shall be called by the Town Clerk upon request by the Mayor, the Mayor Pro Tempore, or any two members of the Board of Commissioners. Any such notice of a special meeting shall state the subjects to be considered at the special meeting.

“Section 3.2. Quorum. A majority of the actual membership of the Town Board shall constitute a quorum to do business but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by law. The affirmative vote of a majority of the members not excused from voting shall be necessary to adopt any ordinances, action authorizing or committing public funds or committing the Town to contracts. A vote to adjourn or regarding the attendance of absent members may be adopted by a majority of the members present. All other matters may be decided by a majority of the members present if there is a quorum present.

“Section 3.3. Excuses from, or failure to vote. No member shall be excused from voting on any matter except those involving the consideration of his own official conduct or when a conflict of interest may exist. An abstention or failure to vote without being excused shall be counted as an affirmative vote.

“Section 3.4. Introduction and passage of ordinances and resolutions. Ordinances and resolutions shall be introduced to the Board of Commissioners only in written or printed form. They shall take effect at the time indicated thereon. Upon final passage, each ordinance or resolution shall be authenticated by the signature of the Mayor, the Town Clerk or the Town Administrator and shall be recorded in the Town office.

### “ARTICLE 4. ELECTIONS AND OATH.

“Section 4.1. Method of election. For the purpose of electing a Mayor and the members of the Board of Commissioners, the nonpartisan run-off election method as set out in G.S. 163-293 shall be used.



"Section 4.2. Terms of office. The Mayor shall be elected every two years. The commissioners' terms shall be staggered; three Commissioners shall have served four years ending in 1979; those three seats shall be filled by election in 1979 and thereafter every four years. Two Commissioners shall have served four years ending in 1981 and those two seats shall be filled by election in 1981 and every four years thereafter.

"Section 4.3. Oath. Every officer of the Town, before entering upon the duties of his office, shall take and subscribe to the oath of office prescribed in Article VI, Section 7 of the Constitution, to be filed and kept in the office of the Town Clerk.

#### "ARTICLE 5. FURTHER POWERS OF THE TOWN.

"Section 5.1. Economic development. The Board of Commissioners is authorized to appropriate and expend from non-property tax revenues up to five thousand dollars (\$5,000) annually for economic development.

"Section 5.2. Alternative condemnation procedures. In addition to other powers of eminent domain and for the making of improvements, the Town of Farmville shall have the power of alternative condemnation procedures as hereinafter set out:

"Section 5.2.1. In exercising the power of eminent domain for any public purpose, if negotiations for the purchase of land or rights in land are unsuccessful, the Town of Farmville, in its discretion, may use the procedures of Article 9 of Chapter 136 of the General Statutes as now in force or as may hereafter be amended, as well as the procedures of any other general law, charter, or local act applicable to the Town.

"Section 5.2.2. As contained in Article 9 of Chapter 136 of the General Statutes, when such Chapter is used by the Town of Farmville for condemnation, all reference therein to 'Board of Transportation' shall be deemed to mean 'Town of Farmville'; all reference to the 'Chairman of the Board of Transportation' or 'Director of Highways' shall be deemed to mean 'Mayor of the Town of Farmville'; all references to the condemning authority or persons or agencies connected therewith shall be deemed to refer to the 'Town of Farmville'.

"Section 5.2.3. When Article 9 of Chapter 136 of the General Statutes as now in force or as hereafter amended, is used as a condemnation procedure by the Town of Farmville, the Chapter will be read as if it were applicable to the Town of Farmville.

"Section 5.2.4. The provisions of Sections 5.2 through 5.2.5 of this Charter 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 it is otherwise first determined by a court of competent jurisdiction 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.

"Section 5.2.5. This authority is applicable only to the Town of Farmville and the taking by the Town of Farmville of property for a public purpose and provided, further, that at all times before using the authority given in this act, the Town of Farmville shall always obtain an independent appraisal of the property to be condemned.

“Section 5.3. Alternative methods of street and sidewalk improvements. In addition to other powers, the Town of Farmville shall have the following powers to make street improvements as hereinafter set out:

“Section 5.3.1. In addition to any authority which is now or may hereafter be granted by general law to the Town of Farmville for making street improvements, the Town Board is hereby authorized to make street improvements and to assess the costs thereof against abutting property owners.

“Section 5.3.2. The Town Board 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 Town Board 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, whether or not it is already improved, and
- (4) such street, or part thereof, is in need of repair or pavement and it is in the public interest to make such improvements.

“Section 5.3.3. 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.

“Section 5.3.4. In addition to any authority which is now or may hereafter be granted by general law to the Town of Farmville for making sidewalk improvements, the Town 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 Town Board 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.

“Section 5.3.5. In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of this act, the Town 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.

“Section 5.3.6. The effect 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.

#### “ARTICLE 6. CONTINUING POWERS.

“Section 6.1. Continuance of contracts. All contracts entered into by the Town or for its benefit prior to the effective date of this Charter shall continue in full force and effect. Public improvements for which steps have been taken under the law or under provisions of earlier charters may be carried to

completion in accordance with the provisions of such existing laws and charter provisions.

"Section 6.2. Saving clause. If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of this Charter. The provisions of this Charter shall supersede all laws and ordinances inconsistent herewith insofar as the Town of Farmville is affected thereby.

**"ARTICLE 7. JURISDICTION.**

"Section 7.1. Police jurisdiction. The Police of the Town of Farmville shall have jurisdiction and may enforce the laws, make arrests, and conduct investigations and carry out all other duties of the Police Department anywhere within the Farmville Township, Pitt County, North Carolina.

"Section 7.2. Soil erosion and sedimentation control. The Town shall continue to have those powers relative to control of erosion and sedimentation within its extraterritorial jurisdiction as may be set forth in its ordinance enacted pursuant to G.S. 113A-60."

**Sec. 2.** The Mayor and Board of Commissioners of Farmville in office at the time this Charter takes effect shall continue until their successors are elected and qualified.

**Sec. 3.** Chapters 36 and 611 of the 1965 Session Laws, which are earlier charter acts of the Town of Farmville and which are subsumed by this act, are repealed.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1979.

H. B. 388

**CHAPTER 407**

**AN ACT TO PERMIT THE LIMITED OPERATION OF THE GAME OF BINGO IN NORTHAMPTON COUNTY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** It is lawful for municipal fire departments, county fire departments, volunteer fire departments recognized by the Northampton County Commissioners, or any rescue squad recognized by the Northampton County Commissioners, and Ruritans and Lions Clubs, to operate the game of bingo in Northampton County. It is also lawful for members of an auxiliary of any such department or rescue squad to operate the game of bingo in Northampton County.

**Sec. 2.** The gross proceeds obtained from the operation of the game of bingo, except for prize money, must go into the treasury of the organization operating the game of bingo. No organization shall pay salaries or commissions to persons operating the game of bingo.

**Sec. 3.** An organization may operate the game of bingo only one day per week and only for a maximum period of six hours on that day. Bingo may not be played on Sunday in Northampton County.

**Sec. 4.** The organizations permitted by Section 1 to operate the game of bingo which are not under the Local Government Budget and Fiscal Control Act must submit annual audit reports to the Northampton County Commissioners for each budget year during which they operated the game of bingo.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## H. B. 491

### CHAPTER 408

#### AN ACT TO REDEFINE THE DISTINCTION BETWEEN FELONY LARCENY AND MISDEMEANOR LARCENY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-72 is amended by deleting the phrase "\$200.00" from the catchline thereof and substituting in lieu thereof the phrase "\$400.00", and is further amended by deleting from subsection (a) the phrase "two hundred dollars (\$200.00)" and substituting in lieu thereof the phrase "four hundred dollars (\$400.00)".

**Sec. 2.** G.S. 14-73 is amended by deleting the words "two hundred dollars" and substituting in lieu thereof the phrase "four hundred dollars (\$400.00)".

**Sec. 3.** This act shall become effective on January 1, 1980, and applies to all crimes committed on or after that date.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## H. B. 592

### CHAPTER 409

#### AN ACT TO AMEND CHAPTER 58, ARTICLE 22, OF THE GENERAL STATUTES RELATING TO RESERVE VALUATION AND NONFORFEITURE BENEFITS OF LIFE INSURANCE POLICIES AND INDIVIDUAL DEFERRED ANNUITIES.

*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 subdivision (3) 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 subdivision (3) 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 such 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 the effective date of this amendatory act of 1979, and



four and one-half percent (4 1/2%) interest for such policies issued on or after the effective date of this amendatory act of 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, and the Commissioner's 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date; 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;
- 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 the Commissioner's 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date;
- 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; 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; 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) 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 the effective date of this amendatory act of 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 the effective date of this amendatory act of 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 seven and one-half percent ( $7\frac{1}{2}\%$ ) interest;
- c. for individual annuity and pure endowment contracts issued on or after the effective date of this amendatory act of 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 modification of this table approved by the Commissioner, and five and one-half percent ( $5\frac{1}{2}\%$ ) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent ( $4\frac{1}{2}\%$ ) interest for all other such individual annuity and pure endowment contracts;
- d. for all annuities and pure endowments purchased prior to the effective date of this amendatory act of 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 the effective date of this amendatory act of 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 seven and one-half percent ( $7\frac{1}{2}\%$ ) 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 that an insurer may elect a different 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.”

**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) over (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 19-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.

Reserves according to the Commissioner’s reserve valuation method for

(1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(2) 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;

(3) disability and accidental death benefits in all policies and contracts; and

(4) 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.** Section 58-201.1 is hereby amended by adding a new subsection to read as follows:

(d-1) This subsection shall apply to all annuity and pure endowment contracts other than 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.

Reserves according to the Commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values."

**Sec. 4.** 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 operative 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) and (g) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies."

**Sec. 5.** Subsection (f) of G.S. 58-201.1 is hereby amended by rewriting the same to read as follows:

"(f) Reserves for all policies and contracts issued prior to the operative date of G.S. 58-201.2 may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

Reserves for any category of policies, contracts or benefits as established by the Commissioner, issued on or after the operative date of G.S. 58-201.2, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided."

**Sec. 6.** 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 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."

**Sec. 7.** Subsection (a) of G.S. 58-201.2 is hereby amended by rewriting the same to read as follows:

"(a) This section shall be known as the Standard Nonforfeiture Law for Life Insurance."

**Sec. 8.** Subsection (e)(2) of G.S. 58-201.2 is hereby amended by rewriting the same to read as follows:

"(2) 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 the effective date of this amendatory act of 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 the effective date of this amendatory act of 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."

**Sec. 9.** Subsection (e)(3) of G.S. 58-201.2 is hereby amended by rewriting the same to read as follows:

"(3) 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 the effective date of this amendatory act of 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 the effective date of this amendatory act of 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.

**Sec. 10.** Subsection (s) of G.S. 58-79.2 is hereby amended by rewriting the same to read as follows:

“(s) Except for G.S. 58-201.3 and G.S. 58-207 in the case of a variable annuity contract and G.S. 58-201.2, G.S. 58-207, and G.S. 58-211(l) in the case of a variable life insurance policy and except as otherwise provided in this section, all pertinent provisions of the insurance laws of this State shall apply to separate accounts and contracts issued in connection therewith. Any individual variable life insurance contract, delivered or issued for delivery within this State, shall contain reinstatement and nonforfeiture provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery within this State, shall contain grace provisions appropriate to such a contract. Any individual variable annuity contract, delivered or issued for delivery within this State, shall contain reinstatement provisions appropriate to such a contract.”

**Sec. 11.** Article 22 of Subchapter IV of Chapter 58 as amended (G.S. 58-195 to G.S. 58-213) is hereby amended by adding a new G.S. 58-201.3 to read as follows:

“(a) This section shall be known as the Standard Nonforfeiture Law for Individual Deferred Annuities.

(b) This section shall not apply to any reinsurance, group annuity 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, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this State through an agent or other representative of the company issuing the contract.

(c) In the case of contracts issued on or after the operative date of this section as defined in subsection (1), no contract of annuity, except as stated in subsection (b), shall be delivered or issued for delivery in this State unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (e), (f), (g), (h) and (j).

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (e), (f), (h) and (j). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(d) The minimum values as specified in subsections (e), (f), (g), (h) and (j) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:



(i) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum; and  
(ii) the amount of any indebtedness to the company on the contract, including interest due and accrued,  
and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars (\$30.00) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent ( $87\frac{1}{2}\%$ ) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(i) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent ( $22\frac{1}{2}\%$ ) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(ii) The annual contract charge shall be the lesser of (i) thirty dollars (\$30.00) or (ii) ten percent (10%) of the gross annual considerations.

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75.00).

(e) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(f) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders



of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(g) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(h) For the purpose of determining the benefits calculated under subsections (f) and (g), in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(i) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(j) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(k) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (e), (f), (g), (h) and (j), additional benefits payable (1)

in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, or (3) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(l) After the effective date of this section, 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 the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be the second anniversary of the effective date of this section."

**Sec. 12.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 13.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## H. B. 670

## CHAPTER 410

AN ACT TO REQUIRE EIGHT OF THE TWENTY MEMBERS OF THE YOUTH ADVISORY COUNCIL TO REPRESENT YOUTH ORGANIZATIONS SUCH AS 4-H, FFA, GIRL SCOUTS, ETC.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-386 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is amended

(a) by inserting after the word "Council" appearing in line 5 the words and punctuation as follows:

“, which shall include a requirement that four of the members represent youth organizations;”

and by inserting after the word "Governor" appearing in line 5 the words "at least four of whom shall be individuals working on youth programs through youth organizations. Provided that no person shall serve on the Board for more than two complete consecutive terms."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## H. B. 852

## CHAPTER 411

## AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-22(e) is amended by rewriting as follows:

"(e) The State Board of Elections shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, pollbooks, tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The Board shall furnish to the county and municipal boards of elections the registration application forms required pursuant to G.S. 163-67. The State Board of Elections shall direct the county boards of elections to purchase a sufficient quantity of all forms attendant to the registration and elections process. In addition, the State Board shall provide a source of supply from which the county boards of elections may purchase the quantity of pollbooks needed for the execution of its responsibilities. In the preparation of ballots, pollbooks, abstract and return forms, and all other forms, the State Board of Elections may call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots and forms."

**Sec. 2.** G.S. 163-41.1(b) is rewritten as follows:

"(b) No precinct official who is the wife, husband, mother, father, son, daughter, brother or sister of any candidate for nomination or election may serve as precinct official during any primary or election in which such candidate participates. The county board of elections shall temporarily disqualify any such official for the specific primary or election involved and shall have authority to appoint a substitute official, from the same political party, to serve only during the primary or election at which such conflict exists."

**Sec. 3.** G.S. 163-96(a)(2) is amended by substituting the word "June" in lieu of the word "July" appearing in the second sentence.

**Sec. 4.** G.S. 163-98 is amended by substituting the word "July" in lieu of the word "August" appearing in the second sentence in the second paragraph.

**Sec. 5.** G.S. 163-106(a) is amended by rewriting the fourth paragraph thereof as follows:

"Prior to the date on which candidates may commence filing, the State Board of Elections shall print and furnish, at State expense, to each county board of elections a sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections."

**Sec. 6.** G.S. 163-109(b) is amended by substituting "60 days" in lieu of "30 days" wherever it appears therein.

**Sec. 7.** G.S. 163-248(b), (c), and (d) are amended by substituting "60 days" for "30 days" wherever it appears therein.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

H. B. 874

**CHAPTER 412****AN ACT TO ESTABLISH THE NORTH CAROLINA BALANCED GROWTH POLICY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Title. This Article shall be known as the North Carolina Balanced Growth Policy Act.

**Sec. 2.** Purposes. The purposes of this act are to declare as a policy that the State of North Carolina shall encourage economic progress and job opportunities throughout the State; support growth trends which are favorable to maintain a dispersed population, to maintain a healthy and pleasant environment and to preserve the natural resources of the State.

**Sec. 3.** Declaration of State Balanced Growth Policy. The General Assembly of North Carolina recognizes the importance of reaching a higher standard of living throughout North Carolina by maintaining a balance of people, jobs, public services and the environment, supported by the growing network of small and large cities in the State. The General Assembly of North Carolina, in order to assure that opportunities for a higher standard of living are available all across the State, declares that it shall be the policy of the State to bring more and better jobs to where people live; to encourage the development of adequate public services on an equitable basis for all of the State's people at an efficient cost; and to maintain the State's natural environmental heritage while accommodating urban and agricultural growth.

**Sec. 4.** Cooperation of agencies. The General Assembly encourages, to the fullest extent possible, all State agencies to review their existing policies, procedures and regulations to bring them into conformity with the provisions of this Balanced Growth Policy.

**Sec. 5.** Achieving Balanced Growth. It shall be the policy of the State of North Carolina to support the expansion of the State and to designate growth areas or centers with the potential, capacity and desire for growth. The Governor, with the advice of county and municipal government officials and citizens, is charged with designating growth areas or centers, which shall include at least one center in each North Carolina county. Designation of growth areas or centers shall be reviewed annually. These designations may be used for the purpose of establishing priority consideration for State and federal assistance for growth.

Progress toward achieving balanced growth shall be measured by the strengthening of economic activity and the adequacy of public services within each of the State's multi-county regions and, as to the geographical area included, the Southeastern Economic Development Commission. The Governor, with the advice of county and municipal government officials and citizens, shall develop measures of progress toward achieving balanced growth.

**Sec. 6.** Citizen participation. The Governor shall establish a process of citizen participation that assures the expression of needs and aspirations of North Carolina's citizens in regard to the purposes of this act.

**Sec. 7.** Policy areas. The following program area guidelines shall become the policy for the State of North Carolina:

(1) to encourage diversified job growth in different areas of the State, with particular attention to those groups which have suffered from high rates of



unemployment or underemployment, so that sufficient work opportunities at high wage levels can exist where people live;

(2) to encourage the development of transportation systems that link growth areas or centers together with appropriate levels of service;

(3) to encourage full support for the expansion of family-owned and operated units in agriculture, forestry and the seafood industry as the basis for increasing productive capacity;

(4) to encourage the development and use of the State's natural resources wisely in support of Balanced Growth Policy while fulfilling the State's constitutional obligation to protect and preserve its natural heritage;

(5) to promote the concept that a full range of human development services shall be available and accessible to persons in all areas of the State;

(6) to encourage the continued expansion of early childhood, elementary, secondary and higher education opportunities so that they are improving in both quality and availability;

(7) to encourage excellent technical training for North Carolina workers that prepares them to acquire and hold high-skill jobs and that encourages industries which employ high-skill workers to locate in the State;

(8) to encourage the availability of cultural opportunities to people where they live;

(9) to encourage the expansion of local government capacity for managing growth consistent with this Balanced Growth Policy; and

(10) to encourage conservation of existing energy resources and provide for the development of an adequate and reliable energy supply, while protecting the environment.

**Sec. 8.** Implementation of a State-local partnership. The Governor, with the advice of the State Goals and Policy Board, shall establish a statewide policy-setting process for Balanced Growth, in partnership with local government, that brings about full participation of both the State and local government. The purpose of this State-local partnership is to arrive at joint strategies and objectives for balanced statewide development and ensure consistent action by the State and local government for jointly agreed upon strategies and objectives.

**Sec. 9.** There is established in the office of the Governor, the North Carolina Office of Local Government Advocacy. The Local Government Advocacy Council, created by Executive Order Number 22, is hereby transferred to the Office of Local Government Advocacy. The Council shall consist of 19 persons and shall be composed as follows: six members representing county government, five of whom are the members of the Executive Committee of the North Carolina Association of County Commissioners and one who is the Executive Director of the Association; six members representing municipal government, five of whom are the members of the Executive Committee of the North Carolina League of Municipalities and one who is the Executive Director of the League; two Senators appointed by the President of the Senate; two members of the House of Representatives, appointed by the Speaker of the House of Representatives and three at-large members appointed by the Governor. The Association of County Commissioners and the League of Municipalities representatives shall serve terms on the Council consistent with their terms as Executive Committee members appointed by the Governor. The members appointed by the President of the Senate and the Speaker of the

House of Representatives shall serve until January 15, 1981, or until their successors are appointed, whichever is later. Their successors shall serve a term of two years. The at-large members shall serve at the pleasure of the Governor for a period of two years. The Chairman and Vice-Chairman shall be the President of the Association of County Commissioners and the President of the League of Municipalities respectively, with the office rotating between the League and Association annually. Provided that no person among those appointed by the Governor, the President of the Senate and the Speaker of the House of Representatives shall serve on the Council for more than two complete consecutive terms.

The Council shall meet at least once each quarter and may hold special meetings at any time at the call of the Chairman or the Governor.

The members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

**Membership.** The Local Government Advocacy Council shall not be considered a public office and, to that end membership may be held in addition to the number of offices authorized by G.S. 128-1.1.

The general duties and responsibilities of the Council are:

(1) to advocate on behalf of local government and to advise the Governor and his Cabinet on the development and implementation of policies and programs which directly affect local government;

(2) to function as liaison for State and local relations and communications;

(3) to identify problem areas and recommend policies with respect to State, regional and local relations; and

(4) to review, monitor and evaluate current and proposed State program policies, practices, procedures, guidelines and regulations with respect to their effect on local government.

The Office of Local Government Advocacy shall be staffed by persons knowledgeable of local government who shall seek to carry out the directives of the Local Government Advocacy Council by:

(1) advocating the policies of the Council with various State departments;

(2) serving as a communications liaison between the Local Government Advocacy Council and the various State departments; and

(3) functioning as an ombudsman for the resolution of local government problems.

It shall be the responsibility of each respective Cabinet department head to: (1) insure that departmental employees make every effort to cooperate with and provide support to the Local Government Advocacy Council in keeping with the intent of this act; and (2) advise the Local Government Advocacy Council of their proposed policies and plans for review in terms of their effect on local government.

**Sec. 10.** No appropriations are required. This program and 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. 11.** Severability. If any provision of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the 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. 12.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## S. B. 85

## CHAPTER 413

AN ACT TO AMEND G.S. 143-215.54 TO PROVIDE LOCAL GOVERNMENTS THE NECESSARY AUTHORITY FOR ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.54(2) is hereby amended by deleting the period after the word "Part" and by adding "and for purposes which the State does not regulate either by a permit or a formal approval system."

**Sec. 2.** G.S. 143-215.54(b) is hereby rewritten to read:

"(b) The following uses may be made of floodways as a matter of right without a permit issued under this Part:

- (1) general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses;
- (2) ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses;
- (3) lawns, gardens, play areas and other similar uses;
- (4) golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## S. B. 140

## CHAPTER 414

AN ACT TO AMEND G.S. 146-6 TO PROVIDE THAT NO EASEMENT TO FILL SHALL BE REQUIRED IN ORDER FOR A RIPARIAN OWNER TO RECLAIM LANDS THERETOFORE LOST BY NATURAL CAUSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsections (b) and (c) of G.S. 146-6 are rewritten to read as follows:

"(b) If any land is, by act of man, raised above the high watermark of any navigable water by filling, except such filling be to reclaim lands theretofore lost to the owner by natural causes or as otherwise provided under the proviso of subsection (d), title thereto shall vest in the State and the land so raised shall become a part of the vacant and unappropriated lands of the State, unless the commission of the act which caused the raising of the land in question shall have been previously approved in the manner provided in subsection (c) of this section.

(c) If any owner of land adjoining any navigable water desires to fill in the area immediately in front of his land, he may apply to the Department of Administration for an easement to make such fill. The applicant shall deliver to each owner of riparian property adjoining that of the applicant, a copy of the

application filed with the Department of Administration, and each such person shall have 30 days from the date of such service to file with the Department of Administration written objections to the granting of the proposed easement. If the Department of Administration finds that the purpose of the proposed fill is to reclaim lands theretofore lost to the owner by natural causes, no easement to fill shall be required. In such a case the department shall give the applicant written permission to proceed with the project. If the purpose of the proposed fill is not to reclaim lands lost by natural causes and the department finds that the proposed fill will not impede navigation or otherwise interfere with the use of the navigable water by the public or injure any adjoining riparian owner, it shall issue to such applicant an easement to fill and shall fix the consideration to be paid for the easement, subject to the approval of the Governor and Council of State in each instance. The granting by the State of the written permission or easement so to fill shall be deemed conclusive evidence and proof that the applicant has complied with all requisite conditions precedent to the issuance of such written permission or easement, and his right shall not thereafter be subject to challenge by reason of any alleged omission on his part. None of the provisions of this section shall relieve any riparian owner of the requirements imposed by the applicable laws and regulations of the United States. Upon completion of such filling, the Governor and Council of State may, upon request, direct the execution of a quitclaim deed therefor to the owner to whom the easement was granted, conveying the land so raised, upon such terms as are deemed proper by the department and approved by the Governor and Council of State."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## S. B. 260

## CHAPTER 415

### AN ACT TO AMEND G.S. 20-30 RELATING TO VIOLATIONS OF THE MOTOR VEHICLE DRIVERS LICENSE LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-30 is hereby amended by adding a new subsection to be designated subsection (7) and to read as follows:

"(7) To sell or offer for sale any reproduction or facsimile or simulation of an operator's or chauffeur's license or learner's permit. The provisions of this subsection shall not apply to agents or employees of the Division while acting in the course and scope of their employment. Any person, firm or corporation violating the provisions of this subsection shall be guilty of a felony, and shall be punished by a fine of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5,000), imprisonment for not more than three years or both such fine and imprisonment."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.



S. B. 381

**CHAPTER 416****AN ACT REGARDING TRESPASSING IN PUBLIC BUILDINGS IN GASTON COUNTY.***The General Assembly of North Carolina enacts:*

**Section 1.** It is unlawful for any person to willfully refuse or fail to leave any public building during those hours of the day or night when the building is regularly closed to the public upon being requested to leave that building by a regularly employed guard, watchman, or custodian of the building, provided the person has no apparent lawful business to pursue.

**Sec. 2.** As used in this act, "public building" means a building over which the State has jurisdiction, located in Gaston County which is owned or regularly used by the United States, North Carolina, Gaston County, any municipality in Gaston County, or any agency of any of those governments.

**Sec. 3.** Violation of this act is a misdemeanor punishable under G.S. 14-4.

**Sec. 4.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

S. B. 528

**CHAPTER 417****AN ACT REGARDING BIRTH REGISTRATION OF ILLEGITIMATE CHILDREN.***The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 95 of the 1979 Session Laws is amended by rewriting the first sentence of G.S. 130-50(f) as that statute appears in Section 4 of that Chapter to read:

"If the mother was unmarried at all times from date of conception through date of birth, the name of the father shall not be entered on the certificate without the written consent, under oath, of both the father and the mother, in which case, upon written request of both parents, the surname of the child shall be entered on the certificate as that of the father."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

S. B. 572

**CHAPTER 418****AN ACT TO PROVIDE FOR THE EXPENDITURE OF INSURANCE COMPANY DEPOSITS FOR THE BENEFIT AND PROTECTION OF POLICYHOLDERS OF INSOLVENT LIFE AND ACCIDENT AND HEALTH INSURANCE COMPANIES.***The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"§ 58-155.84. *Use of deposits made by impaired insurer.*—Notwithstanding any other provision of Chapter 58 of the General Statutes pertaining to the use of deposits made by insurance companies for the protection of policyholders, the commissioner shall deliver to the association, and the association is hereby

authorized to expend, any deposit or deposits previously or hereinafter made, whether or not made pursuant to statute, by an insurer determined to be impaired under this Article to the extent those deposits are needed by the association to pay contractual obligations of that impaired insurer owed under covered policies as required by this Article, and to the extent those deposits are needed to pay all expenses of the association relating to the impaired insurer. The association shall account to the commissioner and the impaired insurer for all deposits received from the commissioner hereunder. After all of the deposits of the impaired insurer have been expended by the association for the purposes set out in this section, the member insurers shall be assessed as provided by this Article to pay any remaining liabilities of the association arising under this Article.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## H. B. 1023

## CHAPTER 419

AN ACT TO AMEND CHAPTER 20 TO REPEAL A SUBSECTION REQUIRING AN OWNER OF A MOTOR VEHICLE WITH A DIESEL ENGINE TO FILE QUARTERLY REPORTS SHOWING PURCHASES OF DIESEL FUEL WHICH ARE NO LONGER NECESSARY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-88(h) is hereby repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## S. B. 256

## CHAPTER 420

AN ACT TO MOVE THE AUTHORITY REFERENCE TO VOCATIONAL REHABILITATION BECAUSE OF THE PROPOSED REWRITE OF CHAPTER 115 OF THE GENERAL STATUTES.

Whereas, there have been several proposals in the General Assembly to rewrite and recodify the elementary and secondary education Chapter of the General Statutes of North Carolina taking out all matters unrelated to this area of education; and

Whereas, present statutes relating to vocational rehabilitation are located in the General Statutes Chapter referred to above, but vocational rehabilitation is now a function of the Department of Human Resources and no longer under the auspices of the Board of Education, by reason of State government reorganization; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 30 of Chapter 115 of the General Statutes is hereby repealed.

**Sec. 2.** Chapter 143 of the General Statutes is hereby amended by adding a new Article 59 to read as follows:

“Article 59.

**“Vocational Rehabilitation Services.**

“§ 143-540. *Acceptance of federal aid.*—The State of North Carolina accepts all of the provisions and benefits of the Rehabilitation Act of 1973 (Public Law 93-112) as amended, an act passed by the Congress of the United States to assist states in providing vocational rehabilitation services to physically and mentally disabled persons with the goal of preparing these persons for gainful employment.

“§ 143-151. *Designated State agency.*—(a) The Department of Human Resources is authorized:

- (1) to cooperate with the Federal Rehabilitation Services Administration or its successor agency in the administration of the Rehabilitation Act of 1973 (Public Law 93-112) as amended;
- (2) to administer any legislation concerning vocational rehabilitation enacted by the State of North Carolina through an approved State Plan;
- (3) to formulate a program of vocational rehabilitation services through its organizational unit;
- (4) to fix compensation, subject to the approval of the State Personnel Commission, as may be necessary to administer this program and to pay such compensation and other expenses as are necessary from funds appropriated under this law.

(b) The Department of Human Resources, in order to carry out the provisions of this Article, shall secure the cooperation of federal, State, and local agencies, organizations, and individuals having contact with the physically and mentally disabled population.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## S. B. 562

**CHAPTER 421**

AN ACT TO AMEND THE PROVISIONS OF NORTH CAROLINA G.S. 58-77 RELATING TO AMOUNTS OF CAPITAL AND SURPLUS REQUIRED FOR THE FORMATION AND OPERATION OF GENERAL DOMESTIC INSURANCE COMPANIES BY RAISING THE MINIMUM REQUIREMENTS THEREOF.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-77 is hereby amended to read as follows:

“§ 58-77. *Amount of capital and/or surplus required; impairment of capital or surplus.*—The amount of capital and/or surplus requisite to the formation and organization of companies under the provisions of this Chapter shall be as follows:

(1) Stock life insurance companies.

- a. A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do the business of life insurance, only when it shall have paid-in capital of at least six hundred thousand dollars (\$600,000) and a paid-in initial surplus of at least nine hundred thousand dollars (\$900,000), and it may in addition do the kind of business specified in subdivision (2) of G.S. 58-72 (annuities), without having additional capital or surplus. Every such company shall at all times thereafter maintain a minimum capital of not less than six

hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000). Provided that, any such corporation may do either or both of the kinds of insurance authorized for stock, accident and health insurance companies, as set out in paragraphs a and b of subdivision (3) of G.S. 58-72 (accidental death or personal injury, and noncancelable disability), where its charter so permits, and when and so long as it meets and maintains a minimum capital and surplus equal to the sum of the minimum capital and surplus requirements of this subdivision (1)(a.) and the minimum capital and surplus requirements of subdivision (2)(a.) and/or (2)(b.) hereof as applicable.

- b. If the Commissioner, after such investigation as he may deem it expedient to make, finds that a corporation may be organized to do the business of life insurance, or the writing of annuities or both, that its operations are restricted solely to one state, and that the organization of such corporation is in the public interest, he may permit the organization of a stock corporation to do on such restricted plan either or both kinds of business specified in subdivisions (1) and (2) of G.S. 58-72 (life insurance and annuities), with the minimum paid-in capital and a minimum paid-in initial surplus in an amount to be prescribed by him, but in no event to be less than a paid-in capital of four hundred thousand dollars (\$400,000) and a paid-in surplus of six hundred thousand dollars (\$600,000). Every such company shall at all times thereafter maintain such prescribed minimum capital, or four hundred thousand dollars (\$400,000), whichever is greater and a minimum surplus of at least one hundred thousand dollars (\$100,000).

(2) Stock accident and health insurance companies.

- a. A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do only the kind of insurance specified in subdivision (3)a of G.S. 58-72 (accidental death or personal injury), when it shall have a paid-in capital of not less than four hundred thousand dollars (\$400,000), and a paid-in initial surplus of at least six hundred thousand dollars (\$600,000). Every such company shall at all times thereafter maintain a minimum capital of not less than four hundred thousand dollars (\$400,000) and a minimum surplus of at least one hundred thousand dollars (\$100,000).
- b. Any company organized under the provisions of paragraph a. of this subdivision may, by the provisions of its original charter or any amendment thereto, acquire the power to do the kind of business specified in paragraph b. of subdivision (3) of G.S. 58-72 (noncancelable disability insurance), if it has a paid-in capital of at least six hundred thousand dollars (\$600,000) and a paid-in initial surplus of at least nine hundred thousand dollars (\$900,000). Every such company shall at all times maintain a minimum capital of not less than six hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000).

(3) Stock fire and marine companies. A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions (4), (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-72 only when it shall have a paid-in capital of not



less than eight hundred thousand dollars (\$800,000) and a paid-in initial surplus of not less than one million two hundred thousand dollars (\$1,200,000). Every such company shall at all times thereafter maintain a minimum capital of not less than eight hundred thousand dollars (\$800,000) and a minimum surplus of at least two hundred thousand dollars (\$200,000). Provided that, any such corporation may do all the kinds of insurance authorized for casualty, fidelity and surety companies, as set out in subdivision (4) hereof where its charter so permits, and when and so long as it meets and thereafter maintains a minimum capital and surplus equal to the sum of the minimum capital and surplus requirements of this subdivision (3) and the minimum capital and surplus requirements of subdivision (4) hereof.

(4) Stock casualty and fidelity and surety companies.

- a. A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (21) and (22) of G.S. 58-72 only when it shall have a paid-in capital of not less than one million dollars (\$1,000,000) and a paid-in initial surplus of not less than one million five hundred thousand dollars (\$1,500,000). Every such company shall at all times thereafter maintain a minimum capital of not less than one million dollars (\$1,000,000) and a minimum surplus of at least two hundred fifty thousand dollars (\$250,000).
- b. If the Commissioner, after such investigation as he may deem it expedient to make, finds that a corporation may be organized to do one or more of such kinds of insurance, that its operations are restricted solely to one state, and that the organization of such corporation is in the public interest, he may permit such corporation to be organized and licensed to write the lines set out in subsection a. above with a paid-in capital of not less than six hundred thousand dollars (\$600,000) and a paid-in initial surplus of not less than nine hundred thousand dollars (\$900,000). Every such company shall hereafter maintain a minimum capital of not less than six hundred thousand dollars (\$600,000) and a minimum surplus of at least one hundred fifty thousand dollars (\$150,000). Provided that, any such casualty, fidelity and surety corporation may do all the kinds of insurance authorized for fire and marine companies, as set out in subdivision (3) hereof where its charter so permits, when and if it meets all additional requirements as to capital and surplus as fixed in said section, and maintains the same.

(5) Mutual fire and marine companies.

- a. Limited assessment companies. A limited assessment mutual company may be organized in the manner prescribed in this Chapter and licensed to do one or more kinds of insurance specified in subdivisions (4), (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-72 only when it has no less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus of at least three hundred thousand dollars (\$300,000), which surplus shall at all times be maintained. The assessment liability of a policyholder of a company organized in accordance with the provisions of this paragraph shall not be limited to less than five annual premiums provided, such limited assessment company may reduce the assessment

liability of its policyholders from five annual premiums as set out herein to one additional annual premium when the free surplus of such company amounts to not less than three hundred thousand dollars (\$300,000), which surplus shall at all times be maintained.

- b. Assessable mutual companies. An assessable mutual company may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions (4), (5) and (6) of G.S. 58-72 (fire, miscellaneous property and water damage), with an unlimited assessment liability of its policyholders only when it shall have not less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus equal to twice the amount of the maximum net retained liability under the largest policy of insurance issued by such company; but not less than sixty thousand dollars (\$60,000) which surplus shall at all times be maintained. Provided such company, when its charter so permits, in addition may be licensed to do one or more of the kinds of insurance specified in subdivisions (7), (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-72, with an unlimited assessment liability of its policyholders, when its free surplus amounts to not less than sixty thousand dollars (\$60,000), which surplus shall at all times be maintained.
- c. Nonassessable mutual companies. A nonassessable mutual company may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions (4), (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-72 and may be authorized to issue policies under the terms of which a policyholder is not liable for any assessments in addition to the premium set out in the policy only when it shall have not less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus of not less than eight hundred thousand dollars (\$800,000), which surplus shall at all times be maintained.
- d. Town or county mutual insurance companies. A town or county mutual insurance company with unlimited assessment liability may be organized in the manner prescribed in this Chapter and licensed to do the kinds of insurance specified in subdivision (4) of G.S. 58-72 (fire) only when it shall have not less than fifty thousand dollars (\$50,000) of insurance in not fewer than 50 separate risks subscribed with a paid-in initial surplus of not less than fifteen thousand dollars (\$15,000), which surplus shall at all times be maintained. A town or county mutual insurance company may, in addition to writing the business specified in subdivision (4) of G.S. 58-72 (fire insurance), cover in the same policy the hazards usually insured against under an extended coverage endorsement when such company has and at all times maintains in addition to the surplus hereinbefore required, an additional surplus of not less than twenty-five thousand dollars (\$25,000) or not less than an amount equivalent to one percent (1%) of the total amount of net retained insurance in force, whichever is the larger sum: Provided, that such company may not operate in more than three adjacent counties in this State.

(6) Mutual life, accident and health insurance companies. A nonassessable mutual insurance company may be organized in the manner prescribed in this Chapter, and licensed to do only one or more of the kinds of insurance specified in subdivisions (1), (2) and (3) of G.S. 58-72 (life, annuities, and accident and health) when it has complied with the requirements of this Chapter and with those hereinafter set forth in paragraphs a. to d. of this subdivision, inclusive, whichever shall be applicable.

- a. If organized to do only the kinds of insurance specified in subdivisions (1) and (2) of G.S. 58-72 (life insurance and annuities), such company shall have not less than 500 bona fide applications for life insurance in an aggregate amount not less than five hundred thousand dollars (\$500,000), and shall have received from each such applicant in cash the full amount of one annual premium on the policy applied for by him, in an aggregate amount at least equal to ten thousand dollars (\$10,000), and shall in addition have a paid-in initial surplus of two hundred thousand dollars (\$200,000), and shall have and maintain at all times a minimum surplus of one hundred thousand dollars (\$100,000).
  - b. If organized to do only the kind of insurance specified in paragraph a. of subdivision (3) of G.S. 58-72 (accidental death and personal injury), such company shall have not less than 250 bona fide applications for such insurance, and shall have received from each such applicant in cash the full amount of one annual premium on the policy applied for by him in an aggregate amount of at least ten thousand dollars (\$10,000), and shall have a paid-in initial surplus of two hundred thousand dollars (\$200,000) and shall have and maintain at all times a minimum surplus of one hundred thousand dollars (\$100,000).
  - c. If organized to do the kinds of insurance specified in subdivision (1) and in paragraph a. of subdivision (3) of G.S. 58-72 (life insurance and accidental death and injury), such company shall have complied with the provisions of both paragraphs a. and b. hereof.
  - d. If organized to do the kind of insurance specified in paragraph b. of subdivision (3) of G.S. 58-72 (noncancelable disability insurance), in addition to the kind or kinds of insurance designated in any one of the foregoing paragraphs of this subdivision, such company shall have a paid-in initial surplus of at least five hundred thousand dollars (\$500,000) and shall maintain a minimum surplus of at least three hundred thousand dollars (\$300,000).
- (7) Organization of mutual casualty, fidelity and surety companies.
- a. Nonassessable, mutual companies. A mutual insurance company with no assessment liability provided for its policyholders may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (21) and (22) of G.S. 58-72 when it has a minimum paid-in initial surplus of one million dollars (\$1,000,000) and not less than five hundred thousand dollars (\$500,000) in insurance subscribed in not less than 500 separate risks. The surplus of such company shall at all times be maintained at or above the amount required hereinabove for organization of such company.
  - b. Assessable mutual companies. A mutual insurance company with assessment liability provided for its policyholders may be organized in



the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (21) and (22) of G.S. 58-72 when it has a minimum paid-in initial surplus of four hundred thousand dollars (\$400,000) and not less than five hundred thousand dollars (\$500,000) of insurance subscribed in not less than 500 separate risks. Such company shall at all times maintain a surplus in an amount not less than four hundred thousand dollars (\$400,000). The assessment liability of a policyholder of such company shall not be limited to less than one annual premium.

(8) Organization of mutual multiple line companies.

- a. Assessable mutual companies. A company may do all the kinds of insurance authorized to be done by a company organized under the provisions of paragraph a. of subdivision (5) hereof (limited assessment mutual fire and marine companies), and paragraph b. of subdivision (7) hereof (assessable mutual casualty, fidelity and surety companies), where its charter so permits when and if it meets the combined minimum requirements of said paragraphs. The assessment liability of policyholders of such a company shall not be limited to less than one annual premium within any one policy year.
- b. Nonassessable mutual companies. A company may do all the kinds of insurance authorized to be done by a company organized under the provisions of paragraph c. of subdivision (5) hereof (nonassessable mutual fire and marine companies), and paragraph a. of subdivision (7) hereof (nonassessable mutual casualty, fidelity and surety companies), where its charter so permits when and if it meets the combined minimum requirements of said paragraphs. The policyholders of such a company shall not be subject to any assessment liability.

(9) Time for compliance. Any domestic, foreign or alien company licensed to do business in North Carolina prior to July 1, 1979, shall be permitted to continue to do the same kinds of business which it was authorized to do on such date without being required to increase its capital and/or surplus, provided however, such insurers shall increase the capital and surplus requirements to the amounts set forth in this section G.S. 58-77 on or before July 1, 1983, but the requirements of this section as to capital and surplus shall apply to such companies as a prerequisite to writing additional lines of business, and to such companies as a prerequisite to commencing business if unlicensed prior to July 1, 1979.

(10) Impairment of capital and/or surplus. Whenever the Commissioner finds from a financial statement made by any such company, or from a report of examination of any such company, that its admitted assets are less than the aggregate amount of its liabilities and its outstanding capital stock and/or required minimum surplus, he shall determine the amount of such impairment of capital and/or surplus and issue an order in writing requiring the company to eliminate the impairment within such period of not more than 90 days as he shall designate. The Commissioner may, by order served upon the company, prohibit the company from issuing any new policies while such impairment exists. If at the expiration of the designated period the company has not satisfied the Commissioner that the impairment has been eliminated, an order



for the rehabilitation or liquidation of the company may be entered as provided in Article 17A, Chapter 58 of the General Statutes of North Carolina."

**Sec. 2.** If any provision or part of this act or application thereof is held invalid, such invalidity shall not affect any other provision or part of this act or any other application thereof which can be given effect without the invalid provision, part, or application, and to this end the provisions and parts of this act are severable.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 19th day of April, 1979.

## H. B. 35

## CHAPTER 422

AN ACT TO GIVE THE DEPARTMENT OF ADMINISTRATION A REPRESENTATIVE ON THE ENERGY POLICY COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113B-3 as the same appears in the 1978 Replacement Volume 3A of the General Statutes is amended by deleting the figure "15" appearing in line 1 and inserting in lieu thereof the figure "16" and by deleting the word "and" in line 3 of subsection (a)(4) and inserting in lieu thereof a comma and by inserting after the word "Commerce" in subsection (a)(4) the words "and the Secretary of Administration or their designees from their respective departments".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 571

## CHAPTER 423

AN ACT TO AMEND THE DEFINITION OF PUBLIC VEHICULAR AREA TO INCLUDE PROPERTY OWNED BY THE UNITED STATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-4.01(32) is hereby amended by removing the period and adding at the end of the existing sentence the following new language: "or any drive, driveway, road, roadway, street, alley or parking lot upon any property owned by the United States and subject to the jurisdiction of the State of North Carolina (the inclusion of property owned by the United States in this definition shall not limit assimilation of North Carolina law where applicable under the provision of Title 18, United States Code, section 13)."

**Sec. 2.** Subsection (h) of G.S. 20-16.2 is hereby repealed.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 573

## CHAPTER 424

AN ACT TO PROVIDE FOR A MUNICIPAL ELECTION IN THE TOWN OF NAVASSA IN 1979, AND PROVIDING FOR THE DISTRIBUTION OF POWELL BILL FUNDS TO THAT TOWN FOR 1978.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 77, Session Laws of 1977, is amended by deleting the words "Beginning with the regular municipal election to be held in Navassa in 1977", and inserting in lieu thereof the words "Beginning with the regular municipal election to be held in Navassa in 1979".

**Sec. 2.** Section 7 of Chapter 77, Session Laws of 1977 is amended by deleting the number "1977" in both places and inserting in lieu thereof the number "1979".

**Sec. 3.** Notwithstanding the provisions of G.S. 136-41.2(a), the Town of Navassa shall receive the full amount of funds that were due to be distributed to it in 1978, under the provisions of G.S. 136-41.1 through G.S. 136-41.3, inclusive; and the State shall pay such monies as soon as possible after the effective date of this act.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 629

## CHAPTER 425

AN ACT TO EXTEND THE HOURS AGED AND DISABLED PERSONS MAY VOTE OUTSIDE THE VOTING ENCLOSURE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-155 is amended by deleting the words "9:00 A.M. and 5:00 P.M.", and inserting in lieu thereof the words "7:00 A.M. and 6:00 P.M."

**Sec. 2.** This act shall become effective with respect to elections held on or after September 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 663

## CHAPTER 426

AN ACT TO PROVIDE THAT THE COMPENSATION OF MEMBERS OF THE COLUMBUS COUNTY BOARD OF COMMISSIONERS SHALL BE AS PROVIDED IN G.S. 153A-28.

*The General Assembly of North Carolina enacts:*

**Section 1.** The compensation for the members of the Columbus County Board of Commissioners shall be fixed as provided in G.S. 153A-28 beginning with the fiscal year July 1, 1979.

**Sec. 2.** Chapter 950, Session Laws 1973, is hereby amended by deleting the words "county commissioners" in Sections 1 and 2 thereof.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 746

## CHAPTER 427

## AN ACT TO ALLOW ELIZABETH CITY AND HERTFORD REDEVELOPMENT COMMISSIONS TO DISPOSE OF PROPERTY AT PRIVATE SALE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 1060, Session Laws of 1971, as amended by Chapter 470, Session Laws of 1975, is further amended by adding a second sentence thereto to read:

“This act shall also apply to the City of Elizabeth City and the Town of Hertford, the Town of Edenton, the Town of Plymouth, and to Pasquotank County.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 892

## CHAPTER 428

## AN ACT CONCERNING SECURITY FOR REVENUE BOND ANTICIPATION NOTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-163 is amended by rewriting the third sentence to read as follows:

“Notes issued in anticipation of the sale of revenue bonds shall be secured, to the extent and as provided in the resolution authorizing the issuance of such notes, by a pledge, charge, and lien upon the proceeds of the revenue bonds in anticipation of the sale of which such notes are issued and upon the revenues securing such revenue bonds; provided, however, that such notes shall be payable as to both principal and interest from such revenues if not paid from the proceeds of such revenue bonds or otherwise paid.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## S. B. 505

## CHAPTER 429

## AN ACT AMENDING CHAPTER 188 OF THE 1977 SESSION LAWS RELATING TO THE POLICEMEN'S PENSION FUND OF THE CITY OF ASHEVILLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 188 of the 1977 Session Laws is hereby amended as follows:

(a) Delete all of Section 4(c)(2) and substitute in lieu thereof the following:

“(2) A qualified voter of the City of Asheville knowledgeable in pension matters who is appointed by the City Council and who shall serve at the pleasure of the Council;”

(b) Delete the last sentence of Section 4(c)(3) and substitute in lieu thereof the following:

“Vacancies occurring during the terms of office of the Board of Trustees shall be filled from the same category as the vacancy.”

(c) Delete all of Section 5 and substitute in lieu thereof the following:

“Sec. 5. Eligibility for retirement benefits. Any person who is now a member of the Asheville Police Department, as shown by the records of the City of Asheville, and who becomes a member of the Police Department on or after March 17, 1939, subject to the provisions of Section 14 of this act, shall be entitled to a retirement benefit in accordance with the following provisions:

(a) Normal Retirement. If such member has completed 20 years of service with the said Police Department, he may, upon arriving at the age of 60 years, or if such member has completed 30 years of service and has arrived at the age of 55 years, retire from the Police Department of the City of Asheville and receive benefits of retirement as set out in Section 8 of this act.

(b) Early Retirement. If such member has completed 20 years of service with said Police Department, he shall be eligible to retire on the first day of any month coinciding with or following attainment of age 55 (hereinafter referred to as his Early Retirement Date) and shall be eligible to receive a deferred retirement benefit commencing upon attainment of age 60. Such benefit shall be equal to the benefit calculated under Section 8 with such calculation being made as of his Early Retirement Date. Such member may elect to receive immediate Early Retirement Benefit commencing on his Early Retirement Date or on the first day of any month between his Early Retirement Date and attainment of age 60. Such benefit shall be equal to the benefit calculated as of his Early Retirement Date with the amount of such benefit being reduced by 1/15th for each year that the commencement of benefit precedes his 60th birthday, with pro rata reduction for full months totalling less than one year.

(c) Deferred Vested Benefit. Such member who terminates his employment after completing 20 years of service with said Police Department shall be entitled to a deferred benefit commencing when he reaches his 60th birthday. Such benefit shall be equal to the benefit calculated under Section 8 with such calculation being made as of the date of his termination of employment. Such member may, upon attainment of age 55, elect to receive an immediate Early Retirement Benefit under the terms and conditions set forth in subsection (b) of this Section 5.”

(d) Delete all of Section 9 and substitute in lieu thereof the following:

“Sec. 9. Disability and death benefits. (a) For purposes of this act, references to ‘line of duty’ shall mean a disability or death which is the natural and proximate result of an accident occurring while in the actual performance of duty as a member of the Asheville Police Department, as defined in this act, at some definite time and place. ‘Not in line of duty’ shall mean the disability or death occurring as a result of any cause other than ‘line of duty’.

(b) If and in the event any member of the Asheville Police Department qualifying under this act shall become disabled while acting in the line of duty, as defined in this act, and is unable to work as a policeman, he shall receive monthly a sum equal to seventy percent (70%) of his basic monthly salary rate as then paid by the City of Asheville, said seventy percent (70%) of said basic monthly salary rate shall be paid in monthly installments by the Board of Trustees of the Asheville Policemen’s Pension and Disability Fund; provided, however, that if under the North Carolina Workmen’s Compensation Act he shall receive any payments due to such disability, then the amount of such compensation payments shall be deducted from the amount of his said monthly installment, and there shall be paid from the Policemen’s Pension and



Disability Fund only such amount as may be required to make up his said monthly installment; provided, further, that if such member of the Asheville Police Department shall be killed in the line of duty, or shall die as a result of a disability in the line of duty, as defined in this act, the surviving spouse shall receive, so long as said surviving spouse remains unmarried, the same monthly installment as the member would have received under this section; provided, further, that if, under the North Carolina Workmen's Compensation Act such surviving spouse elects to take a lump sum settlement of the amount due on account of the death of the member, then such surviving spouse, so long as said surviving spouse remains unmarried, shall receive from the Policemen's Pension and Disability Fund each month a sum equal to the difference between the monthly installment that would have been received under the Workmen's Compensation Act and the amount of the deceased member's monthly installment, and such payments from the Policemen's Pension and Disability Fund shall continue so long as said surviving spouse remains unmarried.

(c) If any member of the Asheville Police Department, as defined in this act, becomes permanently disabled not in the line of duty and is unable to work as a policeman, he shall receive annually a sum equal to three and one-half percent (3 1/2%) of his total earnings from the beginning of his service with the Asheville Police Department to the time of his disability; provided that no member shall receive credit for more than 20 years service; provided, further, that three years service with the Asheville Police Department is required before any member thereof can take advantage of this section; provided, further, that if he should die while in active service with the Asheville Police Department not in the line of duty or if he should die while receiving benefits for disability retirement not in the line of duty, the surviving spouse shall receive one-half of the pension paid to the member at the time of death so long as said surviving spouse remains unmarried.

(d) No member of the Asheville Police Department, as defined in this act, who has attained the age of 60 years shall be eligible for disability or death benefits set forth in Section 9 but shall receive benefits under the terms of Section 8, of this act.

(e) If any member of the Asheville Police Department, as set out in this act, shall die leaving no surviving spouse entitled to benefits in accordance with Section 8 or 9 of this act, the funds deducted from such policeman's monthly salary and paid to the Policemen's Fund shall be paid as follows:

- (1) to the child or children of such policeman in equal shares;
- (2) if there is no surviving child or children, to the designated beneficiary of the policeman, if any;
- (3) if there is no surviving child or children or designated beneficiary, to the executors or administrators of the policeman's estate."

(e) Delete all of Section 10 and substitute in lieu thereof the following:

"Sec. 10. Disability retirement administration. (a) For the purposes of this act, 'disability' shall mean a certification by the Board of Examiners, after a medical examination of a member of the Asheville Police Department qualifying under this act, that such a member is mentally or physically totally incapacitated for the further performance of duty as a policeman, that such incapacity is likely to be permanent, and that such member should be retired.

(b) Once each year during the first five years following retirement of a member for reasons of disability under Section 9 of this act, and once in every

three-year period thereafter, the Board of Examiners may, and upon its application shall, require any disability pensioner who has not yet attained the age of 60 years to undergo a medical examination, such examination to be made at a place mutually agreed upon by the physician or physicians designated by the Board of Examiners. Should any disability pensioner who has not yet attained the age of 60 years refuse to have at least one medical examination in any such year by physician or physicians designated by the Board of Examiners, his pension may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Examiners. Should a physician or physicians report and certify to the Board of Examiners that such disability pensioner is engaged in or is able to engage in work as a policeman or in another law enforcement related occupation paying more than the difference between his disability pension and his final compensation on the date disability began, and should the Board of Examiners concur in such report, then the amount of his pension shall be reduced to an amount which, together with his disability pension and the amount earnable by him, shall equal the amount of his final compensation at the date of disability. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted or an amount, which when added to the amount earnable by the disability pensioner together with his disability pension, equals the amount of his final compensation at the date of disability. A disability pensioner restored to active service at a salary less than his final compensation at the date of disability shall not again become a member of this plan.

(c) Should a disability pensioner under the age of 60 years be restored to active service at a compensation not less than his final compensation at date of disability, his disability retirement shall cease, and he shall again become a member of this plan, and he shall contribute thereafter at the contribution rate which is applicable during his subsequent membership service. Any prior service on the basis of which his service was computed at the time of his disability shall be restored to full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his service as a member."

(f) Delete all of Section 11.

(g) Delete all of Section 12 and substitute in lieu thereof the following:

"Sec. 12. Board of Examiners; established; composition; terms of office; handling of claims; general provisions. (a) There is hereby created a Board of Examiners to determine claims coming under this act.

(b) Said Board shall consist of five members who shall be appointed or elected as follows:

- (1) the Mayor of the City of Asheville shall be the chairman;
- (2) the City Manager of the City of Asheville shall be a member of said Board;
- (3) the Council of the City of Asheville shall appoint for a term of three years beginning on the date of ratification of this act and every three years thereafter a medical doctor to be the third member of said Board;
- (4) the Police Department of the City of Asheville shall elect for a term of three years beginning on the date of ratification of this act and every three years thereafter a person who is a member of said Police

Department, who shall not be the Police Chief, to be the fourth member of said Board;

- (5) the Council of the City of Asheville shall appoint for a term of three years beginning on the date of ratification of this act and every three years thereafter, a qualified voter of the City of Asheville knowledgeable in pension matters to be the fifth member of said Board.

In the event of a vacancy on said Board, such vacancy shall be filled from the same category as the vacancy.

(c) The Board of Trustees shall review the findings of the Board of Examiners and may approve or reverse the findings of the Board of Examiners.

(d) Any policeman claimant, his beneficiary or representative whose claim has been denied in whole or in part after review by the Board of Trustees shall have the right to appeal to the Asheville City Council. Such appeal must be filed by the policeman claimant, his beneficiary or representative in writing with the City Clerk within 10 days after receipt of written denial of all or part of the claim by the Board of Trustees. Such appeal will be heard at a regular City Council meeting within six weeks of the filing of the appeal by said policeman claimant, his beneficiary or representative. The decision of the City Council shall be final.

If the Board of Trustees reverses, in whole or in part, the findings of the Board of Examiners, the Board of Examiners shall have the right to appeal to the Asheville City Council. Such appeal must be filed by the Board of Examiners in writing with the City Clerk within 10 days after written notice of the reversal by the Board of Trustees. Such appeal will be heard at a regular City Council meeting within six weeks of the filing of the appeal by the Board of Examiners. The decision of the City Council shall be final."

**Sec. 2.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

H. B. 50

## CHAPTER 430

AN ACT TO INCLUDE REPRESENTATIVES OF THE COASTAL RESOURCES COMMISSION, THE ZOOLOGICAL PARK COUNCIL AND THE SOIL AND WATER CONSERVATION COMMISSION ON THE BOARD OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND TO REDUCE THE SIZE OF THE BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-280 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is amended by rewriting the third paragraph thereof as follows:

"The Board of Natural Resources and Community Development shall consist of the following 21 members. The chairman of each of the following commissions: the Wildlife Resources Commission, the Environmental Management Commission, the Marine Fisheries Commission, the Coastal Resources Commission and the Soil and Water Conservation Commission; the chairman of each of the following councils: the Earth Resources Council, the Community Development Council, the Forestry Council, the Parks and

Recreation Council and the North Carolina Zoological Park Council; 10 members at large appointed by the Governor to serve at his pleasure; and the Secretary of Natural Resources and Community Development who shall be a member and chairman ex officio."

**Sec. 2.** Notwithstanding Section 1 of this act, the members of the Board elected by the various Commissions and Councils under Chapter 1262 of the 1973 Session laws shall serve out their present terms on the Board. The first three vacancies occurring as a result of the expiration of the terms of such elected members shall be filled by the addition of the Chairman of the Coastal Resources Commission, the Soil and Water Conservation Commission, and the North Carolina Zoological Park Council in the order determined by the Governor. The membership of the Board is reduced from 25 to 21 as the remaining four vacancies occur as a result of the expiration of terms of the remaining members elected by the various Commissions and Councils.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 325

## CHAPTER 431

AN ACT TO AMEND G.S. CHAPTER 15 AND G.S. CHAPTER 90 TO REDUCE THE NUMBER OF AFFIDAVITS REQUIRED BY YOUTHFUL OFFENDERS SEEKING TO EXPUNGE A CONVICTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15-223(a)(4) is rewritten to read as follows:

"(4) Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted and, if different, the county of which the petitioner is a resident, showing that the petitioner 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 the conviction for the misdemeanor in question or during the two-year period following that conviction."

**Sec. 2.** G.S. 15-223(a) is amended by adding the following at the end thereof:

"The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the two-year period that he deems desirable."

**Sec. 3.** G.S. 90-96(b)(3) and G.S. 90-113.14(b)(3) are each rewritten to read as follows:

"Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted, and, if different, the county of which the petitioner is a resident, showing that the applicant 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 the conviction for the misdemeanor in question or during the period of probation following the decision to defer further proceedings on the misdemeanor in question."



**Sec. 4.** G.S. 90-96(b) and G.S. 90-113.14(b) are each amended, after subdivision (3), by insertion of the following:

"The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the probationary period deemed desirable."

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## S. B. 396

## CHAPTER 432

AN ACT TO AUTHORIZE INJUNCTIVE RELIEF UPON VIOLATIONS OF  
SANITATION REQUIREMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 72-48.1 is amended by deleting the words "and such violation, if continued, or such threatened violation, if committed, is or may be dangerous to the public health", from the lines three through five and by deleting the words "and such hinderance or interference is or may be dangerous to the public health" from lines seven and eight.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## S. B. 424

## CHAPTER 433

AN ACT RELATING TO THE VACCINATION OF DOGS IN GASTON  
COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 622 of the 1949 Session Laws is hereby repealed.

**Sec. 2.** Section 2 of Chapter 622 of the 1949 Session Laws is amended by deleting the phrase "to Forsyth County" and substituting the phrase "to Forsyth County or to Gaston County".

**Sec. 3.** Section 5 of Chapter 622 of the 1949 Session Laws is amended to read: "Sec. 5. This act shall apply only to the Counties of Forsyth and Gaston."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## S. B. 511

## CHAPTER 434

AN ACT TO AMEND ARTICLE 5 OF CHAPTER 90 OF THE GENERAL  
STATUTES ENTITLED THE "NORTH CAROLINA CONTROLLED  
SUBSTANCES ACT" TO MAKE CHANGES IN THE SCHEDULES OF  
CONTROLLED SUBSTANCES CONSISTENT WITH CHANGES IN  
FEDERAL LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-89(c), as the same appears in the 1977 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by deleting from the end thereof the following substance: "19. Thiophene Analog of Phencyclidine", inserting in lieu thereof the following:

"19. Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

20. Pyrrolidine analog of phencyclidine. Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

21. Thiophene analog of phencyclidine. Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP."

**Sec. 2.** G.S. 90-90(d) as the same appears in the 1977 Cumulative Supplement to Volume 2C is amended by rewriting the numbered portion thereof to read as follows:

- "1. Amobarbital
2. Methaqualone
3. Pentobarbital
4. Phencyclidine
5. Phencyclidine immediate precursors:
  - a. 1-Phenylcyclohexylamine
  - b. 1-Piperidinocyclohexanecarbonitrile (PCC)
6. Secobarbital."

**Sec. 3.** G.S. 90-91(b), as the same appears in the 1977 Cumulative Supplement to Volume 2C, is amended by deleting the substance numbered 7 "Phencyclidine" from the list thereof and renumbering the remaining substances.

**Sec. 4.** G.S. 90-92(a), as the same appears in the 1977 Cumulative Supplement to Volume 2C, is amended by inserting the substance "Lorazepam" as number 11 and renumbering the remaining substances as 12 through 20.

**Sec. 5.** G.S. 90-92(c), as the same appears in the 1977 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by adding at the end thereof the following substance: "(2) Pentazocine."

**Sec. 6.** G.S. 90-92 is hereby amended by adding a new subsection (f) to read as follows:

"(f) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit."

**Sec. 7.** G.S. 90-93(a) is hereby amended by rewriting the first sentence thereof to read as follows:

"Any compound, mixture or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic alone:"

and is further amended by adding at the end thereof a new subdivision 6. as follows:

"6. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit."

**Sec. 8.** G.S. 90-93, as the same appears in the 1977 Cumulative Supplement to Volume 2C, is amended by designating the first paragraph as subsection (a), deleting this designation from the second paragraph; by

redesignating the second paragraph as subdivision 1.; by redesignating the numbered portion of the new subdivision 1. which now reads 1-5 as (i) - (v); and by adding a new subdivision 2. as follows:

“2. Loperamide.”

**Sec. 9.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## S. B. 131

## CHAPTER 435

AN ACT TO MAKE NORTH CAROLINA THE LEGAL RESIDENCE, FOR TUITION PURPOSES, OF A MINOR WHOSE PARENTS ARE LIVING APART, FOR THAT PERIOD DURING WHICH EITHER PARENT CLAIMS THE MINOR AS A DEPENDENT PURSUANT TO THE INDIVIDUAL INCOME TAX PROVISIONS OF G.S. 105-149(a)(5).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 116-143.1 is amended by adding a new subsection to read as follows:

“(j) Notwithstanding the prima facie evidence of legal residence of an individual derived pursuant to subsection (e), notwithstanding the presumptions of the legal residence of a minor established by common law, and notwithstanding the authority of a judicially determined custody award of a minor, for purposes of this section, the legal residence of a minor whose parents are divorced, separated, or otherwise living apart shall be deemed to be North Carolina for the time period relative to which either parent is entitled to claim and does in fact claim the minor as a dependent pursuant to the North Carolina individual income tax provisions of G.S. 105-149(a)(5). The provisions of this subsection shall pertain only to a minor who is claimed as a dependent by a North Carolina legal resident.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of April, 1979.

## H. B. 38

## CHAPTER 436

AN ACT TO AMEND G.S. 20-118.1 RELATING TO THE WEIGHING OF VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-118.1 is hereby amended by inserting the words “North Carolina Department of Transportation” between the words “of” and “portable” appearing in line 3 and by inserting the words “North Carolina Department of Transportation stationary” between the words “nearest” and “scales” appearing in line 4 and by striking the word “two” appearing at the end of line 4 and inserting in lieu thereof the word “five.”

**Sec. 2.** G.S. 20-118.1 is further amended by adding the following new language at the end:

“No vehicle more than two miles from a North Carolina Department of Transportation stationary scales may be required to be driven to such scales unless the peace officer knows or reasonably suspects the vehicle has driven so as to avoid being weighed at the scales.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

## H. B. 382

## CHAPTER 437

### AN ACT TO MAKE IT UNLAWFUL TO BREAK OR ENTER OR BREAK OUT OF AN AIRCRAFT OR WATERCRAFT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-56 is rewritten to read:

“§ 14-56. *Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats or other watercraft.*—If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a felony punishable by imprisonment for not more than five years. It is *prima facie* evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.”

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

## H. B. 420

## CHAPTER 438

### AN ACT TO VALIDATE THE COLLECTION OF ASSESSMENTS FOR EROSION FUND IMPOSED AND COLLECTED UPON RESIDENTS OF THE TOWN OF YAUPON BEACH AND TO AUTHORIZE THE TRANSFER OF SAID FUND TO THE GENERAL FUND.

*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 Board of Commissioners of the Town of Yaupon Beach in assessing the cost of local improvements, as defined in G.S. 160A-238, 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.** The Board of Commissioners, the Town Clerk and Auditor for the Town of Yaupon Beach are hereby authorized to transfer any and all funds collected under said erosion assessment and held in the Yaupon Beach Erosion Fund to the General Fund of the Town of Yaupon Beach for utilization as deemed appropriate by the Board of Commissioners of the Town of Yaupon Beach.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.



## H. B. 434

## CHAPTER 439

AN ACT TO CORRECT A TYPOGRAPHICAL ERROR IN THE  
RATIFICATION CERTIFICATE OF CHAPTER 10, SESSION LAWS OF  
1979.

Whereas, the ratification certificate of Chapter 10, Session Laws of 1979 erroneously states that said act was ratified on June 6, 1979, when in fact it was ratified on February 6, 1979; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-360 is amended by adding a new subsection (e) to read as follows:

“(e) For county and municipal taxes due under this Subchapter on September 1, 1978, the following interest rates shall apply. If paid:

- (1) on or after the due date and before the fourth day of March thereafter, taxes shall be paid at par or face amount.
- (2) on or after the fourth day of March following the due date and before the first day of April thereafter, there shall be added to the taxes interest at the rate of two percent (2%).
- (3) on or after the first day of April following the due date and before the first day of June thereafter, there shall be added to the taxes, in addition to the two percent (2%) provided in subdivision (e)(2), above, interest at the rate of one and one-half percent (1 1/2%) per month, or fraction thereof.
- (4) on or after the first day of June following the due date, there shall be added to the taxes, in addition to the two percent (2%) and the one and one-half percent (1 1/2%) provided in subdivisions (e)(2) and (3), above, interest at the rate of three-fourths of one percent (3/4%) per month, or fraction thereof, until the taxes plus penalties and interest have been paid.”

**Sec. 2.** Notwithstanding the provisions of G.S. 105-380 and 105-381, the board of county commissioners and the governing boards of municipalities shall refund any interest paid and release any interest accrued prior to March 4, 1979 pursuant to the provisions of G.S. 105-360(a) on taxes due September 1, 1978.

**Sec. 3.** Sections 1 and 2 of this act shall apply only to Brunswick County and to each municipality and taxing district within Brunswick County for which the county bills and collects property taxes.

**Sec. 4.** Chapter 10, Session Laws of 1979 is repealed.

**Sec. 5.** This act is effective retroactively as of February 6, 1979.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

## H. B. 574

## CHAPTER 440

## AN ACT AUTHORIZING THE TOWN OF HOLDEN BEACH TO ASSESS FOR NAVIGATION PROJECTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-238 is amended by adding the following language before the period at the end of the first sentence: "or navigation projects, including dredging and bulkheading of canals", and by adding the words "and navigation projects" before the period in the caption of that Section.

**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 23rd day of April, 1979.

## H. B. 602

## CHAPTER 441

## AN ACT TO AMEND CHAPTER 269 OF THE 1975 SESSION LAWS TO PREVENT THE USE OF ARTIFICIAL LIGHTS IN AREAS INHABITED BY GAME IN LENOIR COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapter 269 of the 1975 Session Laws is rewritten to read as follows:

"Sec. 5. This act shall apply only to the counties of Gates, Guilford, Polk, Hertford, Johnston, Jones, Northampton, Surry, Wayne and Lenoir."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

## H. B. 850

## CHAPTER 442

## AN ACT TO AUTHORIZE A CITY TO EXEMPT CERTAIN INDIVIDUALS FROM THE IMPOSITION OF THE ANNUAL LICENSE TAX ON MOTOR VEHICLES AND TO PROVIDE DISTINCTIVE COLORING OF TAGS ISSUED TO THOSE INDIVIDUALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-213 is hereby amended by designating the existing provisions thereof as subsection (a) and by adding a new subsection (b) thereof to read as follows:

"(b) By ordinance a city may provide that the annual license tax imposed under subsection (a) above may be waived for individuals serving as firemen or as members of emergency medical teams. A city may also provide such individuals with tags or decals with distinctive coloring, or other means, to identify the individual as a fireman or a member of an emergency medical team."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

H. B. 877

## CHAPTER 443

## AN ACT TO PROVIDE UNITED STATES MARSHALS WITH OFFICIAL LICENSE PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-81(3) is amended by adding a new paragraph to read as follows:

“g. United States Marshals. Official plates shall be issued upon request to the United States Marshals, which plates shall bear the letters, ‘U. S. Marshal’ followed by a numerical designation indicative of their district, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.”

**Sec. 2.** G.S. 20-81 is further amended by deleting from the first line of the next to last paragraph thereof the words “to State officials”, and is further amended in line 1 of the section by deleting the word “State”.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

H. B. 917

## CHAPTER 444

## AN ACT TO PROVIDE THAT THE MAXIMUM TIME PERIOD FOR ISSUING BONDS AND BOND ANTICIPATION NOTES UNDER A BOND ORDER MAY BE EXTENDED FROM SEVEN YEARS TO TEN YEARS BY THE BOARD OF THE ISSUING UNIT UNDER CERTAIN CIRCUMSTANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-64 is rewritten to read as follows:

“§ 159-64. *Within what time bonds may be issued.*—Bonds may be issued under a bond order at any time within seven years after the bond order takes effect. Such period may be extended prior to the expiration of such period from seven years to 10 years as hereinafter provided. The board of the issuing unit shall file an application for Commission approval of such extension with the secretary of the Commission. The application shall state such facts and have attached to it such documents concerning such extension as the secretary may require. The Commission may prescribe the form of such application. In determining whether to approve such extension, the Commission may inquire into and give consideration to any matters which it believes may relate to such extension.

The Commission may enter an order approving a proposed extension of the maximum time period for issuing bonds under a bond order from seven to 10 years if, upon the basis of the information and evidence it receives, it finds and determines that governmental approvals relative to the purpose to be financed in whole or in part with the proceeds of the bonds cannot be obtained within seven years after the bond order has taken effect, that funds to be applied together with the proceeds of the bonds to finance the purpose for which the bonds are to be issued will not be available within seven years after the bond order has taken effect or that the proposed extension is necessary for other reasons that are not within the direct control of the issuing unit other than any

order of any court. If the Commission enters an order denying such extension, then the proceedings under this section shall be at an end.

If the Commission enters an order approving a proposed extension of the maximum time period for issuing bonds under a bond order as provided in this section, then the board shall fix the time and place for a public hearing on such extension and the clerk shall publish such bond order once with the following statement appended:

"The foregoing order took effect on \_\_\_\_\_, \_\_\_\_\_. Anyone who wishes to be heard on the question of whether the maximum time period for issuing bonds under such order should be extended from seven years to 10 years after such date may appear at a public hearing or an adjournment thereof to be held at (time) on (date) at (place).

\_\_\_\_\_  
Clerk'

On the date fixed for such hearing, which shall be not earlier than six days after the date of publication of the bond order with appended statement as provided in this section, the board shall hear anyone who might wish to be heard on the question of whether the maximum time period for issuing bonds under the bond order should be extended from seven years to 10 years. The hearing may be adjourned from time to time.

After such hearing, the board may adopt an order providing that the maximum time period for issuing bonds under the bond order has been extended from seven to 10 years after the bond order has taken effect. Such order shall provide that it will take effect 30 days after its publication following adoption.

After adoption, the clerk shall publish once an order extending the maximum time period for issuing bonds under a bond order with the following statement appended:

"The foregoing order was adopted on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and is hereby published this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Any action or proceeding questioning the validity of such order must be begun within 30 days after the date of publication of this notice.

\_\_\_\_\_  
Clerk'

Any action or proceeding in any court to set aside an order extending the maximum time period for issuing bonds under a bond order, or to obtain any other relief, upon the ground that such order is invalid, must be begun within 30 days after the date of publication of such order as adopted. After the expiration of this period of limitation, no right of action or defense based upon the invalidity of such order shall be asserted nor shall the validity of such order be open to question in any court upon any ground whatever, except in an action or proceeding begun within the period of limitation prescribed in this section.

When the issuance of bonds under any bond order is prevented or prohibited by any order of any court, the period of time within which bonds may be issued under the bond order in litigation shall be extended by the length of time elapsing between the date of institution of the action or proceeding and the date of its final disposition.

When the issuance of bonds under any bond order, to finance public improvements in an area to be annexed, is prevented or prohibited by reason of litigation respecting the annexation and the Local Government Commission shall certify to such effect, the period of time within which bonds may be issued



under the bond order shall be extended by the length of time elapsing between the date of institution of the litigation and the date of its final disposition.

The General Assembly may at any time prior to the expiration of the maximum time period herein provided extend the time for issuing bonds under bond orders.

When any such extension is effected or granted pursuant to this section, no further approval of the voters shall be required."

**Sec. 2.** The second sentence of G.S. 159-161 is rewritten to read as follows:

"General obligation bond anticipation notes shall be payable not later than seven years after the time the bond order takes effect and shall not be renewed or extended beyond such time, except that, if the issuance of bonds under the bond order is extended by an order of the board of the issuing unit which takes effect pursuant to G.S. 159-64, the bond anticipation notes may be renewed and extended and shall be payable not later than 10 years after the time the bond order takes effect and that, if the issuance of bonds under the bond order is prevented or prohibited by any order of any court, the bond anticipation notes may be renewed or extended by the length of time elapsing between the date of institution of the action or proceeding and the date of its final disposition."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

## S. B. 360

## CHAPTER 445

### AN ACT TO INCREASE THE AMOUNT OF ALCOHOLIC BEVERAGES WHICH MAY BE TRANSPORTED PURSUANT TO A SPECIAL PERMIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-28 is hereby amended by deleting the numeral and word "20 liters" where it appears therein and substituting therefor the numeral and word "40 liters".

**Sec. 2.** G.S. 18A-29 is hereby amended by deleting the numeral and word "20 liters" where it appears therein and substituting therefor the numeral and word "40 liters".

**Sec. 3.** G.S. 18A-27 is amended by deleting the numeral and word "20 liters" where it appears therein and substituting therefor the numeral and word "40 liters".

**Sec. 4.** G.S. 18A-35 is amended by deleting the numeral and word "80 liters" where it appears therein and substituting therefor the numeral and word "100 liters".

**Sec. 5.** G.S. 18A-15(17) is amended by deleting the numeral and word "20 liters" where it appears therein and substituting therefor the numeral and word "40 liters".

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

S. B. 409

**CHAPTER 446**

AN ACT AMENDING G.S. 160A-272 RELATING TO THE LEASING OF PROPERTY BY THE CITY OF CHARLOTTE AT DOUGLAS MUNICIPAL AIRPORT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of 160A-272, the City Council of the City of Charlotte is hereby authorized and empowered, in its discretion, to lease city-owned property in connection with the operation of Douglas Municipal Airport for terms of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less.

**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 23rd day of April, 1979.

S. B. 428

**CHAPTER 447**

AN ACT RELATING TO THE SOLICITATION OF LIFE INSURANCE AND REQUIRING THE DISCLOSURE OF COST AND OTHER PERTINENT INFORMATION TO PURCHASERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 58 of the General Statutes of North Carolina is amended by adding immediately after the present Article 22, and immediately before the present Article 23, a new Article reading as follows:

**"ARTICLE 22A.**

**"Regulation of Life Insurance Solicitation.**

"§ 58-213.1. *Purpose of Article.*—The purpose of this Article is to require insurers to deliver to purchasers of life insurance, information which will improve the buyer's ability to select the most appropriate plan of life insurance for their needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and to improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.

This Article does not prohibit an insurer to use additional material which is not in violation of this Chapter nor any other statute or regulation.

"§ 58-213.2. *Scope of Article, exemptions.*—(a) Except as hereafter exempted, this Article shall apply to any solicitation, negotiation or procurement of life insurance occurring within this State. This Article shall apply to any issuer of life insurance contract including fraternal benefit societies.

(b) Unless otherwise specifically included, this Article shall not apply to:

(1) annuities,

(2) credit life insurance,

(3) group life insurance,

(4) life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA),

- (5) variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

“§ 58-213.3. *Definitions*.—Unless the context of use indicates a different meaning, for the purposes of this Article, the following definitions shall apply:

(a) *Buyer's Guide*. A Buyer's Guide is a document furnished pursuant to G.S. 58-213.4, which shall contain all the requirements of and be in substantial compliance with G.S. 58-213.6.

(b) *Cash Dividend*. A Cash Dividend is the current illustrated dividend which can be applied toward payment of gross premium.

(c) *Equivalent Level Annual Dividend*. The Equivalent Level Annual Dividend is calculated by applying the following steps:

- (1) accumulate the annual cash dividends at five percent (5%) interest compounded annually to the end of the 10th and 20th policy years;
- (2) divide each accumulation of subdivision (1) of this subsection by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in subdivision (1) of this subsection over the respective periods stipulated in subdivision (1) of this subsection. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.
- (3) divide the results of subdivision (2) of this subsection by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.

(d) *Equivalent Level Death Benefit*. The Equivalent Level Death Benefit of a policy or term life insurance rider is an amount calculated as follows:

- (1) accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at five percent (5%) interest compounded annually to the end of the 10th and 20th policy years respectively;
- (2) divide each accumulation of subdivision (1) of this subsection by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subdivision (1) of this subsection over the respective periods stipulated in subdivision (1) of this subsection. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(e) *Generic Name*. Generic Name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(f) *Life Insurance Cost Indexes*.

(1) *Life Insurance Surrender Cost Index*. The Life Insurance Surrender Cost Index is calculated by applying the following steps:

- a. determine the guaranteed cash surrender value, if any, available at the end of the 10th and 20th policy years;
- b. for participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at five percent (5%) interest compounded annually to the end of the period selected and add this sum to the amount determined in sub-subdivision a;
- c. divide the result of sub-subdivision b. (sub-subdivision a. for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual that, if paid at the beginning of each year,

would accrue to the value in sub-subdivision b. (sub-subdivision a. for guaranteed-cost policies) over the respective periods stipulated in sub-subdivision a. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719;

- d. determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at five percent (5%) interest compounded annually to the end of the period stipulated in sub-subdivision a. and dividing the result by the respective factors stated in sub-subdivision c. (this amount is the annual premium payable for a level premium plan);
- e. subtract the result of sub-subdivision c. from sub-subdivision d;
- f. divide the result of sub-subdivision e. by the number of thousands of the Equivalent Level Death Benefit to arrive at the Life Insurance Surrender Cost Index.

(2) Life Insurance Net Payment Cost Index. The Life Insurance Net Payment Cost Index is calculated in the same manner as the comparable Life Insurance Cost Index except that the cash surrender value and any terminal dividend are set at zero.

(g) Policy Summary. Policy Summary means a written statement describing the elements of the policy including but not limited to:

(1) a prominently placed title in at least 10-point boldface capital letters as follows: **STATEMENT OF POLICY COST AND BENEFIT INFORMATION**;

(2) the name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary;

(3) the full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written;

(4) the Generic Name of the basic policy and each rider;

(5) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which Life Insurance Cost Indexes are displayed and at least one age from 60 through 65 or maturity, whichever is earlier:

a. the annual premium for the basic policy;

b. the annual premium for each optional rider;

c. guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately;

d. total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;

e. Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the 20th policy year);

f. guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

(6) the effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in



advance or in arrears. If the policy loan interest rate is variable, the Policy Summary includes the maximum annual percentage rate;

- (7) Life Insurance Cost Indexes for 10 and 20 years but in no case beyond the premium paying period. Separate indexes must be displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for basic policies or optional riders covering more than one life;
- (8) the Equivalent Level Annual Dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which Life Insurance Cost Indexes are displayed;
- (9) a Policy Summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the Equivalent Level Annual Dividend as follows: An explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide;
- (10) a statement in close proximity to the Life Insurance Cost Indexes as follows: An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide;
- (11) the date on which the Policy Summary is prepared.

The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in subdivision (5) of this subsection shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

“§ 58-213.4. *Disclosure requirements.*—(a) The insurer shall provide to all prospective purchasers a Buyer's Guide and a Policy Summary prior to accepting any applicant's initial premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least 10 days or unless the Policy Summary contains such an unconditional refund offer, in which event the Buyer's Guide and Policy Summary must be delivered with the policy or prior to delivery of the policy.

(b) The insurer shall provide a Buyer's Guide and a Policy Summary to any prospective purchaser upon request.

(c) In the case of policies whose Equivalent Level Death Benefit does not exceed five thousand dollars (\$5,000), the requirement for providing a Policy Summary will be satisfied by delivery of a written statement containing the information described in G.S. 58-213.3(g), subdivisions (2), (3), (4), (5)a., (5)b., (5)c., (6), (7), (10), and (11).

“§ 58-213.5. *General rules relating to solicitation.*—(a) Each insurer subject to this Article shall maintain at its home office or principal office a complete file

containing one copy of each document authorized by the insurer for use pursuant to this Article. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.

(b) An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(d) Any reference to policy dividends must include a statement that dividends are not guaranteed.

(e) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash-flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.

(f) A presentation of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are shown separately in close proximity thereto.

(g) A statement regarding the use of the Life Insurance Cost Indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.

(h) A Life Insurance Cost Index which reflects dividends or an Equivalent Level Annual Dividend shall be accompanied by a statement that it is based on the insurer's current dividend scale and is not guaranteed.

(i) For the purposes of this Article, the annual premium for a basic policy or rider, for which the insurer reserves the right to change the premium, shall be the maximum annual premium.

“§ 58-213.6. *Adoption of Buyer's Guide, requirements.*—Any insurer soliciting life insurance in this State on or after December 1, 1979, shall adopt and use a Buyer's Guide, and the adoption and use by an insurer of the Buyer's Guide promulgated by the National Association of Insurance Commissioners in the NAIC Model Life Insurance Solicitation Regulations shall be in compliance with the requirements of this Article.

“§ 58-213.7. *Failure to comply.*—The failure of an insurer to provide or deliver a Buyer's Guide, or a Policy Summary as provided in G.S. 58-213.4(a) and (b) shall constitute an omission which misrepresents the benefits, advantages, conditions or terms of an insurance policy within the meaning of G.S. 58-199 and Article 3A (Unfair Trade Practice Act) of this Chapter.”

**Sec. 2.** This act shall become effective on December 1, 1979, and shall apply to all solicitations of life insurance occurring on or after that date.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

## S. B. 454

## CHAPTER 448

AN ACT TO MAKE CERTAIN TECHNICAL AMENDMENTS TO ARTICLE 52, CHAPTER 143, NORTH CAROLINA PESTICIDE LAW OF 1971, TO FACILITATE THE ENFORCEMENT THEREOF.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-440(b) is hereby amended at line 6 thereof by inserting, following the word "regulation;" the following: "may require the certification of private applicators;"

**Sec. 2.** G.S. 143-442 is hereby amended by adding thereto a new subsection (i) which shall read as follows:

"(i) The Board shall be empowered to set forth criteria for determining when a given product constitutes a different or separate brand or grade of pesticide."

**Sec. 3.** G.S. 143-442(g) is hereby amended by adding after the last sentence thereof the following:

"Provided, however, this subsection shall not apply to any brand or grade of pesticide which the Board determines does not remain in channels of distribution due to method of sale by registrant directly to users thereof."

**Sec. 4.** G.S. 143-443(b)(2a) is hereby amended by deleting therefrom at line 1 thereof, the word "registered".

**Sec. 5.** G.S. 143-443(b)(2a) is hereby further amended by changing the semicolon in line 2 thereof to a comma and adding, following the word, "labeling", the following:

"including, by way of illustration but not limitation, the use of a pesticide on a crop, animal, or site not permitted by the labeling;"

**Sec. 6.** G.S. 143-447(b) is hereby amended at line 14 thereof by deleting therefrom the words "as established by the consignee at the time of sampling," and by inserting in lieu thereof the words "of any product sold subsequent to sampling and prior to repossession,"

**Sec. 7.** G.S. 143-450(a) is hereby rewritten to read as follows:

"(a) Every licensed pesticide dealer shall submit to the Board, at such times as the Board or the Commissioner may prescribe, the names of all persons employed by him who sell or recommend 'restricted-use pesticides.'"

**Sec. 8.** G.S. 143-454(a) is hereby rewritten to read as follows:

"(a) Every licensed pesticide applicator shall submit to the Board, at such times as the Board or the Commissioner may prescribe, the names of all solicitors, salesmen, and operators employed by him."

**Sec. 9.** G.S. 143-460 is hereby amended in subdivision (6) thereof by deleting therefrom the words "Advisory Committee on Pesticides" and by substituting in lieu thereof the words "Pesticide Advisory Committee".

**Sec. 10.** G.S. 143-460(12) is hereby rewritten to read as follows:

"(12) The term 'fungus' means any non-chlorophyll-bearing thallophyte (that is any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals."

**Sec. 11.** G.S. 143-463(b)(3) is hereby amended at line 8 thereof by changing the number "30" to the number "10".

**Sec. 12.** G.S. 143-464(c)(1) is hereby amended at line 3 thereof by changing the number "30" to the number "20".

**Sec. 13.** Article 52 of Chapter 143 is hereby amended by adding thereto a new section which shall be numbered G.S. 143-471 and which shall read as follows:

“§ 143-471. *Report of minor violations in discretion of Board or Commissioner.*—Nothing in this Article shall be construed to require the Board or the Commissioner to initiate, or attempt to initiate, any criminal or administrative proceedings under this Article for minor violations of this Article whenever the Board or Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.”

**Sec. 14.** G.S. 143-437(2) is hereby amended to read as follows:

“To carry out a program of planning, environmental and biological monitoring, and of investigation into long-range needs and problems concerning pesticides.”

**Sec. 15.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

## S. B. 457

## CHAPTER 449

### AN ACT TO AMEND CHAPTER IV, SUBCHAPTER D OF THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO THE CIVIL SERVICE BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter IV, Subchapter D of the Charter of the City of Charlotte as contained in Section 1 of Chapter 713 of the 1965 Session Laws, as amended, is hereby further amended by deleting said Subchapter in its entirety and substituting in lieu thereof the following:

“Subchapter D.

“Civil Service.

“Sec. 4.61. There is hereby continued a Civil Service Board for the City of Charlotte, to consist of five members, to be appointed by the City Council. The members of said Board shall be the ones now serving under the provisions of Chapter 124 of the Private Laws of 1929, as amended, and their terms of office shall expire as provided in said act; and at the end of each term, the City Council shall appoint a member of said Board to serve for a term of three years. In case of a vacancy on the Civil Service Board, the City Council shall fill such vacancy for the unexpired term of said member. A majority of said Board shall constitute a quorum. Any member who fails to attend at least seventy-five percent (75%) of the regular and special meetings and hearings held by the Board during any one-year period shall be automatically removed from said Board. Vacancies resulting from a member's failure to attend the required number of meetings or hearings shall be filled as provided herein.

(1) The members of the Civil Service Board shall be electors of the City of Charlotte and shall take an oath to faithfully perform their duties. The members of said Board shall be subject to removal from office by a two-thirds vote of the City Council, with or without cause.

(2) The Board shall establish and fix requirements for applicants for employment in the Fire and Police Departments. All applicants shall be subjected to examination by or at the direction of said Board. The



examination shall be competitive and free to all persons meeting the requirements of the Board, subject to reasonable limitations as to residence, age, health and moral character; provided, (a) that applicants for employment in the Fire Department shall be at least 18 years of age and shall not have attained their 30th birthday, and (b) that applicants for employment in the Police Department shall be at least 20 years of age and shall not have attained their 35th birthday. The City Council may, by ordinance, at any time and from time to time, fix and establish such lesser maximum age limits for applicants as may be consistent with the needs of the respective departments. The examination for applicants shall be practical in character and shall be limited to matters which fairly test the relative ability of the applicant to discharge the duties of the position applied for and shall include tests of physical qualifications and health, but no applicant shall be examined concerning his political or religious opinions or affiliations.

- (3) Notice of time and place of every examination shall be given by the Board for one week preceding such examination in a newspaper published in the city, and such notice shall be posted in a conspicuous place in the office of the Board, or its designee, for at least two weeks preceding such examination.
- (4) The Board shall prepare and keep a register of persons passing the examination, graded according to the respective showings upon the examination, which register shall determine the appointments to be made in each of the departments under the eligibility rules and regulations established by the Board.
- (5) The terms 'officer or employee' or 'officer' as used in this Subchapter shall mean sworn officers with regard to the Police Department and shall mean uniformed personnel with regard to the Fire Department.
- (6) No officer or employee of the Fire and Police Departments shall take any part in any election or political function while in uniform or on duty other than that of exercising his right to vote. Any officer or employee found by the Board to have violated this provision may be dismissed from service by the Board, or the Board may adjudge other punishment.
- (7) a. Relieving a member from duty. The Chief of either the Fire or Police Department, or the officer in charge in the absence of the Chief, may relieve an officer or employee of the respective departments of all duties, and the Chief, or the officer in charge in the absence of the Chief, shall provide such officer or employee with a written complaint setting forth the department rules or regulations the officer or employee is charged with violating, along with a statement of the basic facts supporting the charge, and the Chief, or the officer in charge in the absence of the Chief, shall simultaneously cite such officer to the Board for an automatic hearing as set forth herein with a recommendation that such officer be dismissed from the department. Any officer so relieved of duty shall not receive any pay or be assigned any duties until the Board has acted upon the charges at the conclusion of its hearing. In the alternative, the Chief, or the officer in charge in the absence of the Chief, may cite such officer to

the Board for an automatic hearing in accordance with the foregoing procedure, but without relieving the officer from duty.

- b. Dismissal or suspension of officer. The Chief of either the Fire or Police Department, or the officer in charge in the absence of the Chief, may suspend without pay for a period not exceeding 30 days, any officer or employee of the respective departments. In suspending such officer, the Chief, or the officer in charge in the absence of the Chief, will provide such officer with a written complaint setting forth the department rules or regulations the officer is charged with violating, along with a statement of the basic facts supporting the charge. Any such officer so suspended may appeal to the Board by giving written notice of appeal to the Board with a copy to the Chief of such officer's department. Such notice of appeal must be received by the Board within a period of 15 days from the date of the officer's suspension, whereupon a hearing before the Board on such appeal shall be conducted as provided in subparagraph c. Any officer suspended without pay shall receive no pay for the period of suspension unless the officer is found by the Board not to have committed the offense, or unless the Board adjudges a different period of suspension without pay, in which case the officer shall receive no pay for such different period of suspension.
- c. Appeal hearings. Upon receipt of a citation from either Chief or upon receipt of notice of appeal from any officer or employee of the Fire or Police Department, the Board shall hold a hearing not less than 15 days nor more than 30 days from the date the notice of appeal, or the citation, is received by the Board, and shall promptly notify the officer of the hearing date. In the event an officer desires a hearing at a date other than that set by the Board within the period set forth above, such officer may file a written request for a change of hearing date setting forth the reasons for such request, and the Chairman of the Board is empowered to approve or disapprove such request; provided, that such request must be received by the Board at least seven days prior to the date set for the hearing. For good cause, the Chairman of the Board may set a hearing date other than within the period set forth above, or may continue the hearing from time to time.

In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. If any person, while under oath at a hearing of the Board, willfully swears falsely, such person shall be guilty of a misdemeanor. Both the officer and the Police or Fire Department shall have the right to present relevant evidence to the Board at its hearing. The officer must be furnished with a copy of the charges which have been brought against an officer and which will be heard by the Board. The officer shall be required to answer questions from members of the Board or the Board's counsel; however, the officer may refuse to

answer any question where the answer might incriminate the officer with respect to any criminal violation of State or federal laws. The officer may be present at all evidentiary portions of the hearing, may retain counsel to represent the officer at the hearing, and may cross-examine those witnesses who testify against the officer. The officer will be given the right to an open or closed hearing as he may elect. After the evidentiary portion of the hearing is concluded, the Board will consider the evidence in closed session, and the Board will make findings of facts which will be provided to the officer together with a statement of the action taken by the Board on the basis of its findings of fact.

- d. General powers of the Board. (1) If, at the completion of its hearing, the Board shall find that an officer has not committed the offense or offenses with which such officer has been charged, the Board may restore such officer to full duty with reimbursement of any pay lost during the period the officer was suspended or relieved from duty. (2) If, at the completion of its hearing, the Board shall find that an officer has committed the offense or offenses with which such officer has been charged, the Board may issue an order (a) dismissing such officer; (b) suspending such officer, without pay, for a period not exceeding 90 days; or (c) imposing such other lesser punishment as it deems just and proper. The Board may suspend its dismissal or suspension without pay, and place such officer on probation for a period not to exceed one year upon such reasonable conditions as the Board may deem appropriate. The Board may order the department to furnish to the Board, during the period of probation, such information regarding the officer as the Board deems necessary.
- e. Appeal from action of Board. Any officer may appeal from any order of the Board to the Superior Court of Mecklenburg County by giving notice of appeal, in writing, to the Superior Court within 10 days after the entry of the order. Assignments of error must be filed with the Court and served upon the Board within 30 days after the entry of the order. The appeal to the Superior Court will be upon the record of the proceedings before the Board at its hearing.
- f. Incapability of performance. In those situations where the Chief of the Fire or Police Department determines that an officer of the respective department is permanently disabled, the Chief may cite that officer to the Board with a statement of the facts relating to the inability of such officer to perform his duties, and the Board shall, upon receipt of any such citation, hold a hearing as provided for herein, and the Board may dismiss such officer if it finds that such officer can no longer perform his duty. Permanently disabled as used in this paragraph shall mean the continuing or enduring incapacity because of physical injury, sickness or mental illness as determined by competent medical authority, to earn the wages which the officer was receiving at the time of the injury, sickness or determination of mental illness in the same or any other related employment.
- g. Power of the Board to require investigation. The Board is hereby empowered to require the Chief of the Fire or Police Department to investigate any incident or circumstance involving officers of such departments which shall come to the Board's attention; provided,

that a majority of the Board shall first determine that such an investigation is in the public's interest. The respective Chief shall report the results of an investigation to the Board in writing within a time to be set by the Board.

- (8) The Board shall make an Annual Report of its actions for the preceding year and said Annual Report shall be kept in the files of the Board and a copy delivered to the City Council.
- (9) The City Clerk shall act as secretary to the Board and shall keep the minutes of its meetings and shall be custodian of all papers and records pertaining to the business of said Board and shall perform such other duties as the Board may require.
- (10) The City Council shall provide suitable rooms for the Board and shall provide sufficient reasonable use of public buildings for meetings and hearings of said Board as may be necessary.
- (11) The members of said Board shall serve without compensation.
- (12) Nothing in this Subchapter shall be so construed as to deprive the City Council of its control of the finances of said city.
- (13) The provisions of this Subchapter pertaining to Civil Service coverage of officers and employees of the Fire and Police Departments shall not apply to the Chief of the Fire Department or the Chief of the Police Department, and shall not apply to an officer of the Police or Fire Department until he or she has been an officer of the respective department for at least 12 months. During such 12 months' probationary period, he or she shall be subject to discharge by the Chief of such department under rules promulgated with respect thereto, such rules to be approved by the City Council.
- (14) The Chief of the Police Department and the Chief of the Fire Department shall have authority to make all promotions of officers of their respective departments, subject to majority approval of the Civil Service Board. Promotions are probationary for six months from the date they became effective. Any demotions, except voluntary demotions, shall be made only after written charges are preferred and a hearing held before the Civil Service Board. Except as otherwise provided, demotions must be approved by a majority vote of the Board.
- (15) Notwithstanding any other provisions of this Subchapter, during any wartime emergency and for six months thereafter, officers of the Fire Department and Police Department may be employed on a temporary basis and such temporarily employed officers may be discharged by the City Manager without the preferment of charges.
- (16) The City Council may authorize the City Manager to appoint auxiliary officers of the Fire and Police Departments without previous examinations by the Civil Service Board, who, when called to duty by the Chief of their respective departments, shall have all the powers and duties of regular members of the Police and Fire Departments. Such auxiliary officers of the said departments shall be subject to discharge by the City Manager, with or without cause, and without a hearing before the Civil Service Board."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.



S. B. 482

**CHAPTER 450**

AN ACT TO ALLOW CASWELL COUNTY TO LEVY A TAX UP TO FIVE DOLLARS (\$5.00) ON MOTOR VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 20-97, Caswell County may levy a tax of not more than five dollars (\$5.00) per year upon any motor vehicle which is licensed by the State of North Carolina and is resident in the county.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1979.

H. B. 333

**CHAPTER 451**

AN ACT TO PERMIT THE LIMITED OPERATION OF THE GAME OF BINGO IN LENOIR COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It is lawful for fire departments and charitable, civic, religious and veterans' organizations to operate the game of bingo in Lenoir County.

**Sec. 2.** The gross proceeds obtained from the operation of the game of bingo, except for prize money, must go into the treasury of the organization operating the game of bingo. No organization shall pay salaries or commissions to persons operating bingo games.

**Sec. 3.** No organizations shall allow nonmembers to supervise or conduct the organization's bingo games.

**Sec. 4.** Organizations may only operate bingo games upon their own premises or at the place where they regularly conduct their meetings. Organizations which regularly conduct their meetings at places which they do not own shall pay to the owners for each session of bingo conducted at these places, rent not to exceed the rent which they pay for each of their regular meetings. A location may not be used more than once a week for a bingo session.

**Sec. 5.** An organization may operate the game of bingo only one day per week for a maximum period of six hours on that day.

**Sec. 6.** The highest prize which an organization may offer on each day that it operates the game of bingo is five hundred dollars (\$500.00).

**Sec. 7.** Chapter 1175 of the 1977 Session Laws is repealed.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## H. B. 410

## CHAPTER 452

## AN ACT TO ALLOW CERTAIN COUNTIES TO GARNISH TO COLLECT FOR AMBULANCE SERVICE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 44-51.8 is amended by adding in the proper alphabetical sequence the following counties: Chowan, Dare, Davie, Harnett, and by inserting the word "Iredell" between the words "Hyde" and "Johnston".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## H. B. 530

## CHAPTER 453

## AN ACT TO PERMIT DRIVERS WITH LIMITED DRIVING PERMITS TO HAVE A JUDGE OF THE COUNTY OF ISSUANCE MODIFY THEIR PERMITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new sentence is added to the end of G.S. 20-179(b)(1) to read as follows:

"The holder of a limited driver's privilege or license may petition either the superior court, if the limited driver's privilege or license was granted in superior court, or the district court, if the limited driver's privilege or license was granted in district court, of the county of issuance of his limited permit to modify his permit at its discretion."

**Sec. 2.** The first sentence of G.S. 20-179(b)(4) is rewritten to read as follows:

"Any violation of the restricted driving privileges as set forth in the judgment of the court allowing such privileges shall constitute the offense of driving while license has been revoked as set forth in G.S. 20-28."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## H. B. 759

## CHAPTER 454

## AN ACT TO AUTHORIZE THE CABARRUS COUNTY BOARD OF COMMISSIONERS TO CONVEY THE BOY SCOUT CAMP TO CAMP CABARRUS, INC.

Whereas, in 1935, John J. Barnhardt and other citizens interested in scouting in Cabarrus County purchased 63 acres of land on the waters of Irish Buffalo Creek for a Boy Scout Camp; and

Whereas, title to said 63 acres was conveyed to the Board of County Commissioners for Cabarrus County for the purpose of securing work to be done under the Works Progress Administration; and

Whereas, this fact is stated in the minutes of the Board of County Commissioners for March 2, 1936; and

Whereas, the county has had no financial participation in the purchase or development of said property and has never exercised any degree of control over said property; and

Whereas, it is the desire of the Board of County Commissioners to consider conveying said property to Camp Cabarrus, Inc., a nonprofit corporation, after public notice and hearing; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Cabarrus County Board of Commissioners is hereby authorized to convey by good and sufficient deed all its right, title and interest in and to the Boy Scout Camp located in Cabarrus County, North Carolina, to Camp Cabarrus, Inc., a nonprofit corporation, at a private sale with or without monetary consideration.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## H. B. 811

## CHAPTER 455

AN ACT TO PROVIDE FOR APPOINTMENT OF A CITIZEN RATHER THAN A COMMISSIONER TO A SINGLE-COUNTY AREA MENTAL HEALTH AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-35.40(b)(1) is amended by adding the following language before the semicolon:

“, except that in a single-county area mental health authority the board of commissioners may instead appoint any resident of the county.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## S. B. 166

## CHAPTER 456

AN ACT TO REQUIRE ALL FELONS TO BE COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-1352 is rewritten to read:

“§ 15A-1352. *Commitment to Department of Correction or local confinement facility.*—(a) A person sentenced to imprisonment for a misdemeanor under this Article shall be committed for the term designated by the court to the custody of the Department of Correction or to a local confinement facility. If the sentence imposed for a misdemeanor is for a period of 180 days or less, the commitment must be to a facility other than one maintained by the Department of Correction, except as provided in G.S. 148-32.1(b).

(b) A person sentenced to imprisonment for a felony under this Article shall be committed for the term designated by the court to the custody of the Department of Correction.

(c) A person sentenced to imprisonment for nonpayment of a fine under Article 84, Fines, shall be committed for the term designated by the court:

- (1) to the custody of the Department of Correction if the person was fined for conviction of a felony;
- (2) to the custody of the Department of Correction or to a local confinement facility if the person was fined for conviction of a misdemeanor, provided that if the sentence imposed is for a period of

180 days or less, the commitment shall be to a facility other than one maintained by the Department of Correction, except as provided in G.S. 148-32.1(b)."

**Sec. 2.** This act is effective upon ratification and applies to all persons sentenced on or after that date.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## S. B. 335

## CHAPTER 457

AN ACT TO DESIGNATE THE FIRST SUNDAY IN AUGUST AS  
"AMERICAN FAMILY DAY".

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Chapter 103 of the General Statutes to read:

"§ 103-7. *American Family Day.*—The first Sunday in August of each year is designated as American Family Day in North Carolina."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## S. B. 500

## CHAPTER 458

AN ACT TO PERMIT THE CITY OF ROANOKE RAPIDS AND THE TOWN  
OF ELIZABETHTOWN TO LEVY A TAX OF UP TO THREE DOLLARS  
(\$3.00) PER YEAR UPON RESIDENT MOTOR VEHICLES.

Whereas, a one dollar (\$1.00) tax per year upon resident motor vehicles is not cost effective to collect; and

Whereas, the Mayor of the City of Roanoke Rapids and the Town Board of the Town of Elizabethtown have requested that an upward adjustment of the motor vehicle tax be made; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-97(a) is hereby amended by inserting the phrase "the City of Roanoke Rapids and the Town of Elizabethtown may levy not more than three dollars (\$3.00) per year upon any such vehicle resident therein," between the words "therein," and "and" on line 10 of that subsection.

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.



## H. B. 190

## CHAPTER 459

## AN ACT TO CREATE THE NORTH CAROLINA SEAFOOD INDUSTRIAL PARK AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Creation of Authority; membership; appointment, terms and vacancies; officers; meetings and quorum; compensation.

(a) There is hereby created The North Carolina Seafood Industrial Park Authority. It shall be governed by a board composed of 11 members to be appointed as follows. The Board is hereby designated as the Authority.

(b) Nine members shall be appointed by the Governor.

The initial appointments by the Governor shall be made on or after the date of ratification, four terms to expire July 1, 1981; four terms to expire July 1, 1983; and one term to expire July 1, 1985. Thereafter, at the expiration of each stipulated term of office all appointments shall be for a term of four years. The members of the Authority shall be selected as follows: One member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of the village or town where the Seafood Industrial Park is located; one member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of the county where the Seafood Industrial Park is located; two members be appointed to the Authority for terms which expire July 1, 1981, from the area of the State where the Seafood Industrial Park is located; five members (two terms expire July 1, 1981; two terms expire July 1, 1983; and one term expires July 1, 1985) be appointed to the Authority who are residents of the State at large and insofar as practicable shall represent all the other sections of the State. At the expiration of the terms for the representatives as stated above the Governor shall use his discretion on reappointments. However, there shall be no less than five members of the Authority from coastal counties and there should be at least one member on the Authority from each village or town in which the Seafood Parks are located. Any vacancy occurring in the membership of the Authority shall be filled by the appointing authority for the unexpired term. The Governor shall have the authority to remove any member appointed by the Governor.

(c) The President of the Senate shall appoint one Senator for a two-year term.

(d) The Speaker of the House shall appoint one Representative for a two-year term.

(e) The Governor shall annually appoint from the members of the Authority the chairman and vice-chairman of the Authority. The Secretary of Commerce or his designee shall serve as secretary of the Authority.

(f) No person shall serve on the Authority for more than two complete consecutive terms.

(g) The Authority shall meet once in each 90 days at such regular meeting time as the Authority by rule may provide and at any place within the State as the Authority may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Authority, who are not members of the General Assembly, shall not be entitled to compensation for their services, but they shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5 and G.S. 138-6. The members of the Authority who are members of the General Assembly shall not receive

per diem but shall receive travel and subsistence at the rates set out in G.S. 120-3.1.

**Sec. 2. Personnel.** The Secretary of Commerce shall appoint such management personnel as deemed necessary who shall serve at the pleasure of the Secretary of Commerce. The salaries of these personnel shall be fixed by the Governor with the approval of the Advisory Budget Commission. The Secretary of Commerce shall have the power to appoint, employ and dismiss such number of employees as he may deem necessary to accomplish the purposes of this Article subject to the availability of funds. The power to appoint, employ and dismiss personnel, and to fix the number thereof, may be delegated to one or more of the management personnel upon such terms and subject to such restrictions and limitations as the Secretary of Commerce may deem proper. The compensation of such employees shall be fixed by the Secretary of Commerce. It is recommended that, to the fullest extent possible, the Secretary of Commerce consult with the authority on matters of personnel.

**Sec. 3. Executive Committee.** There shall be an executive committee consisting of the chairman of the Authority and two other members elected annually by the Authority. The executive committee shall be vested with authority to do all acts which are specifically authorized by the bylaws of the Authority. Members of the executive committee shall serve until their successors are elected.

**Sec. 4. Purposes of Authority.** Through the Authority hereinbefore created, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating the seafood industrial parks within the State, or within the jurisdiction of the State, and works of internal improvements incident thereto, including the acquisition or construction, maintenance and operation at such seafood industrial parks of watercraft and facilities thereon or essential for the proper operation thereof. Said Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

(1) to develop and improve the Wanchese Seafood Industrial Park, and such other places, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of seafood commerce from and to any place or places in the State of North Carolina and other states and foreign countries;

(2) to acquire, construct, equip, maintain, develop and improve the port facilities at said parks and to improve such portions of the waterways thereat as are within the jurisdiction of the federal government;

(3) to foster and stimulate the shipment of seafood commerce through said ports, whether originating within or without the State of North Carolina, including the investigation and handling of matters pertaining to all transportation rates and rate structures affecting the same;

(4) to cooperate with the United States of America and any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement and use of said seafood harbors;

(5) to accept funds from any of said counties or cities wherein said ports are located and to use the same in such manner, within the purposes of said Authority, as shall be stipulated by the said county or city, and to act as agent or instrumentality, of any of said counties or cities in any matter coming within the general purposes of said Authority;

(6) and in general to do and perform any act or function which may tend to be useful toward the development and improvement of seafood industrial parks of the State of North Carolina, and to increase the movement of waterborne seafood commerce, foreign and domestic, to, through, and from said seafood industrial parks.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the seafood possibilities of the State of North Carolina.

**Sec. 5. Powers of Authority.** In order to enable it to carry out the purposes of this Article, the said Authority shall:

(1) have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;

(2) have the authority to make all necessary contracts and arrangements with other seafood industrial park or port authorities of this and other states for the interchange of business, and for such other purposes as will facilitate and increase the seafood industries;

(3) be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or personal, as said Authority may deem proper to carry out the purposes and provisions of this Article, all or any of them;

(4) be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches thereto;

(5) be authorized and empowered to pay all necessary costs and expenses involved and incident to the formation and organization of said Authority, and incident to the administration and operation thereof, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article;

(6) be authorized and empowered to apply for and accept loans and grants of money from any federal agency or the State of North Carolina or any political subdivision thereof or from any public or private sources available for any and all of the purposes authorized in this Article, and to expend the same in accordance with the directions and requirements attached thereto, or imposed thereon by any such federal agency, the State of North Carolina, or any political subdivision thereof, or any public or private lender or donor, and to give such evidences of indebtedness as shall be required, provided, however, that no indebtedness of any kind incurred or created by the Authority shall constitute an indebtedness of the State of North Carolina, or any political subdivisions thereof, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State of North Carolina, or any political subdivision thereof;

(7) be authorized and empowered to act as agent for the United States of America, or any agency, department, corporation, or instrumentality thereof, in any matter coming within the purposes or powers of the Authority;

(8) have power to adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of



such committees, and the functions thereof, as the Authority may deem necessary or expedient in facilitating its business;

(9) be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers in this section mentioned; and

(10) be authorized and empowered to do any and all things necessary to accomplish the purposes of this Article.

**Sec. 6.** Approval of acquisition and disposition of real property. Any transactions relating to the acquisition or disposition of real property or any estate or interest in real property, by the North Carolina State Seafood Industrial Park Authority, shall be subject to prior review by the Governor and Council of State, and shall become effective only after the same has been approved by the Governor and Council of State. Upon the acquisition of real property or other estate therein, by the Authority, the fee title or other estate shall vest in and the instrument of conveyance shall name the "Seafood Industrial Park Authority" as grantee, lessee, or transferee. Upon the disposition of real property or any interest or estate therein, the instrument of conveyance or transfer shall be executed by the North Carolina Seafood Industrial Park Authority. The approval of any transaction by the Governor and Council of State may be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Governor and Council of State, attested by the private secretary to the Governor or the Governor, reciting such approval, affixed to the instrument of acquisition or transfer, and said certificate may be recorded as a part thereof, and the same shall be conclusive evidence of review and approval of the subject transaction by the Governor and Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such classes of lease, rental, easement, or right-of-way transactions as he deems advisable, and he may likewise delegate the review and approval of the severance of buildings and timber from the land.

**Sec. 7.** Issuance of bonds. (a) As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance and operation of any facility, building, structure, or any other matter or thing which the Authority is herein authorized to acquire, construct, equip, maintain, or operate, all or any of them, the said Authority is hereby authorized at one time or from time to time to issue with the approval of the Advisory Budget Commission negotiable revenue bonds of the Authority. The principal and interest of such revenue bonds shall be payable solely from the revenue to be derived from the operation of all or any part of its properties and facilities.

(b) A pledge of the net revenues derived from the operation of said properties and facilities, all or any of them, shall be made to secure the payment of said bonds as and when they mature.

(c) Revenue bonds issued under the provisions of this Article shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State. The issuance of such revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(d) Such bonds and the income thereof shall be exempt from all taxation within the State.



(e) Notwithstanding any other provisions of this act, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under the act upon request of the Authority and with the approval of the Local Government Commission. The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this act. The North Carolina Seafood Industrial Park Authority shall determine when a bond issue is indicated. The Authority shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys.

**Sec. 8.** Power of eminent domain. For the acquiring of rights-of-way and property necessary for the construction of wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses and other riparian and littoral terminals and structures and approaches thereto and transportation facilities needful for the convenient use of same, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the Authority, and it may proceed in the manner provided by the general laws of the State of North Carolina for the procedure by any county, municipality or authority organized under the laws of this State. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public use.

**Sec. 9.** Exchange of property; removal of buildings, etc. The Authority may exchange any property or properties acquired under the authority of this Chapter for other property, or properties usable in carrying out the powers hereby conferred, and also may remove from lands needed for its purposes and reconstruct on other locations, buildings, terminals, or other structures, upon the payment of just compensation, if in its judgment, it is necessary or expedient so to do in order to carry out any of its plans for seafood industrial park development, under the authorization of this Article.

**Sec. 10.** Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police. (a) The jurisdiction of the Authority in any of said harbors or seaports within the State for the shipment of seafood commerce shall extend to all properties owned by or under control of the Authority and shall also extend over the waters and shores of such harbors or seaports and over that part of all tributary streams flowing into such harbors or seaports in which the tide ebbs and flows, and shall extend to the outer edge of the outer bar at such harbors or seaports.

(b) 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 hereby made applicable to the streets, alleys and driveways on the properties owned by or under the control of the North Carolina Seafood Industrial Park Authority. Any person violating any of the provisions of said Chapter in or on such streets, alleys or driveways shall, upon conviction thereof, be punished as therein prescribed. Nothing herein contained shall be construed as in any way interfering with the ownership and control of such streets, alleys and driveways on the properties of said Authority as is now vested by law in the said Authority.

(c) The North Carolina Seafood Industrial Park Authority is hereby authorized to make such reasonable rules, regulations, and adopt such additional ordinances with respect to the use of the streets, alleys, driveways and to the establishment of parking areas on the properties of the Authority and relating to the safety and welfare of persons using the property of the Authority. All rules, regulations and ordinances adopted pursuant to the authority of this subsection shall be recorded in the proceedings of the Authority and printed and copy of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina 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 of not exceeding fifty dollars (\$50.00) or imprisonment not to exceed 30 days.

(d) The Secretary of Commerce is authorized to appoint such number of employees of the Authority as he may think proper as special policemen, who, when so appointed, shall have within the jurisdiction of the Authority all the powers of policemen of incorporated towns. Such policemen shall have the power of arrest of persons committing violations of State law or any rules, regulations and ordinances lawfully adopted by the Authority as herein authorized. Employees appointed as such special policemen shall take the general oath of office prescribed by G.S. 11-11.

**Sec. 11.** Annual audit; copies to be furnished. At least once in each year the State Auditor shall cause to be made a detailed audit of all moneys received and disbursed by the Authority during the preceding year. Such audit shall show the several sources from which funds were received and the balance on hand at the beginning and end of the preceding year and shall show the complete financial condition of the Authority. A copy of the said audit shall be furnished to each member of the governing body of the said Authority and to the officers thereof and to the Governor and the Attorney General.

**Sec. 12.** Purchase of supplies, material and equipment. All the provisions of Article 3 of Chapter 143 of the General Statutes relating to the purchase of supplies, material and equipment by the State government are hereby made applicable to the North Carolina Seafood Industrial Park Authority.

**Sec. 13.** Liberal construction of Article. It is intended that the provisions of this Article shall be liberally construed to accomplish the purposes provided for, or intended to be provided for, herein, and where strict construction would result in the defeat of the accomplishment of any of the acts authorized herein, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

**Sec. 14.** Warehouses, wharves, etc., on property abutting navigable waters. The powers, authority and jurisdiction granted to the North Carolina Seafood Industrial Park Authority under this Article and Chapter shall not be construed so as to prevent other persons, firms and corporations, including municipalities, from owning, constructing, leasing, managing and operating warehouses, structures and other improvements on property owned, leased or under the control of such other persons, firms and corporations abutting upon and adjacent to navigable waters and streams in this State, nor to prevent such

other persons, firms and corporations from constructing, owning, leasing and operating in connection therewith wharves, docks and piers, nor to prevent such other persons, firms and corporations from encumbering, leasing, selling, conveying or otherwise dealing with and disposing of such properties, facilities, lands and improvements after such construction.

**Sec. 15.** Taxation. The property of the Authority shall not be subject to any taxes or assessments thereon.

**Sec. 16.** North Carolina Seafood Industrial Park Authority transfer. The North Carolina Seafood Industrial Park Authority, as contained in this Article, will take title to, develop and manage seafood industrial parks which henceforth has been the responsibility of several State agencies.

**Sec. 17.** If any provision of this act or the application thereof is 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. 18.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1979.

## H. B. 348

## CHAPTER 460

## AN ACT TO PERMIT REGISTERED NURSES TO FORM PROFESSIONAL CORPORATIONS PURSUANT TO CHAPTER 55B.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55B-2(6) is amended by adding the words "Article 9, 'Nurse Practice Act,' with regard to registered nurses," after the word "Chiropractic" in line 8 and before the word "Article" in line 9.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1979.

## H. B. 639

## CHAPTER 461

## AN ACT TO AMEND ARTICLE 13A OF CHAPTER 90 OF THE GENERAL STATUTES, AFFECTING PRACTICE OF FUNERAL SERVICE IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-210.18(a) is rewritten as follows:

"(a) The General Assembly declares that the practice of funeral service affects the public health, safety and welfare, and is subject to regulation and control in the public interest. The public interest requires that only qualified persons be permitted to practice funeral service in North Carolina, and that the profession merit the confidence of the public. This Article shall be liberally construed to accomplish these ends."

**Sec. 2.** G.S. 90-210.18(b) is amended by deleting from lines 26 through 28 the words "and unless he has had a license to practice funeral service or embalming in North Carolina for not less than five consecutive years prior thereto"; and by deleting from lines 32 through 34 the words "and unless he has had such license to practice funeral directing in North Carolina for not less than five consecutive years prior thereto".

**Sec. 3.** G.S. 90-210.18(c)(5a) is renumbered and rewritten as follows:

“(6) No person is eligible to serve two consecutive elective terms as a member of the State Board of Mortuary Science, whether the terms be two-year, five-year, or any combination of two-year and five-year terms.”

**Sec. 4.** G.S. 90-210.18(c)(14) is amended by striking out the phrase “Article 33 of Chapter 143” and inserting in lieu thereof the phrase “Chapter 150A”.

**Sec. 5.** G.S. 90-210.18(c) is further amended by renumbering subparagraphs (6) through (15) as subparagraphs (7) through (16) respectively.

**Sec. 6.** G.S. 90-210.20(h) is amended by inserting in line 2 after the words “in the care” the following:  
“, arrangement”.

**Sec. 7.** G.S. 90-210.21 is amended by placing a period after the word “institutions” at the end of line 2, and by deleting the remainder of the section.

**Sec. 8.** G.S. 90-210.23(c) is amended by striking out of line 7 the word “fees” and inserting in lieu thereof the word “funds”.

**Sec. 9.** G.S. 90-210.23(d) is amended by striking out the figure “150” and inserting in lieu thereof the figure “150A”.

**Sec. 10.** G.S. 90-210.24 is rewritten as follows:

“§ 90-210.24. *Inspector*.—(a) The Board may appoint one or more agents who shall serve at the pleasure of the Board and who shall have the title ‘Inspector of the Board of Mortuary Science of North Carolina’. No person is eligible for appointment as inspector unless at the time of his appointment he is licensed under this Article as a funeral service licensee.

(b) To determine compliance with the provisions of this Article and regulations promulgated under this Article, inspectors may (1) enter the office, premises, establishment or place of business of any funeral service licensee, funeral director or embalmer in North Carolina, and any office, premises, establishment or place in North Carolina where the practice of funeral service is carried on, or where that practice is advertised as being carried on, or where a funeral is being conducted, to inspect the office, premises, or establishment, or to inspect the license or registration of any licensee and any resident trainee operating therein; (2) enter any hospital, nursing home, or other institution from which a dead human body has been removed by any person licensed under this Article or their designated representative to inspect records pertaining to the removal and its authorization; and (3) may inspect criminal and probation records of licensees and applicants for licenses under this Article to obtain evidence of their character. Inspectors may serve papers and subpoenas issued by the Board or any office or member thereof under authority of this Article, and shall perform other duties prescribed or ordered by the Board.

(c) Upon request by the Board, the Attorney General of North Carolina shall provide the inspectors with appropriate identification cards, signed by the Attorney General or his designated agent.

(d) The Board may prescribe an inspection form to be used by the inspectors in performing their duties.”

**Sec. 11.** G.S. 90-210.25(a)(1) is rewritten as follows:

“(1) To be licensed for the practice of funeral directing under this Article, a person must:

a. be at least 18 years of age,



- b. be of good moral character,
- c. have completed a minimum of 32 semester hours or 48 quarter hours of academic instruction in a duly accredited college or university, or be a graduate of a mortuary science college approved by the Board,
- d. have completed 12 months of resident traineeship as funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under item c. of this subsection, and
- e. have passed an oral or written funeral director examination on the following subjects:
  - (i) basic health sciences, including microbiology, hygiene, and public health,
  - (ii) funeral service administration, including psychology, funeral principles and directing, and
  - (iii) laws of North Carolina and rules of the Board of Mortuary Science and other agencies dealing with the care, transportation and disposition of dead human bodies.”

**Sec. 12.** G.S. 90-210.25(a)(2) is rewritten as follows:

“(1) To be licensed for the practice of embalming under this Article, a person must:

- a. be at least 18 years of age,
- b. be of good moral character,
- c. be a graduate of a mortuary science college approved by the Board,
- d. have completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under item c. of this subsection, and
- e. have passed an oral or written embalmer examination on the following subjects:
  - (i) basic health sciences, including anatomy, chemistry, microbiology, pathology and forensic pathology,
  - (ii) funeral service sciences, including embalming and restorative art, and
  - (iii) laws of North Carolina and rules of the Board of Mortuary Science and other agencies dealing with the care, transportation and disposition of dead human bodies.”

**Sec. 13.** G.S. 90-210.25(a)(3) is rewritten as follows:

“(1) To be licensed for the practice of funeral service under this Article, a person must:

- a. be at least 18 years of age,
- b. be of good moral character,
- c. be a graduate of a mortuary science college approved by the Board,
- d. have completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under item c. of this subsection, and
- e. have passed an oral or written funeral service examination on the following subjects:
  - (i) basic health sciences, including anatomy, chemistry, microbiology, pathology, forensic pathology, hygiene and public health,

- (ii) funeral service sciences, including embalming and restorative art,
- (iii) funeral service, administration including psychology, funeral principles and directing, and
- (iv) laws of North Carolina and rules of the Board of Mortuary Science and other agencies dealing with the care, transportation and disposition of dead human bodies.”

**Sec. 14.** G.S. 90-210.25(a)(4) is rewritten as follows:

- “(4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.
- b. When a resident trainee leaves the proctorship of the licensee under whom the trainee has worked, the licensee shall file with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.
- c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears on the original certificate may reapply to the Board for approval, without payment of an additional fee.
- d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than one time. The Board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the certificate will be canceled. A penalty, in addition to the renewal fee, shall be charged for a late renewal, but the renewal of the registration of any resident trainee who is engaged in the active military service of the United States at the time renewal is due may, at the discretion of the Board, be held in abeyance for the duration of that service without penalties.
- e. All registered resident trainees shall report to the Board at least every three months during traineeship upon forms provided by the Board listing the work which has been completed during the preceding three months of resident traineeship. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:
- (i) for funeral director trainees, the conduct of any funerals during the relevant time period,

- (ii) for embalming trainees, the embalming of any bodies during the relevant time period,
  - (iii) for funeral service trainees, both of the activities named in (i) and (ii) of this subsection, engaged in during the relevant time period.
- f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:
- (i) that the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
  - (ii) that the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
  - (iii) that the funeral service trainee has, under supervision assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.
- g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.
- h. Each sponsor for a registered resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.
- i. Only one resident trainee may register and serve at any one time under any one person licensed under this Article."

**Sec. 15.** G.S. 90-210.25(a)(5) is amended by striking out of lines 5 through 7 the words "at fees to be determined by the Board not to exceed thirty-five dollars (\$35.00)" and by inserting in lieu thereof the words "upon payment of the renewal fee".

**Sec. 16.** G.S. 90-210.25(a)(5) is further amended by striking out of lines 20-21 the words "of ten dollars (\$10.00)".

**Sec. 17.** G.S. 90-210.25(a)(5) is further amended by placing a period after the word "therefrom" in line 24 and deleting the remainder of the paragraph ending with the words "25 years" in line 43, and by inserting in lieu thereof the following:

"All licensees now or hereafter licensed in North Carolina shall take courses of study in subjects relating to the practice of the profession for which they are licensed, to the end that new techniques, scientific and clinical advances, the achievements of research and the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.

As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, approved by the Board prior to enrollment; except that for renewals for calendar year 1980 the required length of study shall be a total of fifteen hours in the three years immediately preceding January 1, 1980.

The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who have been licensed in North Carolina for a continuous period of 25 years or more.

The Board shall cause to be established and offered to the licensees, each calendar year, at least five hours of continuing education courses in subjects encompassing the license categories of embalming, funeral directing and funeral service. The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article."

**Sec. 18.** G.S. 90-210.25(b) is rewritten as follows:

"(b) Persons licensed under the laws of other jurisdictions.

- (1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other states, territories, the District of Columbia, and foreign countries, when it is shown that the applicant holds a valid license as a funeral director, embalmer or funeral service licensee issued by the other jurisdiction, has demonstrated knowledge of the laws and regulations governing the profession in North Carolina and has submitted proof of his good moral character; and either that the applicant has continuously practiced the profession in the other jurisdiction for at least three years immediately preceding his application, or the Board has determined that the licensing requirements for the other jurisdiction are substantially similar to those of North Carolina.
- (2) The Board shall periodically review the mortuary science licensing requirements of other jurisdictions and shall determine which licensing requirements are substantially similar to the requirements of North Carolina.
- (3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State."

**Sec. 19.** G.S. 90-210.25(d) is rewritten as follows:

"(d) Establishment Permit.

- (1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment.
- (2) A permit shall be issued when:
  - a. it is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service,
  - b. the Board receives a list of the names of all part-time and full-time licensees employed by the establishment,
  - c. if embalming is to be performed on the premises, it is shown that a preparation room is maintained which satisfies the requirements set out in G.S. 90-210.27, and
  - d. the Board receives payment of the permit fee.
- (3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner or an officer of the corporation by January 1 of each year, and shall be



accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year.

A penalty for late renewal, in addition to the regular renewal fee, shall be charged for renewal of registration coming after the first day of February.

- (4) The Board may suspend or revoke a permit when an owner, partner or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations.
- (5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment."

**Sec. 20.** G.S. 90-210.25(e) is amended by deleting lines 1 through 50, beginning with the words "(e) Violations.—" and ending with the words "a certificate of death", and inserting in lieu thereof the following:

"(e) Revocation; suspension; fines; disclosure.

- (1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter 150A:

- a. conviction of a felony or a crime involving fraud or moral turpitude;
- b. fraud or misrepresentation in obtaining or renewing a license;
- c. false or misleading advertising as the holder of a license;
- d. solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee;
- e. employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee;
- f. the direct or indirect giving of certificates of credit or the payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business;
- g. gross immorality, including being under the influence of alcohol or drugs while practicing funeral service;
- h. aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee;
- i. using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
- j. violating or cooperating with others to violate any of the provisions of this Article or of the rules and regulations of the Board;

- k. violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;
  - l. refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof;
  - m. knowingly making any false statement on a certificate of death;
  - n. indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.
- (2) Where the Board finds that a licensee is guilty of one or more of the acts or omissions listed in subsection (e)(1) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150A."

**Sec. 21.** G.S. 90-210.25(e) is further amended by inserting the following sentence at the end of the subsection:

"The statement shall have printed, typed or stamped on the face thereof: 'This statement of disclosure is provided pursuant to the requirements of North Carolina G.S. 90-210.25(e).'"

**Sec. 22.** Chapter 90, Article 13A of the General Statutes, is amended by inserting at the end thereof the following new sections:

"§ 90-210.26. *Good moral character.*—Evidence of good moral character may be shown by the affidavits of three persons who have been acquainted with the applicant for three years immediately preceding the submission of the affidavit.

"§ 90-210.27. *Preparation room.*—(a) Every funeral establishment if embalming is to be performed on the premises, shall maintain a preparation room which is strictly private.

(b) No one is allowed in the preparation room while a dead human body is being prepared except licensees, resident trainees, public officials in the discharge of their duties, members of the medical profession, officials of the funeral home, next of kin or other legally authorized persons.

(c) Each preparation room shall:

- (1) contain one standard type operating table;
- (2) contain facilities for adequate drainage;
- (3) contain a sanitary waste receptacle;
- (4) contain an instrument sterilizer;
- (5) have wall-to-wall floor covering of tile, concrete, or other material which can be easily cleaned;
- (6) be kept in sanitary condition and subject to inspection by the Board or its agents at all times;
- (7) have a placard or sign on the door indicating that the preparation room is private;
- (8) have a proper ventilation or purification system to maintain a nonhazardous level of airborne contamination.

"§ 90-210.28. *Fees.*—The Board may set and collect fees, not to exceed the following amounts:

Establishment permit	
Application	\$50
Annual renewal	\$50
Late renewal penalty	\$35

Courtesy card	
Application	\$35
Annual renewal	\$35
Out-of-state licensee	
Application	\$50
Embalmer, Funeral Director, Funeral Service	
Application	\$50
Annual renewal	\$50
Reinstatement fee	\$100
Resident trainee permit	
Application	\$35
Annual renewal	\$10
Late renewal penalty	\$ 5

“§ 90-210.29. *Students*.—(a) Students who are enrolled in duly accredited mortuary science colleges in North Carolina may engage in the practices defined in this act if the practices are part of their academic training and if the practices are under the supervision of a licensed instructor of mortuary science or a licensee designated by the mortuary science college upon registration with the Board.

(b) The Board shall issue student permits upon verification of an applicant's enrollment in a duly accredited mortuary science college.”

**Sec. 23.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 25th day of April, 1979.

## H. B. 132

## CHAPTER 462

AN ACT TO REVISE AND RECODIFY THE COMMUNITY COLLEGES, TECHNICAL INSTITUTES, AND INDUSTRIAL EDUCATION CENTERS LAWS OF THIS STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 115A of the General Statutes is repealed.

**Sec. 2.** A new Chapter to be designated Chapter 115D of the General Statutes is enacted as follows:

### “CHAPTER 115D.

#### “Community Colleges and Technical Institutes.

#### “ARTICLE 1.

#### “General Provisions for State Administration.

“§ 115D-1. *Statement of purpose*.—The purposes of this Chapter are to provide for the establishment, organization, and administration of a system of educational institutions throughout the State offering courses of instruction in one or more of the general areas of two-year college parallel, technical, vocational, and adult education programs, to serve as a legislative charter for such institutions, and to authorize the levying of local taxes and the issuing of local bonds for the support thereof. The major purpose of each and every institution operating under the provisions of this Chapter shall be and shall continue to be the offering of vocational and technical education and training, and of basic, high school level, academic education needed in order to profit from vocational and technical education, for students who are high school

graduates or who are beyond the compulsory age limit of the public school system and who have left the public schools.

“§ 115D-2. *Definitions.*—As used in this Chapter:

- (1) The ‘administrative area’ of an institution comprises the county or counties directly responsible for the local financial support and local administration of such institution as provided in this Chapter.
- (2) The term ‘community college’ is defined as an educational institution operating under the provisions of this Chapter and dedicated primarily to the educational needs of the particular area for which established, and
  - a. which offers the freshman and sophomore courses of a college of arts and sciences,
  - b. which offers organized credit curricula for the training of technicians; curricular courses may carry transfer credit to a senior college or university where the course is comparable in content and quality and is appropriate to a chosen course of study;
  - c. which offers vocational, trade, and technical specialty courses and programs, and
  - d. which offers courses in general adult education.
- (3) The term ‘institution’ refers to a community college or a technical institute.
- (4) The term ‘regional institution’ means an institution which serves four or more counties which have been assigned as of July 1, 1973, to the institution by the Department of Community Colleges for purposes of conducting adult education classes.
- (5) The term ‘State Board of Education’ refers to the State Board of Education as established and described in Article IX, Section 4, of the Constitution of North Carolina.
- (6) The ‘tax-levying authority’ of an institution is the board of commissioners of the county or all of the boards of commissioners of the counties, jointly, which constitute the administrative area of the institution.
- (7) The term ‘technical institute’ is defined as an educational institution operating under the provisions of this Chapter and dedicated primarily to the educational needs of the particular area for which established, and
  - a. which offers organized credit curricula for the training of technicians; curricular courses may carry transfer credit to a senior college or university where the course is comparable in content and quality and is appropriate to a chosen course of study;
  - b. which offers vocational, trade, and technical specialty courses and programs,
  - c. which offers courses in general adult education.

“§ 115D-3. *State Board of Education to establish department to administer system of educational institutions; employment of personnel in community college system.*—The State Board of Education is authorized to establish and organize a department to provide State-level administration, under the direction of the Board, of a system of community colleges and technical institutes separate from the free public school system of the State. The Board shall have authority to adopt and administer all policies, regulations, and



standards which it may deem necessary for the establishment and operation of the department. The personnel of the department shall be governed by the same policies as the personnel of the other departments of the Board of Education and shall be subject to the provisions contained in Article 2, Chapter 126 of the General Statutes; except the position of the State President or chief administrative officer of the department shall be exempt from the provisions of the State Personnel Act, and the compensation of this position shall be fixed by the Governor, upon the recommendation of the State Board of Education, subject to approval by the Advisory Budget Commission.

The State President of the Community College System shall appoint all necessary administrative and supervisory employees who work under his direction in the administration of the Community College System, subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with the State Personnel Act.

The State Board of Education shall appoint an Advisory Council consisting of at least seven members to advise the Board on matters relating to personnel, curricula, finance, articulation, and other matters concerning institutional programs and coordination with other educational institutions of the State.

“§ 115D-4. *Establishment and transfer of institutions.*—The establishment of all community colleges and technical institutes shall be subject to the prior approval of the State Board of Education and each institution shall be established only in accordance with the provisions of this Chapter and the regulations, standards, and procedures adopted by the Board not inconsistent herewith. In no case, however, shall approval be granted by the Board for the establishment of an institution until it has been demonstrated to the satisfaction of the Board that a genuine educational need exists within a proposed administrative area, that existing public and private post-high school institutions in the area will not meet the need, that adequate local financial support for the institution will be provided, that public schools in the area will not be affected adversely by the local financial support required for the institution, and that funds sufficient to provide State financial support of the institution are available.

The approval of any new institution, or the conversion of any existing institution into a new type of institution, or the expenditures of any State funds for any capital improvements at existing institutions shall be subject to the prior approval of the State Board of Education, the Governor, and the Advisory Budget Commission. The expenditure of State funds at any institution herein authorized to be approved by the Board shall be subject to the terms of the Executive Budget Act unless specifically otherwise provided in this Chapter.

“§ 115D-5. *Administration of institutions by State Board of Education; personnel exempt from State Personnel Act; extension courses; tuition waiver; in-plant training; contracting, etc. for establishment and operation of extension units of the community college system; use of existing public school facilities.*—

(a) The State Board of Education may adopt and execute such policies, regulations and standards concerning the establishment, administration, and operation of institutions as the Board may deem necessary to insure the quality of educational programs, to promote the systematic meeting of educational needs of the State, and to provide for the equitable distribution of State and federal funds to the several institutions.

The State Board of Education shall establish standards and scales for salaries and allotments paid from funds administered by the Board, and all employees of the institutions shall be exempt from the provisions of the State Personnel Act. The Board shall have authority with respect to individual institutions: to approve sites, buildings, building plans, budgets; to approve the selection of the chief administrative officer; to establish and administer standards for professional personnel, curricula, admissions, and graduation; to regulate the awarding of degrees, diplomas, and certificates; to establish and regulate student tuition and fees and financial accounting procedures.

(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Education shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Education may provide by general and uniform regulations for waiver of tuition and registration fees for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, local law enforcement officers, patients in State alcoholic rehabilitation centers, and prison inmates. Provided further, tuition shall be waived for senior citizens attending institutions operating pursuant to this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens.

(c) No course of instruction shall be offered by any community college or technical institute at State expense or partial State expense to any captive or co-opted group of students, as defined by the State Board of Education, without prior approval of the State Board of Education. Approval by the State Board of Education shall be presumed to constitute approval of both the course and the group served by that institution. The State Board of Education may delegate to the State President the power to make an initial approval, with final approval to be made by the State Board of Education. A course taught without such approval will not yield any full-time equivalent students, as defined by the State Board of Education.

(d) Community colleges and technical institutes shall assist in the pre-employment and in-service training of employees in industry, business, agriculture, health occupation and governmental agencies. The State Board of Education shall make appropriate regulations including the establishment of maximum hours of instruction which may be offered at State expense in each in-plant training program. No instructor or other employee of a community college or technical institute shall engage in the normal management, supervisory and operational functions of the establishment in which the instruction is offered during the hours in which the instructor or other employee is employed for instructional or educational purposes.

(e) The State Board of Education is authorized to enter into agreements with local boards of education, upon approval by the Governor and the Advisory Budget Commission, for the establishment and operation of extension units of

the community college system. The State Board is further authorized to provide the financial support for matching capital outlay and for operating and equipping extension units as provided in this Chapter for other institutions, subject to available funds.

On petition of a board of education of the school administrative unit in which an extension unit is proposed to be established, the State Board of Education may approve the use by the proposed institution of existing public school facilities, if the Board finds:

(1) that an adequate portion of these facilities can be devoted to the exclusive use of the institution, and

(2) that use of these facilities will be consistent with sound educational considerations.

“§ 115D-6. *Withdrawal of State support.*—The State Board of Education may withdraw or withhold State financial and administrative support of any institutions subject to the provisions of this Chapter in the event that:

(1) the required local financial support of an institution is not provided;

(2) sufficient State funds are not available;

(3) the officials of an institution refuse or are unable to maintain prescribed standards of administration or instruction; or

(4) local educational needs for such an institution cease to exist.

G.S. 115D-7 to G.S. 115D-9: Reserved for future codification purposes.

## “ARTICLE 2.

### “Local Administration.

“§ 115D-10. *Each institution to have board of trustees, selection of trustees.*—

(a) Each community college and technical institute established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of 13 members, who shall be selected by the following agencies.

Group One—four trustees, elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of those units, each board having one vote in the election of each trustee, except as provided in G.S. 115D-51.

Group Two—four trustees, elected by the board of commissioners of the county in which the institution is located. Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee. Should the boards of education or the boards of commissioners involved be unable to agree on one or more trustees the senior resident superior court judge in the judicial district where the institution is located shall fill the position or positions by appointment.

Group Three—four trustees, appointed by the Governor.

Group Four—the president of the student government or the chairman of the executive board of the student body of each community college and technical institute established pursuant to G.S. 115D shall be an ex officio nonvoting member of the board of trustees of each said institution.



(b) All trustees shall be residents of the administrative area of the institution for which they are selected or of counties contiguous thereto with the exception of members provided for in G.S. 115D-10(a), Group Four.

(c) Vacancies occurring in any group for whatever reason shall be filled for the remainder of the unexpired term by the agency or agencies authorized to select trustees of that group and in the manner in which regular selections are made. Should the selection of a trustee not be made by the agency or agencies having the authority to do so within 60 days after the date on which a vacancy occurs, whether by creation or expiration of a term or for any other reason, the Governor shall fill the vacancy by appointment for the remainder of the unexpired term.

“§ 115D-11. *Terms of office of trustees.*—Trustees shall serve for terms of eight years, with the exception of the ex officio member, except that initially: For all institutions for which boards of trustees first shall be established pursuant to the provisions of this Chapter, terms of the members of each board shall be so set by the selecting agencies that the term of a member in each group in G.S. 115D-10(a) shall expire on June 30 of every other year, the shortest term to expire on June 30 of the next odd-numbered year following the date the board of trustees is established. Thereafter, all terms shall be eight years and shall commence on July 1.

“§ 115D-12. *Board of trustees a body corporate, corporate name and powers, title to property.*—The board of trustees of each institution shall be a body corporate with powers to enable it to acquire, hold, and transfer real and personal property, to enter into contracts, to institute and defend legal actions and suits, and to exercise such other rights and privileges as may be necessary for the management and administration of the institution in accordance with the provisions and purposes of this Chapter. The official title of each board shall be “The Trustees of \_\_\_\_\_” (filling in the name of the institution) and such title shall be the official corporate name of the institution.

The several boards of trustees shall hold title to all real and personal property donated to their respective institutions by private persons or purchased with funds provided by the tax-levying authorities of their respective institutions. Title to equipment furnished by the State shall remain in the State Board of Education. In the event that an institution shall cease to operate, title to all real and personal property donated to the institution or purchased with funds provided by the tax-levying authorities, except as provided for in G.S. 115D-12, shall vest in the county in which the institution is located, unless the terms of the deed of gift in the case of donated property provides otherwise, or unless in the case of two or more counties forming a joint institution the contract provided for in G.S. 115D-61 provides otherwise.

“§ 115D-13. *Sale, exchange or lease of property.*—When in the opinion of the board of trustees of any institution organized under the provisions of this Chapter, the use of any property, real or personal, owned or held by said board of trustees is unnecessary or undesirable for the purposes of said institution, the board of trustees, subject to prior approval of the State Board of Education, may sell, exchange, or lease such property in the same manner as is provided by law for the sale, exchange, or lease of school property by county or city boards of education or in accordance with provisions of G.S. 160A-274. The proceeds of any such sale or lease shall be used for capital outlay purposes.



“§ 115D-14. *Elective officials serving as trustees.*—The office of trustee of any institution established or operated pursuant to this Chapter is hereby declared to be an office which may be held by the holder of any elective office, as defined in G.S. 128-1.1(d), in addition to and concurrently with those offices permitted by G.S. 128-1.1.

“§ 115D-15. *Compensation of trustees.*—Trustees shall receive no compensation for their services but shall receive reimbursement, according to regulations adopted by the State Board of Education, for cost of travel, meals, and lodging while performing their official duties. The reimbursement of the trustees from State funds shall not exceed the amounts permitted in G.S. 138-5.

“§ 115D-16. *Organization of boards, meetings.*—At the first meeting after its selection, each board of trustees shall elect from its membership a chairman, who shall preside at all board meetings, and a vice-chairman, who shall preside in the absence of the chairman. The trustees shall also elect a secretary, who may be a trustee, to keep the minutes of all board meetings. All three officers of the board shall be elected for a period of one year but shall be eligible for reelection by the board.

Each board of trustees shall meet as often as may be necessary for the conduct of the business of the institution but shall meet at least once every three months. Meetings may be called by the chairman of the board or by the chief administrative officer of the institution.

“§ 115D-17. *Removal of trustees.*—Should the State Board of Education have sufficient evidence that any member of the board of trustees of an institution is not capable of discharging, or is not discharging, the duties of his office as required by law or lawful regulation, or is guilty of immoral or disreputable conduct, the State Board shall notify the chairman of such board of trustees, unless the chairman is the offending member, in which case the other members of the board shall be notified. Upon receipt of such notice there shall be a meeting of the board of trustees for the purpose of investigating the charges, at that meeting a representative of the State Board of Education may appear to present evidence of the charges. The allegedly offending member shall be given proper and adequate notice of the meeting and the findings of the other members of the board shall be recorded, along with the action taken, in the minutes of the board of trustees. If the charges are, by an affirmative vote of two-thirds of the members of the board, found to be true, the board of trustees shall declare the office of the offending member to be vacant.

Nothing in this section shall be construed to limit the authority of a board of trustees to hold a hearing as provided herein upon evidence known or presented to it.

“§ 115D-18. *Powers and duties of trustees.*—The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Education. The powers and duties of trustees shall include the following:

(1) To elect a president or chief administrative officer of the institution for such term and under such conditions as the trustees may fix, such election to be subject to the approval of the State Board of Education.

(2) To elect or employ all other personnel of the institution upon nomination by the president or chief administrative officer, subject to standards established

by the State Board of Education. Trustees may delegate the authority of employing such other personnel to its president or chief administrative officer.

(3) To purchase any land, easement, or right-of-way which shall be necessary for the proper operation of the institution, upon approval of the State Board of Education, and, if necessary, to acquire land by condemnation in the same manner and under the same procedures as provided in Article 2, Chapter 40 of the General Statutes. For the purpose of condemnation, the determination by the trustees as to the location and amount of land to be taken and the necessity thereof shall be conclusive.

(4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Education.

(5) To receive and accept donations, gifts, bequests, and the like from private donors and to apply them or invest any of them and apply the proceeds for purposes and upon the terms which the donor may prescribe and which are consistent with the provisions of this Chapter and the regulations of the State Board of Education.

(6) To provide all or part of the instructional services for the institution by contracting with other public or private organizations or institutions in accordance with regulations and standards adopted by the State Board of Education.

(7) To perform such other acts and do such other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of all reasonable rules, regulations, and bylaws for the government and operation of the institution under this Chapter and for the discipline of students.

“§ 115D-19. *Traffic regulations, fines and penalties.*—(a) All of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State of North Carolina and the operation of motor vehicles thereon shall apply to the streets, roads, alleys and driveways on the campuses of all institutions in the North Carolina Community College System. Any person violating any of the provisions of Chapter 20 of the General Statutes in or on the streets, roads, alleys and driveways on the campuses of institutions in the North Carolina Community College System shall, upon conviction thereof, be punished as prescribed in this section and as provided by Chapter 20 of the General Statutes relating to motor vehicles. Nothing contained in this section shall be construed as in any way interfering with the ownership and control of the streets, roads, alleys and driveways on the campuses of institutions in the system as is now vested by law in the trustees of each individual institution in the North Carolina Community College System.

(b) The trustees are authorized and empowered to make additional rules and regulations and to adopt additional ordinances with respect to the use of the streets, roads, alleys and driveways and to establish parking areas on or off the campuses not inconsistent with the provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees may make reasonable provisions for the towing or removal of unattended vehicles found to be in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted pursuant to the authority of this section shall be recorded in the proceedings of the trustees;

shall be printed; and copies of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina. Any person violating any such rules, regulations, or ordinances shall, upon conviction thereof in a legally constituted court of the State of North Carolina, be guilty of a misdemeanor, and shall be punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment for a period of time not to exceed 30 days or, in the discretion of the court, both such fine and imprisonment.

(c) The trustees may by rules, regulations, or ordinances provide for a system of registration of all motor vehicles where the owner or operator does park on the campus or keeps said vehicle on the campus. The trustees shall cause to be posted at appropriate places on campus notice to the public of applicable parking and traffic rules, regulations, and ordinances governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or ordinances establish or cause to have established a system of citations that may be issued to owners or operators of motor vehicles who violate established rules, regulations, or ordinances. The trustees shall provide for the administration of said system of citations; establish or cause to be established a system of fines to be levied for the violation of established rules, regulations and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for each offense shall not exceed five dollars (\$5.00), which funds shall be retained in the institution and expended in the discretion of the trustees. The trustees shall be empowered to exercise the right to prohibit repeated violators of such rules, regulations, or ordinances from parking on the campus.

"§ 115D-20. *State Retirement System for Teachers and State Employees, social security.*—Solely for the purpose of applying the provisions of Chapter 135 of the General Statutes of North Carolina, 'Retirement System for Teachers and State Employees, Social Security,' the institutions of this Chapter are included within the definition of the term 'Public school,' and the institutional employees are included within the definition of the term 'Teacher,' as these terms are defined in G.S. 135-1.

"§ 115D-21. *Workmen's Compensation Act applicable to institutional employees.*—The provisions of Chapter 97 of the General Statutes of North Carolina, the Workmen's Compensation Act, shall apply to all institutional employees. The State Board of Education shall make the necessary arrangements to carry out those provisions of Chapter 97 which are applicable to employees whose wages are paid in whole or in part from State funds. The State shall be liable for compensation, based upon the average weekly wage as defined in the act, of an employee regardless of the portion of his wage paid from other than State funds.

The board of trustees of each institution shall be liable for workmen's compensation for employees whose salaries or wages are paid by the board entirely from local public or special funds. Each board of trustees is authorized to purchase insurance to cover workmen's compensation liability and to include the cost of insurance in the annual budget of the institution.

The provisions of this section shall not apply to any person, firm or corporation making voluntary contributions to institutions for any purpose, and such a person, firm, or corporation shall not be liable for the payment of any sum of money under the provisions of this section.

"§ 115D-22. *Waiver of governmental immunity from liability for negligence of agents and employees of institutions; liability insurance.*—The board of



trustees of any institution, by obtaining liability insurance as provided in G.S. 115D-46, is authorized to waive its governmental immunity from liability for the death or injury of person or for property damage caused by the negligence or tort of any agent or employee of the board of trustees when the agent or employee is acting within the scope of his authority or the course of his employment. All automobiles, buses, trucks, or other motor vehicles intended primarily for use on the public roads and highways which are the property of a board of trustees shall be insured at all times with liability insurance as provided in G.S. 115D-46. Governmental immunity shall be deemed to have been waived by the act of obtaining liability insurance, but only to the extent that the board is indemnified for the negligence or torts of its agents and employees and only as to claims arising after the procurement of liability insurance and while such insurance is in force.

“§ 115D-23. *Purchase of annuity or retirement income contracts for employees.*—Notwithstanding any provision of law relating to salaries or salary schedules for the pay of faculty members, administrative officers, or any other employees of community colleges or technical institutes, the board of trustees of any of the above institutions may authorize the finance officer or agent of same to enter into annual contracts with any of the above officers, agents and employees which provide for reductions in salaries below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of the officer, agent or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said officer, agent or employee. An officer, agent or 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 in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the officer, agent or employee before his election for a salary reduction has become effective. The agreement for salary reductions referred to in this section 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 or law, the amount by which the salary of any officer, agent or employee is reduced pursuant to this section shall not be excluded, but 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.

G.S. 115D-24 to G.S. 115D-26: Reserved for future codification purposes.

#### “ARTICLE 3.

##### “Financial Support.

“§ 115D-27. *State financial support of institutions.*—(a) The State Board of Education shall be responsible for providing from sources available to the Board funds to meet the financial needs of institutions, as determined by policies and regulations of the Board, for the following budget items:

- (1) Capital outlay: Furniture and equipment for administrative and instructional purposes, library books, and other items of capital outlay approved by the board. Provided, the State Board of Education may, on an equal matching-fund basis from appropriations made by the State for the purpose, grant funds to individual institutions for the purchase,



construction and remodeling of institutional buildings determined by the State Board of Education to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amounts of matching State funds, local funds shall include local 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, construction, and remodeling of institutional buildings subsequently determined by the State Board of Education 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 expenses:

a. General administration:

1. Salaries and travel of trustees and administrative staff.
2. Cost of bonding institutional employees for the protection of State funds and property.
3. Office expenses.
4. Other costs of general administration approved by the State Board.

b. Instructional services:

1. Salaries and travel of instructional staff and clerical employees.
  2. Instructional supplies and materials.
  3. Commencement expenses.
  4. Other costs of instructional services approved by the State Board.
- c. Maintenance of plant: Maintenance and replacement of furniture and equipment furnished by the State.

d. Fixed charges:

1. Employer's contributions to social security and State retirement funds for the portion of institutional employees' salaries paid from State and federal funds.
2. Cost of workmen's compensation for institutional employees paid in whole or in part from State or federal funds.

e. Auxiliary services:

1. Operation of libraries, including salaries and travel of staff; replacement of books; and costs of supplies, materials, periodicals, and newspapers.
2. Other costs of auxiliary services approved by the Board.

(3) Additional support for regional institutions as defined in G.S. 115D-2(4) above: 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-28. The 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 the other counties served by the institution shall be called the 'State factor'. When the budget for the items listed in G.S. 115D-28 has been approved under the procedures set out in G.S. 115D-38, 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 U. S. census.

(b) The State Board of Education 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.

"§ 115D-28. *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-29 or G.S. 115D-30, as appropriate, adequate funds to meet the financial needs of the institutions for the following budget items:

- (1) Capital outlay: Acquisition of land; erection of all buildings; alterations and additions to buildings; purchase of automobiles, buses, trucks, and other motor vehicles; purchase 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. General administration:
    1. Cost of bonding institutional employees for the protection of local funds and property.
    2. Cost of auditing local funds.
    3. Cost of elections held in accordance with G.S. 115D-29 and G.S. 115D-31.
    4. Legal fees incurred in connection with local administration and operation of the institution.
  - b. Operation of plant:
    1. Wages of janitors, maids, and watchmen.
    2. Cost of fuel, water, power, and telephones.
    3. Cost of janitorial supplies and materials.
    4. Cost of operation of motor vehicles.
    5. Any other expenses necessary for plant operation.
  - c. Maintenance of plant:
    1. Cost of maintenance and repairs of buildings and grounds.
    2. Salaries of maintenance and repair employees.
    3. Maintenance and replacement of furniture and equipment provided from local funds.
    4. Maintenance of plant heating, electrical, and plumbing equipment.
    5. Maintenance of all other equipment, including motor vehicles, provided by local funds.
    6. Any other expenses necessary for maintenance of plant.
  - d. Fixed charges:
    1. Rental of land, buildings, and equipment.

2. Cost of insurance for buildings, contents, motor vehicles, workmen's compensation for institutional employees paid from local funds, and other necessary insurance.

3. Employer's contribution to retirement and social security funds for that portion of institutional employees' salaries paid from local funds.

4. Any tort claims awarded against the institution due to the negligence of the institutional employees.

(b) The board of trustees of each institution may apply local public funds provided in accordance with G.S. 115D-29(a) or G.S. 115D-30(a), as appropriate, or private funds, or both, to the supplementation of items of the current expense budget financed from State funds, provided a supplemental current expense budget is submitted in accordance with G.S. 115D-38(3).

*"§ 115D-29. Providing local public funds for institutions established under this Chapter; elections.—*(a) Except as provided in G.S. 115D-30, the tax-levying authority of an institution may provide for local financial support of the institution as follows:

(1) By appropriations from nontax revenues in a manner consistent with The Local Government Budget and Fiscal Control Act, provided the continuing authority to make such appropriations shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question in an election held for such purpose, or

(2) By a special annual levy of taxes within a maximum annual rate which maximum rate shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question of establishing or increasing the maximum annual rate in an election held for such purpose or both, and

(3) By issuance of bonds, in the case of capital outlay funds, provided that each issuance of bonds shall be approved by a majority of the qualified voters of each county of the administrative area who shall vote on the question in an election held for that purpose. All bonds shall be subject to the Local Government Finance Act and shall be issued pursuant to Subchapter IV, Long-Term Financing, of Chapter 159 of the General Statutes.

(b) At the election on the question of approving authority of the board of commissioners of each county in an administrative area (the tax-levying authority) to appropriate funds from nontax revenues or a special annual levy of taxes or both, the ballot furnished the qualified voters in each county may be worded substantially as follows: 'For the authority of the board of commissioners to appropriate funds either from nontax revenues or from a special annual levy of taxes not to exceed an annual rate of \_\_\_\_\_ cents per one hundred dollars (\$100.00) of assessed property valuation, or both, for the financial support of \_\_\_\_\_ (name of the institution)' plus any other pertinent information and 'Against the authority of the board of commissioners, etc.,' with a square before each proposition, in which the voter may make a cross mark (X), but any other form of ballot containing adequate information and properly stating the question to be voted upon shall be construed as being in compliance with this section.

(c) The question of approving authority to appropriate funds, to levy special taxes and the question of approving an issue of bonds, when approval of each or

both shall be necessary for the establishment or conversion of an institution, shall be submitted at the same election.

(d) All elections shall be held in the same manner as elections held under Article 4, Chapter 159, of the General Statutes, The Local Government Bond Act, and may be held at any time fixed by the tax-levying authority of the administrative area or proposed administrative area of the institution for which such election is to be held.

(e) The State Board of Education shall ascertain that authority to provide adequate funds for the establishment and operation of an institution has been approved by the voters of a proposed administrative area before granting final approval for the establishment of an institution.

(f) Notwithstanding any present provisions of this Chapter, the tax-levying authority of each institution may at its discretion and upon its own motion provide by appropriations of nontax revenue, tax revenue, or both, funds for the support of institutional purposes as set forth in G.S. 115D-28; but nothing herein shall be construed to authorize the issuance of bonds without a vote of the people.

*“§ 115D-30. Providing local public funds for institutions previously established.—*(a) For counties in which, immediately prior to the enactment of this Chapter, there was in operation or authorized a public community college or industrial education center which hereafter shall be operated pursuant to the provisions of this Chapter, the following provisions shall apply in providing local financial support for each such institution:

- (1) Community colleges: The board of commissioners of a county in which is located a public community college heretofore operated or authorized to operate pursuant to Article 3, Chapter 116, of the General Statutes of North Carolina, may continue to levy special taxes annually for the local financial support of the college as provided in G.S. 115D-28, to the maximum rate last approved by the voters of the county in accordance with the above Article. The board of commissioners may also provide all or part of such funds by appropriations, in a manner consistent with The Local Government Budget and Fiscal Control Act, from nontax revenues. The question of increasing the maximum annual rate of a special tax may be submitted at an election held in accordance with the provisions of G.S. 115D-29(d) and the appropriate provisions of G.S. 115D-31.
- (2) Industrial education centers: The board of commissioners of a county in which is located an industrial education center heretofore operated or authorized to operate as part of the public school system and which hereafter shall be operated as a technical institute or community college as defined in this Chapter may levy special taxes annually at a rate sufficient to provide funds for the financial support of the institute or college as required by G.S. 115D-28(a). The board of commissioners may also provide all or part of such funds by appropriations, in a manner consistent with The Local Government Budget and Fiscal Control Act, from nontax revenues. The board of commissioners is authorized to provide additional funds, either by special tax levies or by appropriations from nontax revenues, or both, to an amount equal to that required to be provided above, for the purpose of supplementing



the current expense budget of the institute or college financed from State funds.

(b) The board of commissioners of a county in which is located one of the above public community colleges or industrial education centers may provide funds for capital outlay for such institution by the issuance of bonds. All bonds shall be issued in accordance with the appropriate provisions of G.S. 115D-29 and G.S. 115D-31.

(c) Public funds provided a community college or industrial education center prior to its becoming subject to the provisions of this Chapter and which remain to the credit of the institution upon its becoming subject to these provisions shall be expended only for the purposes prescribed by law when such funds were provided the institution.

“§ 115D-31. *Requests for elections to provide funds for institutions.*—(a) Formal requests for elections on the question of authority to appropriate nontax revenues or levy special taxes, or both, and to issue bonds, when such elections are to be held for the purpose of establishing an institution, shall be originated and submitted only in the following manner:

(1) Proposed multiple-county administrative areas: Formal requests for elections may be submitted jointly by all county boards of education in the proposed administrative area, or by petition of fifteen percent (15%) of the number of qualified voters of the proposed area who voted in the last preceding election for Governor, to the boards of commissioners of all counties in the proposed area, who may fix the time for such election by joint resolution which shall be entered in the minutes of each board.

(2) Proposed single-county administrative area: Formal requests shall be submitted by the board of education of any public school administrative unit within the county of the proposed administrative area or by petition of fifteen percent (15%) of the number of qualified voters of the county who voted in the last preceding election for Governor, to the board of commissioners of the county of the proposed administrative area, who may fix the time for such election by resolution which shall be entered in the minutes of the board.

(b) Formal requests for elections on any of the questions specified in (a) above, or on the question of increasing the maximum annual rate of special taxes for the financial support of an institution with a properly established board of trustees, may be submitted to the tax-levying authority only by such board of trustees.

(c) All formal requests for elections regarding the levy of special taxes shall state the maximum annual rate for which approval is to be sought in an election.

(d) Nothing in this section shall be construed to deny or limit the power of the tax-levying authority of an institution to hold elections, of its own motion, on any or all the questions provided in this section, subject to the provisions of this Article.

“§ 115D-32. *Elections on question of conversion of institutions and issuance of bonds therefor.*—Whenever the board of trustees of an institution requests the State Board of Education to convert the institution from a technical institute to a community college, the Board shall require, as a prerequisite to such conversion:

- (1) The authorization by the voters of the administrative area of an annual levy of taxes within a specified maximum annual rate sufficient to provide the required local financial support for the converted institution, in an election held in accordance with the appropriate provisions of G.S. 115D-29 and G.S. 115D-31.
- (2) The approval by the voters of the administrative area of the issuance of bonds for capital outlay necessary for the conversion of the institution, in an election held in accordance with the appropriate provisions of G.S. 115D-29 and G.S. 115D-31.

“§ 115D-33. *Payment of expenses of special elections under Chapter.*—The cost of special elections held under the authority of this Chapter in connection with the establishment of an institution shall be paid out of the general fund of the county or counties which shall conduct such elections. All special elections held on behalf of a duly established institution shall be paid by such institution and the expenses may be included in the annual institutional budgets.

“§ 115D-34. *Authority to issue bonds and notes, to levy taxes and to appropriate nontax revenues.*—Counties are authorized to issue bonds and notes and to levy special taxes to meet payments of principal and interest on such bonds or notes and to levy special taxes for the special purpose of providing local financial support of an institution and otherwise to appropriate nontax revenues for the financial support of an institution, in the manner and for the purposes provided in this Chapter.

Taxes authorized by this section are declared to be for a special purpose and may be levied notwithstanding any constitutional limitation or limitations imposed by any general or special law.

“§ 115D-35. *Student tuition and fees.*—The State Board of Education may fix and regulate all tuition and fees charged to students for applying to or attending any institution pursuant to this Chapter.

The receipts from all student tuition and fees, other than student activity fees, shall be State funds and shall be deposited as provided by regulations of the State Board of Education.

The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S. 116-143.2, shall apply to students attending institutions operating pursuant to this Chapter.

G.S. 115D-36 to G.S. 115D-37: Reserved for future codification purposes.

#### “ARTICLE 4.

##### “Budgeting, Accounting, and Fiscal Management.

“§ 115D-38. *Preparation and submission of institutional budgets.*—On or before the first day of May of each year, the trustees of each institution shall prepare and submit a capital outlay budget and a current expense budget, on forms provided by the State Board of Education, and may prepare in their discretion a supplemental current expense budget. The budgets shall be prepared and submitted for approval according to the following procedures:

- (1) Capital outlay budget: The budget shall contain the items of capital outlay, as provided in G.S. 115D-27 and G.S. 115D-28, for which funds are requested, from whatever source. The budget shall be submitted first to the 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 tax-levying authority, the budget shall be submitted by the trustees to the State Board of Education, which may

approve or disapprove, in whole or in part, that portion of the budget requesting State or federal funds.

- (2) **Current expense budget:** The budget shall contain the items of current operating expenses, as provided in G.S. 115D-27 and G.S. 115D-28, for which funds are requested, from whatever source. The budget shall be submitted first to the 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 tax-levying authority, the budget shall be submitted by the trustees to the State Board of Education, which may approve or disapprove, in whole or in part, the entire budget. The State Board is authorized to withhold the allocation of State funds to an institution until a budget has been submitted to and approved by the Board.
- (3) **Supplemental current expense budget:** The budget may contain any items of the current expense budget to be financed from State or federal funds which the trustees desire to supplement with local funds. The tax-levying authority shall approve or disapprove, in whole or in part, that portion of the budget requesting local public funds. An information copy of the budget as approved shall be filed with the State Board of Education.
- (4) No public funds shall be provided an institution, either by the tax-levying authority or by the State, except in accordance with the budget provisions of this Chapter.
- (5) 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 area and the board of trustees of the institution shall have no duty or responsibility in this connection.

“§ 115D-39. *Administration of institutional budgets for local public funds.*—

(a) **Duty of board of trustees:** It shall be the duty of the board of trustees of each institution to pay all obligations incurred in the operation of the institution promptly and when due, and to this end boards of trustees shall inform the tax-levying authority from month to month of any anticipated expenditures which will exceed the current collection of taxes and such balance as may be on hand, if any, for the payment of said obligations, in order that the tax-levying authority may make provision for the funds to be available. If a board of trustees shall willfully create a debt that shall in any way cause the expense of the year to exceed the amount authorized in the budget, without the approval of the tax-levying authority, the indebtedness shall not be a valid obligation of the institution and the members of the board responsible for creating the debt may be held personally liable for the same.

(b) **Duty of tax-levying authorities:** It shall be the duty of the tax-levying authority of each institution to provide, as needed, the funds to meet the monthly expenditures, including salaries and other necessary operating expense, as set forth in a statement prepared by the board of trustees and in accordance with the approved budget. If the collection of taxes does not yield sufficient revenue for this purpose, it shall be the duty of the tax-levying authority to borrow against the amount approved in the budget and to issue short-term notes for the amount so borrowed in accordance with the provisions of Subchapter IV, Long-Term Financing, of Chapter 159 of the General Statutes. The interest on

all such notes shall be provided by the tax-levying authority in addition to the amount approved in the budget, unless this item is specifically included in the budget.

“§ 115D-40. *Payment of State and local public funds to boards of trustees.*—

(a) The State Board of Education may deposit funds in the State treasury to the credit of each institution in monthly installments, at such time and in such manner as may be necessary to meet the needs of the institution, or the Board may disburse State funds to each institution under policies and regulations established by the Board. Prior to the deposit or disbursement of State funds by the Board it shall be the duty of the board of trustees of each institution to file, on or before the first day of each month, with the State Board of Education a certified statement, on forms provided by the State Board of Education, of all expenditures, salaries, and other obligations that may be due and payable in the next succeeding month.

(b) Upon the basis of an approved budget, the county finance officer or corresponding official of all counties of the administrative area of an institution shall determine the proportion of taxes, nontax revenues and other funds accruing to the current expense and capital outlay budgets of the institution and shall credit these funds to the institution as they are collected. The county finance officer or corresponding official of each county shall remit promptly at the end of each month all funds collected for current expenses and capital outlay, except bond funds, to the board of trustees of the institution.

In the event that a greater amount is collected and paid to the board of trustees of an institution than is authorized by its approved budgets for current expenses and capital outlay, the excess shall remain an unencumbered balance to be credited proportionally to those funds in the following fiscal year, and such excess shall not be spent, committed, or obligated unless the budget is revised with the approval of the board of trustees and the tax-levying authority.

(c) 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 be applied to the next succeeding capital outlay budgets until the excess fund 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 Education in proportion to the value of the lost contents owned by the board of trustees and the State, respectively. That portion retained by the trustees shall be applied to the repair or replacement of lost contents or shall remain to the credit of the institution to be applied to the next succeeding capital outlay and current expense budgets, as appropriate, until such funds shall be expended.

“§ 115D-41. *Disbursement of institutional funds.*—Public funds provided for an institution shall be paid out as follows:

(1) State funds: All State funds received by or deposited to the credit of an institution shall be disbursed only upon warrants drawn on the State Treasurer and signed by two employees of the institution who shall have been designated



by the board of trustees and who shall have been approved by the State Board of Education. Such funds may be disbursed in any other manner provided by regulations of the State Board of Education.

(2) Local funds: All local public funds received by or credited to an institution shall be disbursed on warrants signed by two employees of the institution who shall have been designated by the board of trustees and who shall have been approved by the State Board of Education. Such warrants shall be countersigned by the appropriate county finance officer or officers as provided by law, but only if the funds required by such warrant 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: Provided, that in lieu of countersignature by the county finance officer or officers as provided by law, the board of county commissioners which appropriated the local public funds may from time to time, with the approval of the board of trustees of the institution, designate an employee of the institution to countersign the warrants, and the employee so designated shall countersign a warrant only if the funds required by such warrant 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 warrant shall be accompanied by an invoice, statement, voucher, or other basic document which indicates to the satisfaction of the countersigning county finance officer or officers that the issuance of such warrant is proper.

“§ 115D-42. *Purchase of equipment and supplies.*—It shall be the duty of the several boards of trustees to purchase all supplies, equipment, and materials in accordance with contracts made by or with approval of the North Carolina 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 therefor, and in order to protect the State purchase contracts, it is the mandatory 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 Education if derived from State or federal funds.

“§ 115D-43. *Audits of institutional accounts.*—The State Auditor shall be responsible for conducting annually a thorough post audit of the receipts, expenditures, and fiscal transactions of each institution.

The annual audits shall be completed as near to the close of the fiscal year as practicable and copies of each audit shall be filed with the chairman of the board of trustees, the executive head of the institution, the county auditor of each county of the administrative area, the State Board of Education, and the Chairman of the Local Government Commission, inclusive of all accounts.

“§ 115D-44. *Surety bonds.*—The State Board of Education shall determine what State employees and employees of institutions shall give bonds for the protection of State funds and property and the 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-45. *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; and

(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 (a) above.

(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-46. *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 are authorized to pay as a necessary expense the lawful premiums of liability insurance provided in this section.

G.S. 115D-47 to G.S. 115D-50: Reserved for future codification purposes.

#### “ARTICLE 5.

##### “Special Provisions.

“§ 115D-51. *Multiple-county administrative areas.*—Should two or more counties determine to form an administrative area for the purpose of establishing and supporting an institution, the boards of commissioners of all such counties shall jointly propose a contract to be submitted to the State Board of Education as part of the request for establishment of an institution. The contract shall provide, in terms consistent with this Chapter, for financial support of the institution, selection of trustees, termination of the contract and the administrative area, and any other necessary provisions. The State Board of Education shall have authority to approve the terms of the contract as a prerequisite for granting approval of the establishment of the institution and the administrative area.

“§ 115D-52. *Special provisions for Central Piedmont Community College.*—(a) The board of commissioners of Mecklenburg County is authorized to provide the local financial support for the Central Piedmont Community College as provided in G.S. 115D-28 by levying a special tax to a maximum annual rate equal to the maximum rate last approved by the voters of the county for the support of the Central Piedmont Community College as operated pursuant to Article 3, Chapter 116, of the General Statutes of North Carolina, or by appropriations from nontax revenues, or by both. The question of increasing the maximum annual rate may be submitted at an election held in accordance with the provisions of G.S. 115D-29(d) and the appropriate provisions of G.S. 115D-31.

(b) When, in the opinion of the board of trustees of said institution, the use of any building, building site, or other real property owned or held by said board is unnecessary or undesirable for the purposes of said institution the board of trustees may sell, exchange, or lease such property in the same manner as is provided by law for the sale, exchange, or lease of school property by county or city boards of education. The proceeds of any such sale or lease shall be used for capital outlay purposes.

“§ 115D-53. *Special provisions for Coastal Carolina Community College.*—All local taxes heretofore authorized by the voters of Onslow County to be levied annually for the local financial support of the Onslow County Industrial Education Center may continue to be levied by the board of commissioners of Onslow County for the purpose of providing local financial support of the institution under its present name.

G.S. 115D-54 to G.S. 115D-57: Reserved for future codification purposes.

#### “ARTICLE 6.

“Textile Training School.

“§ 115D-58. *Creation of board of trustees; members and terms of office; no compensation.*—The affairs of the North Carolina Vocational Textile School shall be managed by a board of trustees composed of nine members, who shall be appointed by the Governor, and the State Director of Vocational Education as ex officio member thereof. The terms of office of the trustees appointed by the Governor shall be as follows: Two of said trustees shall be appointed for a term of two years; two for three years; and two for four years. At the expiration of such terms, the appointments shall be made for periods of four years. In the event of any vacancy on said boards, the vacancy shall be filled by appointment by the Governor for the unexpired term of the member causing such vacancy. The members of the said board of trustees appointed by the Governor shall serve without compensation. The reenactment of this section shall not have the effect of vacating the appointment or changing the terms of any of the members of said board of trustees heretofore appointed.

“§ 115D-59. *Powers of board.*—The said board of trustees shall hold all the property of the North Carolina Vocational Textile School and shall have the authority to direct and manage the affairs of said school, and within available appropriations therefor, appoint a managing head and such other officers, teachers and employees as shall be necessary for the proper conduct thereof. The board of trustees, on behalf of said school, shall have the right to accept and administer any and all gifts and donations from the United States government or from any other source which may be useful in carrying on the affairs of said school. Provided, however, that the said board of trustees is not authorized to accept any such funds upon any condition that said school shall be operated contrary to any provision of the Constitution or statutes of this State.

“§ 115D-60. *Board vested with powers and authority of former boards.*—The board of trustees acting under authority of this Article is vested with all the powers and authority of the board created under authority of Chapter 360 of the Public Laws of 1941, and the board created under authority of Chapter 806 of the Session Laws of 1971.

“§ 115D-61. *Persons eligible to attend institution; subjects taught.*—Persons eligible for attendance upon this institution shall be at least 16 years of age and legal residents of the State of North Carolina, as set forth in G.S. 116-143.1 and G.S. 116-143.2: Provided, that out-of-state students, not to exceed ten percent (10%) of the total enrollment, may be enrolled when vacancies exist, upon payment of tuition, the amount of tuition to be determined by the board of trustees. The money thus collected is to be deposited in the treasury of the North Carolina Vocational Textile School, to be used as needed in the operation of the school. The institution shall teach the general principles and practices of the textile manufacturing and related subjects.

G.S 115D-62 to G.S. 115D-64: Reserved for future codification purposes.

“ARTICLE 7.

“Miscellaneous Provisions.

“§ 115D-65. *Nondiscrimination policy.*—It is the policy of the State Board of Education and of local boards of trustees of the State of North Carolina not to discriminate among students on the basis of race, gender or national origin.

In the employment of professional and all other personnel for institutions operating pursuant to this Chapter, neither the State Board of Education nor



local boards of trustees shall discriminate on the basis of race, gender or national origin.

“§ 115D-66. *Access to information and public records.*—In accordance with Chapter 132 of the General Statutes, all rules, regulations and public records of the State Board of Education, the Department of Community Colleges, and local boards of trustees shall be available for examination and reproduction on payment of fees by any person.

“§ 115D-67. *Open meetings.*—All official meetings of the State Board of Education and of local boards of trustees shall be open to the public in accordance with the provisions of G.S. 143-318.1 through G.S. 143-318.7.

“§ 115D-68. *Rule-making procedure.*—As an agency of the State, the State Board of Education is subject to the North Carolina Administrative Procedure Act, G.S. 150A-1 through G.S. 150A-64. The State Board of Education's procedures for rule-making, promulgation of rules, and the handling of contested matters shall be as set forth in those sections. Local boards of trustees are exempt from the Administrative Procedure Act.

“§ 115D-69. *Saving clauses.*—(a) Continuation of existing law. The provisions of this Chapter, insofar as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by the act enacting this Chapter of any statute or part thereof shall not revive any statute or part thereof previously repealed or suspended. The provisions of this section shall not affect title to, or ownership of, any real or personal property vested before the effective date of this section. This act shall not in any way affect or repeal any local acts in conflict with the terms of this act.

(b) Existing rights and liabilities. The provisions of this Chapter shall not affect any act done, liability incurred or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of statutes repealed by the act enacting this Chapter.”

G.S. 115D-70 to G.S. 115D-73: Reserved for future codification purposes.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1979.

H. B. 233

## CHAPTER 463

AN ACT TO AMEND THE GENERAL STATUTES OF NORTH CAROLINA BY ENACTING A NEW CHAPTER DESIGNATED CHAPTER 75C AND ENTITLED “MOTION PICTURE FAIR COMPETITION ACT”.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Chapter of the North Carolina General Statutes is hereby enacted to read as follows:

“Chapter 75C.

“Motion Picture Fair Competition Act.

“§ 75C-1. *Declaration of policy.*—It is the policy of this State to establish fair and open procedures for the bidding and negotiation of motion pictures within the State in order to prevent unfair and deceptive acts or practices and unreasonable restraints of trade in the business of motion picture distribution within the State; promote fair and effective competition in that business; and benefit the movie-going public by holding down admission prices to motion

picture theatres, expanding the choice of motion pictures available to the public, and preventing exposure of the public to objectionable or unsuitable motion pictures by insuring that exhibitors have the opportunity to view a picture before committing themselves to exhibiting it.

“§ 75C-2. *Definitions.*—When used in this act, and for the purposes of this act:

(a) The term ‘person’ includes one or more individuals, partnerships, associations, societies, trusts, or corporations.

(b) The term ‘theatre’ means any establishment in which motion pictures are exhibited to the public regularly for a charge.

(c) The term ‘distributor’ means any person engaged in the business of distributing or supplying motion pictures to exhibitors by rental or licensing.

(d) The term ‘exhibitor’ means any person engaged in the business of operating one or more theatres.

(e) The term ‘exhibit’ or ‘exhibition’ means showing a motion picture to the public for a charge.

(f) The term ‘invitation to bid’ means a written or oral solicitation or invitation by a distributor to one or more exhibitors to bid or negotiate for the right to exhibit a first run motion picture.

(g) The term ‘bid’ means a written or oral offer or proposal by an exhibitor to a distributor, in response to an invitation to bid for the right to exhibit a motion picture, stating the terms under which the exhibitor will agree to exhibit a motion picture.

(h) The term ‘license agreement’ means any contract, agreement, understanding or condition between a distributor and an exhibitor relating to the licensing or exhibition of a motion picture by the exhibitor.

(i) The term ‘trade screening’ means the showing of a motion picture by a distributor within the State which is open to any exhibitor interested in exhibiting the motion picture.

(j) The term ‘blind bidding’ means the bidding for, negotiating for, or offering or agreeing to terms for the licensing or exhibition of, a motion picture if such first run motion picture has not been trade screened within the State before any such event has occurred.

(k) The term ‘run’ means the continuous exhibition of a motion picture in a defined geographic area for a specified period of time. A ‘first run’ is the first exhibition of a picture in the designated area, a ‘second run’ is the second exhibition and ‘subsequent runs’ are subsequent exhibitions after the second run.

“§ 75C-3. *Blind bidding prohibited.*—(a) Blind bidding for a first run motion picture is hereby prohibited within the State. No bids shall be returnable, no negotiations for the exhibition or licensing of a first run motion picture shall take place, and no license agreement or any of its terms shall be agreed to for the first run exhibition of any motion picture within the State before the motion picture has been trade screened within the State.

(b) A distributor shall include in each invitation to bid for the first run exhibition of any motion picture within the State the date, time and place of the trade screening of the motion picture within the State.

(c) A distributor shall provide reasonable and uniform notice to exhibitors within the State of all trade screenings within the State of motion pictures he is distributing. Such notice may be provided by mail or by publication in a trade

magazine or other publication having general circulation among exhibitors within the State.

(d) No exhibitor may bid, negotiate, or offer terms for the licensing or exhibition of a motion picture that has been trade screened in accordance with the provisions of Section 75C-3 herein, unless said exhibitor or his agent has attended the trade screening.

The provisions of this subdivision (d) are subject to waiver by the distributor of a motion picture upon notice of such waiver to an exhibitor prior to the trade screening.

(e) Any purported waiver of the requirements of subdivisions (a) through (c) of this section shall be void and unenforceable.

“§ 75C-4. *Bidding procedures.*—When bids are solicited from exhibitors for the licensing of a first run motion picture within the State, then:

(a) The invitation to bid shall specify (1) the number and length of runs for which the bid is being solicited, whether it is a first, second or subsequent run, and the geographic area for each run; (2) the names of all exhibitors who are being individually solicited; (3) the date and hour the invitation to bid expires; and (4) the time and location, including the address, where the bids will be opened, which shall be within the State. The invitation to bid may contain additional terms or conditions not inconsistent with the provisions of this Chapter.

(b) All bids shall be submitted in writing and shall be opened at the same time and in the presence of exhibitors, or their agents, who submitted bids and who are present at such time. Bids may be opened at the scheduled time notwithstanding the absence of exhibitors entitled to appear at such time.

(c) After being opened, bids shall be subject to examination by exhibitors, or their agents, who submitted bids. Within seven business days after a bid is accepted, the distributor shall notify in writing each exhibitor who submitted a bid of the terms of the accepted bid and the name of the winning bidder.

(d) Once bids are solicited and no bids are received or all bids are withdrawn, the distributor shall license the picture by re-bids or negotiation; provided that nothing in this act shall be interpreted to require any distributor to accept any bid.

“§ 75C-5. *Enforcement.*—Any person who suffers loss or pecuniary damages resulting from a violation of the provisions of this Chapter shall be entitled to bring an individual action to recover damages and reasonable attorney fees. The provisions of this Chapter may be enforced by injunction or any other available equitable or legal remedy. Class actions are not available under this Chapter.”

**Sec. 2.** If any section, paragraph or clause of this act shall be declared unconstitutional by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder hereof, but such declaration shall be limited to the section, paragraph or clause of this act that was declared unconstitutional.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of April, 1979.

## H. B. 290

## CHAPTER 464

## AN ACT TO AMEND THE SOLID WASTE MANAGEMENT ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-166.16(4) is hereby amended by deleting the words “as determined by the Commission,” on line 1.

**Sec. 2.** G.S. 130-166.18(c)(1) is hereby amended by deleting the comma and adding the word “and” between the words “wastes” and “identifying” on line 1 and by deleting the words “and listing particular hazardous wastes” on lines 2 and 3.

**Sec. 3.** G.S. 130-166.21D(b) is hereby rewritten to read as follows:

“(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.”

**Sec. 4.** Notwithstanding the provisions of G.S. 130-166.21D(b) and pending the adoption of federal rules on hazardous waste, the Commission for Health Services may adopt rules no more stringent than the proposed standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, proposed to be subpart D of Part 250 of Title 40 of the *Code of Federal Rules*, as contained in the *Federal Register*, Volume 43, Number 243 (December 18, 1978), pages 58994 through 59028, with the following exceptions: proposed sections 250.40, 250.43-5, and 250.46 through 250.46-6. In accordance with such rules, the Department may issue permits for the establishment and operation of hazardous waste facilities. This section and the rules promulgated under its authority are repealed on March 1, 1981.

**Sec. 5.** G.S. 130-166.21E(b) is hereby amended by substituting the word “continuing” for the word “continued” on line 1 and by substituting the words “five thousand dollars (\$5,000)” for the words “one thousand dollars (\$1,000)” on lines 3 and 4.

**Sec. 6.** G.S. 130-166.21F is hereby amended by substituting the cross-reference “130-205” for the cross-reference “130-305” on line 2.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1979.

## H. B. 635

## CHAPTER 465

## AN ACT TO ADD AN ADDITIONAL SEAT OF DISTRICT COURT IN WAKE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-133 is amended in the table in the tenth judicial district by deleting in the column labeled “Additional Seats of Court” the words:

“Apex

Wendell

Fuquay-Varina”

and inserting in lieu thereof the words:



“Apex  
Wendell  
Fuquay-Varina  
Wake Forest”.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 26th day of April, 1979.

## H. B. 640

## CHAPTER 466

### AN ACT TO PERMIT THE TAKING OF FEMALE DEER (DOE) IN DUPLIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The North Carolina Wildlife Resources Commission may by regulation establish an open season for taking female deer (doe) and male deer concurrently in Duplin County only in accordance with the procedure in this act. The Commission may not otherwise establish an open season for taking doe deer in Duplin County.

**Sec. 2.** If the Commission determines that in the interests of the conservation of wildlife resources an open season for taking doe deer should be set in Duplin County, it may by resolution propose a concurrent open season for the taking of male and doe deer upon specified days. This resolution shall be sent by certified mail, return receipt requested, to the clerk to the Board of County Commissioners of Duplin County requesting concurrence in the proposed season. The board has 30 days from receipt of the resolution to concur or not and to notify the Commission of its action within the 30-day period, the Commission may adopt regulations opening the proposed concurrent deer season. If there is timely notice of nonconcurrence the proposed season may not be opened.

**Sec. 3.** All portions of the following acts which apply to Duplin County are repealed: Session Laws of 1969, Chapter 258; Session Laws of 1971, Chapter 275; Session Laws of 1973, Chapter 420; and all other acts which amend these cited acts with respect to Duplin County.

**Sec. 4.** This act applies to Duplin County only.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1979.

## H. B. 962

## CHAPTER 467

### AN ACT TO CONSOLIDATE AND RECODIFY THOSE PORTIONS OF THE GENERAL STATUTES CONCERNING THE STATE TREASURER'S INVESTMENT PROGRAMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 147-69.1 is rewritten to read as follows:

“§ 147-69.1. *Investments authorized for General Fund and Highway Fund assets.*—(a) The Governor and Council of State, with the advice and assistance of the State Treasurer, shall adopt such rules and regulations as shall be necessary and appropriate to implement the provisions of this section.

(b) This section applies to funds held by the State Treasurer to the credit of:

(1) the General Fund

(2) the Highway Fund.

(c) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

(1) obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;

(2) obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the Inter-American Development Bank, and the Asian Development Bank;

(3) obligations of the State of North Carolina;

(4) a. savings certificates issued by any savings and loan association organized under the laws of the State of North Carolina or by any federal savings and loan association having its principal office in North Carolina; provided that any principal amount of such certificate in excess of the amount insured by the federal government or any agency thereof, or by a mutual deposit guaranty association authorized by the Administrator of the Savings and Loan Division of the Department of Commerce of the State of North Carolina, be fully collateralized;

b. certificates of deposit issued by banks organized under the laws of the State of North Carolina, or by any national bank having its principal office in North Carolina; provided that any principal amount of such certificate in excess of the amount insured by the federal government or any agency thereof, be fully collateralized;

c. with respect to Savings Certificates and Certificates of Deposit, the rate of return or investment yield may not be less than that available in the market on United States government or agency obligations of comparable maturity.

(d) Unless otherwise provided by law, the interest or income received and accruing from all deposits or investments of such cash balances shall be paid into the State's General Fund, except that all interest or income received and accruing on the monthly balance of the Highway Fund shall be paid into the State Highway Fund. The cash balances of the several funds may be combined for deposit or investment purposes; and when such combined deposits or investments are made, the interest or income received and accruing from all deposits or investments shall be prorated among the funds in conformity with applicable law and the rules and regulations adopted by the Governor and Council of State.

(e) The State Treasurer shall cause to be prepared quarterly statements on or before the tenth day of January, April, July and October in each year, which shall show the amount of cash on hand, the amount of money on deposit, the name of each depository, and all investments for which he is in any way

responsible. Each quarterly statement shall be delivered to the Governor and Council of State; and a copy shall be posted in the office of the State Treasurer for the information of the public."

**Sec. 2.** Chapter 147, Article 6, of the General Statutes is amended by inserting therein a new section as follows:

"§ 147-69.2. *Investments authorized for special funds held by the State Treasurer.*—(a) This section applies to funds held by the State Treasurer to the credit of:

- (1) the Teachers' and State Employees' Retirement System,
- (2) the Uniform Judicial Retirement System,
- (3) the Uniform Solicitorial Retirement System,
- (4) the Uniform Clerks of Superior Court Retirement System,
- (5) the Teachers' and State Employees' Hospital and Medical Insurance Plan,
- (6) the General Assembly Medical and Hospital Care Plan,
- (7) the Disability Salary Continuation Plan,
- (8) the Firemen's Pension Fund,
- (9) the Local Governmental Employees' Retirement System,
- (10) the Law Enforcement Officers' Benefit and Retirement Fund,
- (11) the Escheat Fund,
- (12) the Legislative Retirement Fund,
- (13) the State Education Assistance Authority,
- (14) the State Property Fire Insurance Fund,
- (15) the Stock Workmen's Compensation Fund,
- (16) the Mutual Workmen's Compensation Fund,
- (17) the Public School Insurance Fund,
- (18) the Liability Insurance Trust Fund,
- (19) trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1, and
- (20) any other special fund created by or pursuant to law for purposes other than meeting appropriations made pursuant to the Executive Budget Act.

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (1) any of the investments authorized by G.S. 147-69.1(c);
- (2) general obligations of other states of the United States;
- (3) general obligations of cities, counties and special districts in North Carolina;
- (4) obligations of any company incorporated within the United States if such obligations bear one of the three highest ratings of at least one nationally recognized rating service and do not bear a rating below the three highest by any nationally recognized rating service which rates the particular security;
- (5) notes secured by mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration on real estate located within the State of North Carolina;

- (6) with respect to assets of the Teachers' and State Employees' Retirement System, the Uniform Judicial Retirement System, the Uniform Solicitorial Retirement System, the Uniform Clerks of Superior Court Retirement System, the Firemen's Pension Fund, the Local Governmental Employees' Retirement System, and the Law Enforcement Officers' Benefit and Retirement Fund (hereinafter referred to collectively as the Retirement Systems), preferred or common stocks issued by any company incorporated within the United States, provided:
- a. that for a period of five fiscal years for which the necessary statistical data are available next preceding the date of investment, such corporation, as disclosed by its published fiscal annual statements, shall have had an average annual net income plus its average annual fixed charges (as herein used, fixed charges shall mean interest on funded or unfunded debt, contingent interest charges, amortization of debt discount and expense and rentals for leased property and, in the case of consolidated earnings statements of parent and subsidiary corporations, shall include all fixed charges and preferred dividend requirement, if any, of the subsidiaries) at least equal to one and one-half times the sum of its average annual dividend requirement for preferred stock and its average annual fixed charges for the same period; however, during neither of the last two years of such period shall the sum of its annual net income and its annual fixed charges have been less than one and one-half times the sum of its dividend requirements for preferred stock and its fixed charges for the same period;
  - b. that such corporation shall have no arrears of dividends on its preferred stock;
  - c. that such common stock is registered on a national securities exchange as provided in the Federal Securities Exchange Act, but such registration shall not be required of the following stocks:
    1. the common stock of a bank which is a member of the Federal Deposit Insurance Corporation and has capital funds, represented by capital, surplus and undivided profits, of at least twenty million dollars (\$20,000,000);
    2. the common stock of a life insurance company which has capital funds represented by capital, special surplus funds and unassigned surplus, of at least fifty million dollars (\$50,000,000);
    3. the common stock of a fire or casualty insurance company, or a combination thereof, which has capital funds represented by capital, net surplus and voluntary reserves, of at least fifty million dollars (\$50,000,000);
  - d. that the preferred stock of such corporation, if any be outstanding, shall qualify for investment under this section;
  - e. that such corporation, having no preferred stock outstanding, shall have had earnings for the five fiscal years next preceding the date of investment of at least twice the interest on all mortgages, bonds, debentures, and funded debts, if any, after deduction of the proper charges for replacements, depreciation, and obsolescence;



- f. that such corporation shall have paid a cash dividend on its common stock in each year of the 10-year period next preceding the date of investment and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period shall have been at least equal to the amount of such dividends paid;
- g. that in applying the earnings test under this section to any issuing, assuming, or guaranteeing corporation, where such corporation shall have acquired its property or any substantial part thereof within a five-year period immediately preceding the date of investment by consolidation, merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, or shall have acquired the assets of any unincorporated business enterprise by purchase of otherwise, net income, fixed charges and preferred dividends of the several predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this section have been complied with;
- h. that the total value of common and preferred stocks shall not exceed twenty-five per centum (25%) of the total value of all invested assets of the Retirement Systems; provided, further:
  - 1. not more than one and one-half per centum (1 1/2%) of the total value of such assets shall be invested in the stock of a single corporation, and provided further;
  - 2. the total number of shares in a single corporation shall not exceed eight per centum (8%) of the issued and outstanding stock of such corporation, and provided further;
  - 3. as used in this subdivision h., value shall consist of the par value or unpaid balance of all unmatured or unpaid investments requiring the payment of a fixed amount at payment date and the cost price of all other investments.

(c) With respect to investments authorized by subsection (b)(6), the State Treasurer shall appoint an Equity Investment Advisory Committee, which shall consist of five members: the State Treasurer, who shall be chairman ex officio; two members selected from among the members of the boards of trustees of the Retirement Systems; and two members selected from the general public. The State Treasurer shall also appoint a Secretary of the Equity Investment Advisory Committee who need not be a member of the committee. Members of the committee shall receive for their services the same per diem and allowances granted to members of the State boards and commissions generally. The committee shall have advisory powers only and membership shall not be deemed a public office within the meaning of Article VI, Section 9 of the Constitution of North Carolina or G.S. 128-1.1."

**Sec. 3.** G.S. Chapter 147, Article 6, is amended by inserting therein a new section as follows:

"§ 147-69.3. *Administration of State Treasurer's investment programs.*—(a) The State Treasurer shall establish, maintain, administer, manage, and operate within the Department of State Treasurer one or more investment programs for the deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S. 147-69.2.

(b) Any official, board, commission, or other public authority of the State having custody of any trust funds not required by law to be deposited with and invested by the State Treasurer may deposit all or any portion of such funds with the State Treasurer for investment in one of the investment programs established pursuant to this section, subject to any provisions of law with respect to eligible investments. In the absence of specific statutory provisions to the contrary, any such funds may be invested in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

(c) The State Treasurer's investment programs shall be so managed that in the judgment of the State Treasurer funds may be readily converted into cash when needed.

(d) Except as provided by G.S. 147-69.1(d), interest earned on investments shall be credited pro rata to the fund whose assets are invested according to such formula as may be prescribed by the State Treasurer with the approval of the Governor and Council of State.

(e) The State Treasurer shall have full powers as a fiduciary to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities or investments in which any of the programs created pursuant to this section have been invested, and may re-invest the proceeds from the sale of such securities or investments and any other investable assets of the program.

(f) The cost of administration, management, and operation of investment programs established pursuant to this section shall be apportioned equitably among the programs in such manner as may be prescribed by the State Treasurer.

(g) The State Treasurer is authorized to retain the services of such independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge as may be necessary for the proper administration of investment programs created pursuant to this section.

(h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on the financial condition of each investment program created pursuant to this section. A copy of each report shall be submitted within 30 days following the end of the fiscal year to the official, institution, board, commission or other agency whose funds are invested, the State Auditor, and the Advisory Budget Commission.

(i) The State Treasurer's annual report to the General Assembly shall include a full and complete statement of all monies invested by virtue of the provisions of G.S. 147-69.1 and G.S. 147-69.2, the nature and character of investments therein, and the revenues derived therefrom.

(j) Subject to the provisions of G.S. 147-69.1(e), the State Treasurer shall adopt such rules and regulations as may be necessary to carry out the provisions of this section.

**Sec. 4.** The second sentence of the second unnumbered paragraph of G.S. 58-189 is rewritten to read as follows: "The State Treasurer shall be the custodian of the 'State Property Fire Insurance Fund' and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3."

**Sec. 5.** G.S. 97-112 is rewritten to read as follows:

"§ 97-112. *Separation of stock fund; disbursements; investments.*—The stock fund created by this Article shall be separate and apart from any other funds so created and from all other State monies. The State Treasurer shall be the

custodian of said fund; and all disbursements from said fund shall be made by the State Treasurer upon vouchers signed by the Commissioner as hereinafter provided. The State Treasurer shall invest the assets of the fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3."

**Sec. 6.** G.S. 97-114 is amended by adding a new sentence to the end thereof as follows: "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."

**Sec. 7.** The last two sentences of the first paragraph of G.S. 115-135 are repealed and are replaced by the following: "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."

**Sec. 8.** The third and fourth unnumbered paragraphs of G.S. 116-209 are repealed and the first sentence of the fifth unnumbered paragraph is rewritten to read as follows: "The State Treasurer shall be the custodian of the assets of the Authority and shall invest them in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3."

**Sec. 9.** G.S. 116A-8(c) is rewritten to read as follows:

"(c) The State Treasurer shall be the custodian of the Escheats fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3."

**Sec. 10.** G.S. 118-22 is rewritten to read as follows:

"§ 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 Pension Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General Assembly out of the General Fund to provide money for administrative expenses shall be handled in the same manner as any other General Fund appropriation. One fourth of the appropriation made out of the General Fund to provide for the financing of the pension fund shall be transferred quarterly to a special fund to be known as the North Carolina Firemen's Pension Fund. There shall be set up in the State Treasurer's office a special fund to be known as the North Carolina Firemen's Pension Fund, and all contributions made by the members of this pension fund shall be deposited in said special fund. All expenditures for refunds, investments or benefits shall be in the same manner as expenditures of other special funds."

**Sec. 11.** Any other provisions of law to the contrary notwithstanding, the State Treasurer shall invest the assets of the Legislative Retirement Fund created by Chapter 1269 of the Session Laws of 1969, as amended by Chapter 905 of the Session Laws of 1971 and Chapter 1482 of the Session Laws of 1973, in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

**Sec. 12.** G.S. 128-29(a) is rewritten to read as follows:

"(a) Vested in board of trustees. The board of trustees shall be the trustee of the several funds created by this Article as provided in G.S. 128-30."

**Sec. 13.** The first sentence of G.S. 128-29(c) is rewritten to read as follows:

"The State Treasurer shall be the custodian of the several funds and shall invest their assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3."

**Sec. 14.** G.S. 135-7(a) is rewritten to read as follows:

“(a) Vested in board of trustees. The board of trustees shall be the trustee of the several funds created by this Chapter as provided in G.S. 135-8.”

**Sec. 15.** The first sentence of G.S. 135-7(c) is rewritten to read as follows: “The State Treasurer shall be the custodian of the several funds and shall invest their assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.”

**Sec. 16.** G.S. 135-7.1 is repealed.

**Sec. 17.** G.S. 135-7.2 is repealed.

**Sec. 18.** G.S. 135-66 is rewritten to read as follows:

“§ 135-66. *Administration; management of funds.*—The State Treasurer shall be the custodian of the assets of this Retirement System and shall invest them in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.”

**Sec. 19.** G.S. 143-166(g) is rewritten to read as follows:

“(g) The board of commissioners of the said fund may take by gift, grant, devise, or bequest, any money, real or personal property, or other things of value and hold the same for the uses of said fund in accordance with the purposes of this Article. 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.”

**Sec. 20.** Local ABC boards. G.S. 18A-17(16) is rewritten to read as follows:

“To invest any funds temporarily held in any form of investment allowed by law to the State Treasurer under G.S. 147-69.1, except that no such investments authorized herein shall be for periods of more than 90 days.”

**Sec. 21.** Powers of a personal representative or fiduciary. G.S. 28A-13-3(6) is rewritten to read as follows:

“To make, as a fiduciary, any form of investment allowed by law to the State Treasurer under G.S. 147-69.1, with funds of the estate, when such are not needed to meet debts and expenses immediately payable and are not immediately distributable, including money received from the sale of other assets; or to enter into other short-term loan arrangements that may be appropriate for use by trustees or beneficiaries generally.”

**Sec. 22.** Veterans' guardianship. G.S. 34-13(4) and (5) are rewritten and combined into a new paragraph (4) as follows:

“(4) any form of investment allowed by law to the State Treasurer under G.S. 147-69.1.”

**Sec. 23.** Credit Union investments. G.S. 54-109.82(9) is rewritten to read as follows:

“In any form of investment allowed by law to the State Treasurer under G.S. 147-69.1.”

**Sec. 24.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of April, 1979.



## S. B. 331

## CHAPTER 468

## AN ACT TO AMEND G.S. 14-168.1 TO CREATE A CRIME OF FELONIOUS CONVERSION OF PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-168.1 is amended by adding at the end the following:

"If, however, the value of the property converted or secreted, or the proceeds thereof, is in excess of four hundred dollars (\$400.00), every person so converting or secreting it is guilty of a felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property converted or secreted."

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 26th day of April, 1979.

## H. B. 223

## CHAPTER 469

## AN ACT ELIMINATING THE FILING OF HARD COPIES OF APPLICATIONS FOR SPECIAL IDENTIFICATION CARDS FOR NONOPERATORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-37.7(f) is hereby rewritten to read as follows:

"The Division of Motor Vehicles shall maintain information pertaining to the recipients of a special identification card and such indices as deemed appropriate, but such information shall not be required to be computerized. The division may promulgate any rules and regulations it deems necessary for the effective implementation of the provisions of this section."

**Sec. 2.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

## H. B. 545

## CHAPTER 470

## AN ACT TO DEMAND PROPER DESIGNATION ON LICENSE PLATES OF COMMERCIAL VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-63(b) is rewritten to read as follows:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, also the name of the State of North Carolina, which may be abbreviated, the year number for which it is issued or the date of expiration, and, if the plate is issued for a commercial vehicle, as defined in G.S. 20-4.2(1), the word 'commercial', designating 'commercial vehicle'. Provided such plates bearing the word 'commercial' shall not be issued for trailers or vehicles licensed for less than 5,000 pounds."

**Sec. 2.** G.S. 20-4.2(1) is hereby amended by striking the word "interstate" appearing in line 1 thereof immediately after the word "operated" and immediately before the word "in".

**Sec. 3.** This act shall become effective January 1, 1981.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

## H. B. 615

## CHAPTER 471

## AN ACT TO AMEND THE COMPENSATION PROVISIONS FOR METROPOLITAN SEWERAGE DISTRICT BOARD MEMBERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 162A-67 is hereby amended by rewriting the last sentence of subsection (d) to read as follows:

“The members of the district board may receive compensation in an amount to be determined by the board, but not to exceed twenty-five dollars (\$25.00) for each meeting attended. In addition, the board may increase its compensation above twenty-five dollars (\$25.00) per meeting, if the increase is approved by the governing board of each political subdivision that appoints members to the board. The members of the district board may also be reimbursed the amount of actual expenses incurred by them in the performance of their duties.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

## H. B. 1064

## CHAPTER 472

## AN ACT TO AMEND G.S. 20-150(e) RELATING TO THE PRIVILEGE OF OVERTAKING AND PASSING.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-150(e) is hereby amended by striking the word “or” appearing in line 2 thereof between the word “signs” and the word “markers” and inserting in lieu thereof a comma and by inserting the words “or markings” between the word “markers” and the word “placed” appearing in line 2 thereof.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

## H. B. 1121

## CHAPTER 473

## AN ACT TO AMEND CHAPTER 20 OF THE GENERAL STATUTES TO PERMIT SPECIAL TRANSPORTER PLATES FOR THE LIMITED MOVEMENT OF REPLACED VEHICLES FOR SALE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first five lines of G.S. 20-79.2(a), beginning with “A” and ending with “:”, are rewritten to read as follows:

“A person engaged in a business requiring the limited operation of motor vehicles to facilitate the manufacture or construction of cabs or bodies or the foreclosure or repossession of such motor vehicles, or a public utility, as defined in G.S. 62-3(23)a, engaged in the movement of replaced vehicles for sale, may apply to the Commissioner for special registration to be issued to and used by the person or utility upon the following conditions:”

**Sec. 2.** G.S. 20-79.2(a)(5) is rewritten to read as follows:

“(5) Use. Transporter number plates issued under this section may be transferred from vehicle to vehicle, but shall be used only for the limited operation of vehicles in connection with the manufacture or construction of cabs or bodies or with the foreclosure or repossession of vehicles owned or

controlled by the registrant, or, if the registrant is a public utility, for the limited movement of vehicles in connection with the sale of a replaced vehicle.”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

S. B. 588

**CHAPTER 474**

AN ACT TO INCREASE THE MAXIMUM AMOUNT WHICH MAY BE AUTHORIZED BY REFERENDUM OF THE FARMERS WHO PRODUCE FLUE-CURED TOBACCO, AND WHICH MAY BE ASSESSED, COLLECTED AND LEVIED, BY THE BOARD OF DIRECTORS OF TOBACCO ASSOCIATES, INC.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-568.34 is amended to read as follows:

“§ 106-568.34. *Alternate method for levy of assessment.*—At any time when it may be found by the Board of Directors of Tobacco Associates, that it is not reasonably feasible to base the authorization of an assessment or the making of an assessment or the collection of an assessment on a ‘per-acre’ unit, then the Board of Directors of Tobacco Associates, by an affirmative vote of not less than two-thirds of its members (which vote shall include the affirmative vote of not less than two-thirds of the board members who were elected by North Carolina farm organizations), may use a ‘tobacco poundage’ unit as the basis for the authorization or making or collecting an assessment. No alternate assessment for any year through 1979 shall exceed five cents (5¢) per 100 pounds of the effective farm marketing quota of a member; no alternate assessment for any year after 1979 shall exceed ten cents (10¢) per 100 pounds of the effective farm marketing quota of a member. The amount of any alternate assessment, based upon a ‘tobacco poundage’ unit as permitted by the provisions of this section shall not be related to or limited by the amount of the assessment which could be authorized, made or collected if it were based upon a ‘per-acre’ unit.”

**Sec. 2.** A new section is added to Article 50C of Chapter 106 of the General Statutes to read:

“§ 106-568.36. *Maximum levy after 1979.*—The maximum amount which may be authorized in any referendum held pursuant to the provisions of this Article during 1979 or thereafter, and the maximum amount which may be assessed, collected or levied for any year after 1979 by the Board of Directors of Tobacco Associates pursuant to the provisions of this Article, is two dollars (\$2.00) per acre per year on all flue-cured tobacco acreage in the State, or, under the alternate method for levy of assessment set out in G.S. 106-568.34, ten cents (10¢) per 100 pounds of the effective farm quota of a member.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

H. B. 897

**CHAPTER 475**

AN ACT TO AMEND THE STATUTES GOVERNING PROFESSIONAL  
HOUSEMOVERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-369 is amended by adding before the period at the end of the section the following:

“and by showing that the state in which the housemover operates his business extends similar privileges to housemovers licensed in North Carolina”.

**Sec. 2.** Section 18 of Chapter 720, 1977 Session Laws, is amended by deleting the following:

“and will expire August 1, 1979”.

**Sec. 3.** This act shall become effective August 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

H. B. 222

**CHAPTER 476**

AN ACT TO REWRITE G.S. 20-95 RELATING TO LICENSE FOR LESS  
THAN ONE YEAR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-95 is hereby rewritten to read as follows:

“§ 20-95. *License for less than a year.*—(a) Except as provided in subsection (b) of this section, licenses issued on or after April 1 and before July 1 of each year shall be three-fourths of the annual fee; licenses issued on or after July 1 and before October 1 shall be one-half of the annual fee; and licenses issued on or after October 1 shall be one-fourth of the annual fee.

(b) This section shall not apply to licenses issued pursuant to G.S. 20-65, 20-79.1, 20-79.2, 20-79.3, 20-81.2, 20-84, 20-84.1, 20-87(9) through (10) and 20-88(c).”

**Sec. 2.** This act shall become effective July 1, 1980.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

H. B. 398

**CHAPTER 477**

AN ACT TO PROVIDE FOR SPECIFIC NOTICE OF APPOINTMENTS TO  
PUBLIC OFFICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 143 is amended by adding a new Article to read:

“ARTICLE 2.

“Notice of Appointments to Public Offices.

“§ 143-35. *Definitions.*—As used in this Article, unless the context clearly requires otherwise:

(1) ‘Appointing authority’ means the Governor, Chief Justice of the Supreme Court, Lieutenant Governor, Speaker of the House, President Pro Tempore of the Senate, members of the Council of State, all heads of the executive departments of State government, the Board of Governors of The University of



North Carolina, and any other person or group authorized by law to appoint to a public office.

(2) 'Public office' means appointive membership on any State commission, council, committee, board, including occupational licensing boards as defined in G.S. 93B-1, board of trustees, including boards of constituent institutions of The University of North Carolina and boards of community colleges and technical institutes created pursuant to G. S. 115A-7, and any other State agency created by law, where the appointee is entitled to draw subsistence, per diem compensation, or travel allowances, in whole or in part from funds deposited with the State Treasurer or any other funds subject to being audited by the State Auditor, by reason of his service in the public office; provided that 'public office' does not include an office for which a regular salary is paid to the holder as an employee of the State or of one of its departments, agencies, or institutions.

"§ 143-36. *Notice and record of appointment required.*—(a) Within 60 days after acceptance of appointment by a person appointed to public office, the appointing authority shall file written notice of such appointment with the Governor, Secretary of State, the State Legislative Library, the State Library and the State Disbursing Officer. For the purposes of this section, a copy of the letter from the appointing authority or a copy of the properly executed Commission of Appointment shall be sufficient to be filed if such copy contains the information required in subsection (b) of this section.

(b) The notice required by this Article shall state the name and office of the appointing authority, the public office to which the appointment is made, the name and address of the appointee, a citation of the law pursuant to which the appointment is made, the date of the appointment, and the term of the appointment.

"§ 143-37. *Notice of existing appointments.*—Within 60 days after the effective date of this Article, every appointing authority shall file notices of all existing appointments to public offices in accordance with G.S. 143-36.

"§ 143-38. *Subsistence, per diem compensation, and travel allowances conditioned on filing of notice.*—No person who has been appointed to any public office and has accepted that appointment shall be entitled to receive subsistence, per diem compensation, or travel allowances unless and until compliance is made with the provisions of G.S. 143-36."

**Sec. 2.** G.S. 147-54.2 is hereby repealed.

**Sec. 3.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

## H. B. 430

## CHAPTER 478

## AN ACT TO INCREASE PUBLIC REPRESENTATION ON THE BANKING COMMISSION, THE SAVINGS AND LOAN COMMISSION, AND THE CREDIT UNION COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 53-92, as the same appears in the 1975 Replacement to Volume 2B of the General Statutes, is amended by:

(a) deleting the second and third sentences of the second paragraph and inserting in lieu thereof the following:

“At least five members of the said commission shall be practical bankers, and the remaining seven members of the commission shall be selected primarily as representatives of the borrowing public and shall not be employees or directors of any financial institution nor shall they have any interest in any regulated financial institution other than as a result of being a depositor or borrower. Under this section, no person shall be considered to have an interest in a financial institution whose interest in any financial institution does not exceed one-half of one percent ( $1/2$  of 1%) of the capital stock of that financial institution. These seven members of the commission shall be selected so as to fully represent the consumer, industrial, manufacturing, professional, business and farming interests of the State.”;

(b) deleting the fourth, fifth, sixth, seventh and eighth sentences of the second paragraph and replacing them with the following new sentence:

“In the event that the composition of the commission does not conform to that prescribed in the three preceding sentences on the effective date of this act, such composition shall be corrected thereafter by appropriate appointments as terms expire and as vacancies occur in the commission; provided that no person shall serve on the commission for more than two complete consecutive terms.”

**Sec. 2.** G.S. 54-24.1(a), as the same appears in the 1977 Cumulative Supplement to Volume 2B of the General Statutes, is amended by:

(a) deleting, in the fifth sentence of the first paragraph, the words “At least three” and inserting in lieu thereof the following: “Three”; and

(b) adding the following to the end of the first paragraph:

“At least four members shall be appointed as representatives of the borrowing public, and shall not be employees of, or directors of any financial institution or have any interest in any financial institution other than as a result of being a depositor or borrower. Under this section, no person shall be considered to have an interest in a financial institution whose interest in any stock-owned savings and loan association does not exceed one-half of one percent ( $1/2$  of 1%) of the capital stock of that financial institution. In the event that the composition of the commission does not conform to that prescribed above on the effective date of this act, such composition shall be corrected thereafter by appropriate appointments as terms expire and as vacancies occur in the commission; provided that no person shall serve on the commission for more than two complete consecutive terms.”

**Sec. 3.** G.S. 143B-439(a), as the same is found in the 1978 Replacement to Volume 3C of the General Statutes, is amended by:

(a) changing the first word in the seventh sentence from “Four” to “Three”;

(b) adding between the current seventh and eighth sentences the following new sentence:

“At least four members shall be appointed as representatives of the borrowing public and may be members of a credit union but shall not be employees of, or directors of any financial institution or have any interest in any financial institution other than as a result of being a depositor or borrower.”;

(c) adding at the end thereof the following new sentence:

“In the event that the composition of the commission on the effective date of this act does not conform to that prescribed in the preceding sentences, such composition shall be corrected thereafter by appropriate appointments as terms expire and as vacancies occur in the commission; provided that no person shall serve on the commission for more than two complete consecutive terms.”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

## H. B. 934

## CHAPTER 479

AN ACT TO REDUCE THE NUMBER OF HOURS REQUIRED FOR AN APPRENTICESHIP AGREEMENT AND TO PROVIDE FLEXIBILITY IN THE NUMBER OF HOURS OF RELATED INSTRUCTION REQUIRED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 94-6, as the same appears in the 1975 Replacement Volume 2C, is hereby amended in the fifth line thereof by deleting the number “4000” and substituting the number “2000”.

**Sec. 2.** G.S. 94-6, as the same appears in the 1975 Replacement Volume 2C, is hereby amended by rewriting the last sentence thereof to read as follows:

“The required hours for apprenticeship agreements and related supplemental instruction may be decreased or increased in accordance with standards adopted by local or statewide apprenticeship sponsors, subject to approval of the Commissioner of Labor.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

## H. B. 960

## CHAPTER 480

AN ACT TO PROVIDE THAT A VOTER WHO CHANGES NAME NEED NOT RE-REGISTER TO VOTE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 163 of the General Statutes is amended by adding a new section to read:

“§ 163-69.1. *Change of voter's name.*—(a) If the name of a voter is changed in accordance with G.S. 48-36, G.S. 50-12, or Chapter 101 of the General Statutes, or if a married voter assumes the last name of her spouse, the voter shall not be required to re-register, but shall report the change of name in accordance with subsection (b) of this section before voting.

(b) A voter whose name has been changed shall report such change of name to an official authorized to register voters under G.S. 163-80 no later than 21 days (excluding Saturdays and Sundays) prior to an election, primary, or special election in order to vote in said election if the name change occurred on or before that date. Alternatively, the voter may report such change to the registrar at the polls, and, if otherwise eligible, may vote.

Any report made under this section shall be made under oath, and on a form prescribed by the county board of elections."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

## H. B. 1025

## CHAPTER 481

AN ACT TO AMEND G.S. 127A-19 TO INSURE THE APPOINTMENT OF AN ARMY GENERAL OFFICER AS DEPUTY OR ASSISTANT ADJUTANT GENERAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 127A-19, as the same is found in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is amended by rewriting the second paragraph thereof to read as follows:

"Subject to the approval of the Governor and in consultation with the Secretary, Department of Crime Control and Public Safety, the Adjutant General may appoint a deputy adjutant general for army national guard and an assistant adjutant general for air national guard, both of whom may hold the rank of brigadier general and who shall serve at the pleasure of the Governor. The Adjutant General may also employ such staff members and other personnel as may be authorized by the Secretary and funded."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

## S. B. 361

## CHAPTER 482

AN ACT TO AMEND G.S. 18A-15(3) TO AUTHORIZE LOCAL DELISTING OF ALCOHOLIC BEVERAGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-15(3) is hereby amended by adding a new subsection G.S. 18A-15(3)e to read as follows:

"To authorize a county or municipal ABC board to sell certain alcoholic beverages at below the uniform price subject to the rules and regulations of the State ABC Board."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.



AN ACT TO AMEND CERTAIN SECTIONS OF CHAPTER 53 OF THE  
GENERAL STATUTES RELATING TO BANKS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 53-122(1) and (2), as the same appear in Volume 2B of the General Statutes, are rewritten in their entirety to read as follows:

“§ 53-122. *Fees for examinations and other services.*—(1) Each bank and each branch of any bank which under the laws of the State of North Carolina is subject to supervision and examination by the Commissioner of Banks and is authorized to do business or is in process of voluntary liquidation, shall, within 10 days after the assessment has been made, pay into the office of the Commissioner of Banks according to its total resources as shown by its report of condition made to the Commissioner of Banks at the close of business December 31, 1978, and on the thirty-first day of December, or the date most nearly approximating same of each year thereafter on which a report of condition is made to the Commissioner of Banks not in excess of the following fees for its annual examination: eighty-five dollars (\$85.00) for the first one hundred thousand dollars (\$100,000) of assets or less, twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof, and three dollars and fifty cents (\$3.50) for each one hundred thousand dollars (\$100,000) or fraction thereof of trust assets, which said trust assets shall not include real estate carried as such; provided, however, with respect to loan agencies or brokers subject to the provisions of Article 15 of Chapter 53 of the General Statutes, the fee shall be one hundred seventy dollars (\$170.00) for the first one hundred thousand dollars (\$100,000) of assets or less, and twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof.

(2) All examinations made other than those provided for in subdivision (1) hereof shall be deemed special examinations and for such special examination the bank shall pay into the office of the Commissioner of Banks the following fees for each special examination: eighty-five dollars (\$85.00) for the first one hundred thousand dollars (\$100,000) of assets or less, twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof, and three dollars and fifty cents (\$3.50) for each one hundred thousand dollars (\$100,000) or fraction thereof of trust assets, which said trust assets shall not include real estate carried as such; provided, however, with respect to loan agencies or brokers subject to the provisions of Article 15 of Chapter 53 of the General Statutes, the fee shall be one hundred seventy dollars (\$170.00) for the first one hundred thousand dollars (\$100,000) of assets or less, and twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof. The fees paid for special examination shall be based on the assets of the bank examined as of the date of such examination.”

**Sec. 2.** G.S. 53-1, as the same appears in Volume 2B of the General Statutes, is amended by adding a subsection (9) to read as follows:

“(9) Unimpaired capital fund. The term ‘unimpaired capital fund’ means the total of the amount of unimpaired common stock, preferred stock, surplus, and the amount of capital debentures or notes, convertible or otherwise, having an average original maturity of at least seven (7) years, which have been specifically designated as part of the bank’s unimpaired capital fund by

resolution duly adopted by the board of directors of the bank; provided, that upon payment of such capital debentures or notes or upon accumulation of funds in a sinking fund for amortization of such debentures or notes, unimpaired capital fund shall be reduced by the amount of such payment or accumulation. The terms and conditions of any issue of or prepayment of capital debentures or notes must have the prior written approval of the Commissioner of Banks affirming that in his opinion such issue or prepayment is in the best interest of the depositors, creditors and stockholders of the bank."

**Sec. 3.** G.S. 53-14, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the word "dissolution" and before the word "it" in line 3 thereof, the following words "or upon a National Bank making application to convert to a State-chartered bank."

**Sec. 4.** G.S. 53-43(3), as the same appears in Volume 2B of the General Statutes, 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."

**Sec. 5.** G.S. 53-46, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 53-46. *Limitations on investments in securities.*—The investment in any bonds or other debt obligations of any one firm, individual, or corporation, unless it be the obligations of the United States, or agency thereof, or other obligations guaranteed by the United States Government, State of North Carolina, or other state of the United States, or of some city, town, township, county, school district, or other political subdivision of the State of North Carolina, shall at no time be more than twenty percent (20%) of the unimpaired capital fund of any bank to an amount not in excess of two hundred fifty thousand dollars (\$250,000); and not more than ten percent (10%) of the unimpaired capital fund in excess of two hundred fifty thousand dollars (\$250,000)."

**Sec. 6.** G.S. 53-48, as the same appears in Volume 2B of the General Statutes, is amended by striking the words "and permanent surplus" in lines 6 and 8 thereof, and substituting in lieu thereof, the word "fund" after the word "capital" in line 6 and after the word "capital" in line 8.

**Sec. 7.** G.S. 53-51, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 53-51. *Reserve and cash defined.*—(a) Reserve shall consist of:

- (1) cash on hand;
  - (2) balances payable on demand, due from other approved solvent banks, which have been designated depositories as hereinafter provided in this Chapter; and
  - (3) subject to rules and regulations, duly adopted by the State Banking Commission, fixing the maximum percentage of required reserves that may consist of such obligations, the following prescribed unencumbered, interest-bearing obligations, which shall not have more than 120 days to final maturity:
    - a. obligations of the United States Treasury and of any agency of the United States which are guaranteed by the United States Government; and
    - b. general obligation of the State of North Carolina and of any political subdivision thereof which has received an investment rating of A or higher by a nationally recognized rating service.
- (b) For purposes of this section, cash shall include both lawful money of the United States and exchange of any clearinghouse association."

**Sec. 8.** G.S. 53-80, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 53-80. *Qualifications of directors.*—Every director of a bank doing business under this Chapter shall be the owner and holder of shares of stock in the bank representing not less than one thousand dollars (\$1,000) book value as of the last business day of the calendar year immediately prior to the election of such director. For the purpose of this section, book value shall consist of common capital stock, unimpaired surplus, undivided profits, and reserves for contingencies if any such reserves are segregations of capital. Where directors are appointed during the interval between stockholders' meetings pursuant to the provisions of G.S. 53-67, such directors shall hold the required qualifying shares as of the time of their appointment. Where the bank is a wholly owned subsidiary, the required qualifying shares shall be shares in the parent corporation. And every such director shall hold such shares in his own name unpledged and unencumbered in any way. The office of any director at any time violating any of the provisions of this section shall immediately become vacant, and the remaining directors shall declare his office vacant and proceed to fill such vacancy forthwith. Not less than three-fourths of the directors of every bank doing business under this Chapter shall be residents of the State of North Carolina: Provided, that as to banks doing business before February 18, 1921, the requirements as to amount of stock owned by a director shall not apply unless the Commissioner of Banks shall rule that such director is not bona fide discharging his duties."

**Sec. 9.** G.S. 53-91, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 53-91. *When officers and employees may borrow.*—(a) No officer or employee of a bank, nor a firm or partnership of which such officer or employee is a member, nor a corporation in which such officer or employee owns a controlling interest, shall borrow any amount whatever from the bank of which he is an officer or employee, except upon good collateral or other ample security or endorsement, and except upon prior approval by the bank's executive or loan committee appointed pursuant to G.S. 53-78.

(b) In addition, a certified copy of a resolution approving any loan made pursuant to this section, duly adopted by a majority of the board of directors and entered upon the minutes, including the names of the directors approving the resolution, shall be maintained in the office in which the indebtedness is housed and shall set forth the amount of the loan and a brief description of the security upon which the loan is made. The resolution approving such loan may be adopted by the board of directors either at a regular or special meeting held prior to the making of the loan, or at the next regular or special meeting held following the making of the loan: Provided, the resolution approving such loan shall be adopted by the board of directors prior to the extension of credit or the making of any loan to an executive officer who has authority to participate in major policy-making functions of the bank, otherwise than in the capacity of a director, where such extension of credit or loan would exceed twenty-five thousand dollars (\$25,000).

(c) Collateral or other security is not required with respect to a loan or loans made to an individual pursuant to this section when the total amount of such loan or loans, in the aggregate, do not exceed five thousand dollars (\$5,000).

(d) In no event shall loans the total of which exceeds one hundred thousand dollars (\$100,000) be made by any bank to any officer or employee of such bank.

(e) This section shall not apply to directors who are neither officers nor employees of the bank."

**Sec. 10.** G.S. 53-104, as the same appears in Volume 2B of the General Statutes, is amended by rewriting the third sentence thereof in its entirety to read as follows:

"For the more complete and thorough enforcement of the provisions of this Chapter, the State Banking Commission is hereby empowered to promulgate such rules not inconsistent with the provisions of this Chapter, as may, in its opinion, be necessary to carry out the provisions of the laws relating to banks and banking as herein defined, and as may be further necessary to insure safe and conservative management of the banks under its supervision taking into consideration the appropriate interest of the depositors, creditors, stockholders, and the public in their relations with such banks."

**Sec. 11.** Chapter 53 of the General Statutes, is amended by inserting between Sections 53-104 and 53-105, a section to be designated as G.S. 53-104.1, to read as follows:

"§ 53-104.1. *Examination of nonbanking affiliates.*—The Commissioner of Banks, at his discretion, may examine the affiliates of a bank doing business under this Chapter to the extent it is necessary to safeguard the interest of depositors and creditors of the bank and of the general public, and to enforce the provisions of this Chapter. The Commissioner may conduct the examination in conjunction with any examination of the bank or affiliate conducted by any other state or federal regulatory authority. For the purpose of this section, the word 'affiliate' means any bank holding company of which the bank is a subsidiary and any nonbanking subsidiary of that bank holding company, as 'subsidiary' is defined by Section 2 of the Federal Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841(d), as amended)."

**Sec. 12.** G.S. 53-105, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the semicolon and before the word "and" in line 10 thereof, the following:



“provided, however, the Commissioner of Banks may extend the time for a period not to exceed thirty (30) days for any bank to transmit the reports heretofore required whenever in his judgment such extension is necessary;”.

**Sec. 13.** G.S. 53-107, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the comma and before the word “or” in line 5 thereof, the following: “or within the extension of time granted by the Commissioner of Banks heretofore provided.”

**Sec. 14.** G.S. 53-108, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

“§ 53-108. *List of stockholders to be kept.*—Every bank doing business under this Chapter shall at all times keep a correct record of the names of all its stockholders and whenever called upon by the Commissioner of Banks or his duly authorized agent, make available for examination a correct list of all its stockholders, the resident address of each, and the number of shares held by each. Whenever the word ‘stockholders’ is used in this section, the same shall be deemed to include, to the extent available, stockholders of any corporations which own ten percent (10%) or more of the capital stock of any bank doing business under this Chapter or a lesser amount when required by the Commissioner.”

**Sec. 15.** G.S. 53-115, as the same appears in Volume 2B of the General Statutes, is amended by inserting in line 4 thereof after the word “such” and before the word “banking” the words “actions of”.

**Sec. 16.** G.S. 53-154, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the word “value” and before the word “as” in line 8 thereof, the words “and at such annual dividend rate”.

**Sec. 17.** G.S. 53-155, as the same appears in Volume 2B of the General Statutes, is amended by striking the words “a rate not exceeding six percent (6%) per annum” in lines 2 and 3 thereof, and inserting in lieu thereof the words “an annual rate approved by the Commissioner of Banks.”

**Sec. 18.** G.S. 53-156, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

“§ 53-156. *Term ‘stock’ to include preferred stock.*—Whenever in existing banking law, the words ‘stock’, ‘stockholders’, ‘capital’, or ‘capital stock’ are used, the same shall be deemed to include preferred stock: Provided, that no bank issuing preferred stock under the provisions hereof, shall be permitted at any time to make loans secured by such preferred stock; provided further that such words shall not be deemed to include preferred stock where they are used in G.S. 53-2, G.S. 53-10, G.S. 53-80, G.S. 53-87, G.S. 53-88 and G.S. 53-139.”

**Sec. 19.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

S. B. 415

## CHAPTER 484

AN ACT TO REENACT G.S. 54-21.2(b) ALLOWING STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS TO MAKE ANY LOANS OR INVESTMENTS PERMITTED TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-21.2(b) is repealed and a new G.S. 54-21.2(b) is substituted for it to read as follows:

“(b) Subject to such rules as the Administrator of the Savings and Loan Division may prescribe, any such association is authorized and permitted to make any loan or investment permitted to be made by any federal savings and loan association by the Congress of the United States, Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation. All investments made by State-chartered savings and loan associations after 1958 and prior to the date of ratification hereof shall for all purposes be considered to have been permitted investments if such investments were permitted to be made by federal savings and loan associations at the time they were made by a State-chartered savings and loan association.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

S. B. 416

## CHAPTER 485

AN ACT TO REWRITE G.S. 54-19; TO PERMIT OFFICERS OF SAVINGS AND LOAN ASSOCIATIONS TO SERVE ON LOAN COMMITTEES AND TO PERMIT LOANS SUBJECT TO DEEDS OF TRUST BY SAVINGS AND LOAN ASSOCIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-19 is repealed and a new G.S. 54-19 is substituted for it as follows:

“§ 54-19. *Manner of making loans, security required.*—(a) The bylaws of a savings and loan association organized under the laws of this State shall provide procedures by which loans are to be approved and made by the association.

(b) No real estate loan shall be made by an association unless it has been approved by the board of directors of the association or, in the alternative, unless it has been approved by a loan committee composed of no less than three persons appointed by the board of directors. The persons appointed by the board of directors to be members of the loan committee shall be directors or officers of the association; provided, however, the majority of the loan committee shall be directors. All actions taken by the loan committee shall be reported to the board of directors at the next meeting of the board.

(c) The bylaws of the association shall require meetings of the board of directors or the loan committee to be held no less frequently than once each month for the purpose of considering loan applications and, if appropriate, approving loans.

(d) No loan shall be made to any person who is not a member of the association.

(e) Except as otherwise provided by law, borrowing members shall be required to give security to the association on all loans in one or more of the following forms:

- (i) Mortgage or deed of trust on real estate. Mortgages or deeds of trust received by an association as security for a loan may be subject only to mortgages and deeds of trust to secure commercial loans made by the association or by other savings and loan associations having a place of business in this State; and, if the entire face amount of the loan is distributed to the borrower, to mortgages and deeds of trust to secure residential loans made by the association or by other savings and loan associations having a place of business in this State; and to undue taxes and special assessments.
- (ii) Security interest in shares, deposits, certificates or other accounts in the association. The amount of the security received in this form shall not exceed the withdrawable value of the shares, deposits, certificates or other accounts in which the security interest is granted.
- (iii) Security interest in bonds issued as general obligations of the United States of America or of the State of North Carolina. The amount of the security received in this form shall not exceed ninety percentum (90%) of the face value of the bonds in which the security interest is granted."

**Sec. 2.** The provisions of this act shall apply equally to mutual and stock-owned savings and loan associations, except: persons borrowing money from stock-owned associations shall not be required to be members of said associations; stock in a stock-owned association shall not be considered to be "shares" as that term is used in this act and shall not be accepted as security for a loan pursuant to G.S. 54-19(e)(ii).

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

## S. B. 623

## CHAPTER 486

### AN ACT ESTABLISHING PROCEDURE FOR CENSURE OR REMOVAL OF A JUSTICE OF THE SUPREME COURT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 30 of Chapter 7A of the General Statutes is amended by inserting the following new section:

"§ 7A-378. *Censure or removal of a justice of the Supreme Court.*—(a) The recommendation of the Judicial Standards Commission for censure or removal of any justice of the Supreme Court for any grounds provided by G.S. 7A-376 shall be made to, and the record filed with, the Court of Appeals, which shall have and shall proceed under the same authority for censure or removal of any justice as is granted to the Supreme Court under G.S. 7A-376 and G.S. 7A-377(a) for censure or removal of any judge.

(b) The proceeding shall be heard by a panel of the Court of Appeals consisting of the Chief Judge, who shall be the presiding judge of the panel, and six other judges, the senior in service, excluding the judge who is chairman of the commission. For good cause, a judge may be excused by a majority of the panel. If the Chief Judge is excused, the presiding judge shall be designated by a

majority of the panel. The vacancy created by an excused judge shall be filled by the judge of the court who is next senior in service."

**Sec. 2.** G.S. 7A-376 is amended by deleting the words "justice or" from the first and second sentences of the section.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.

H. B. 353

## CHAPTER 487

### AN ACT TO REWRITE THE PHYSICAL THERAPY PRACTICE ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 18 of Chapter 90 of the North Carolina General Statutes is amended and rewritten to read as follows:

#### "ARTICLE 18.

##### "Physical Therapy.

"§ 90-256. *Definitions.*—In this Article, unless the context otherwise requires, the following definitions shall apply:

(1) 'Board' means the North Carolina Board of Physical Therapy Examiners.

(2) 'Physical therapy' means the evaluation or treatment of any person by the employment of the effective properties of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purposes of preventing, correcting, or alleviating a physical or mental disability. Physical therapy includes the performance of specialized tests of neuromuscular function, administration of specialized therapeutic procedures, interpretation and implementation of referrals from licensed medical doctors and dentists, and establishment and modification of physical therapy programs for patients.

(3) 'Physical therapist' means any person who practices physical therapy in accordance with the provisions of this Article.

(4) 'Physical therapist assistant' (or 'physical therapy assistant') means any person who assists in the practice of physical therapy in accordance with the provisions of this Article, and who works under the supervision of a physical therapist by performing such patient-related activities as assigned to him by a physical therapist which are commensurate with his education and training, but not the interpretation and implementation of referrals from licensed medical doctors and dentists, the performance of evaluations, and determination and modification of treatment programs.

(5) 'Physical therapy aide' means any nonlicensed person who is supervised on the premises by a physical therapist or physical therapist assistant when performing simple mechanical or machine-assisted acts in the care of the patient which are commensurate with his on-the-job training but do not require the knowledge and skill of a physical therapist or physical therapist assistant.

"§ 90-257. *Board of examiners.*—The North Carolina Board of Physical Therapy Examiners is hereby created. The board shall consist of seven members, including one medical doctor licensed and residing in North Carolina, four physical therapists, and two physical therapist assistants. The medical doctor, physical therapists and physical therapist assistants shall be appointed by the Governor from a list compiled by the North Carolina Physical Therapy Association, Inc., following a poll of all physical therapists and physical



therapist assistants licensed and residing in North Carolina. Each physical therapist member of the board shall be licensed and reside in this State; provided that he shall have not less than three years' experience as a physical therapist immediately preceding his appointment and shall be actively engaged in the practice of physical therapy in North Carolina during his incumbency. Each physical therapist assistant member shall be licensed and reside in this State; provided that he shall have not less than three years' experience as a physical therapist assistant immediately preceding his appointment and shall be actively engaged in practice as a physical therapist assistant in North Carolina during his incumbency.

Members shall be appointed to serve three year terms, or until their successors are appointed, to commence on January 1 in respective years; provided that members of the board on July 1, 1979, shall continue to serve for the remainder of their terms, respectively, or until their successors are appointed. In the event that a member of the board for any reason shall become ineligible to or cannot complete his term of office, another appointment shall be made by the Governor in accordance with the procedure stated above to fill the remainder of the term. No member may serve for more than two successive three-year terms.

The board each year shall designate one of its physical therapist members as chairman and one member as secretary-treasurer. Each member of the board shall receive such per diem compensation and reimbursement for travel and subsistence as shall be set for licensing boards generally.

“§ 90-257.1. *Powers of the board.*—The board shall have the following general powers and duties:

(1) examine and determine the qualifications and fitness of applicants for a license to practice physical therapy in this State;

(2) issue, renew, deny, suspend, or revoke licenses to practice physical therapy in this State or otherwise discipline licensed physical therapists and physical therapist assistants;

(3) conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensed physical therapists or physical therapist assistants exist;

(4) employ such professional, clerical or special personnel necessary to carry out the provisions of this Article, and may purchase or rent necessary office space, equipment and supplies;

(5) conduct administrative hearings in accordance with Article 3 of Chapter 150A of the General Statutes when a 'contested case' as defined in G.S. 150A-2(2) arises under this Article;

(6) appoint from its own membership one or more members to act as representatives of the board at any meeting where such representation is deemed desirable;

(7) establish reasonable fees for applications for examination, certificates of licensure and renewal, and other services provided by the board;

(8) adopt, amend, or repeal any rules or regulations necessary to carry out the purposes of this Article and the duties and responsibilities of the board.

The powers and duties enumerated above are granted for the purpose of enabling the board to safeguard the public health, safety and welfare against unqualified or incompetent practitioners of physical therapy, and are to be liberally construed to accomplish this objective.

“§ 90-258. *Records to be kept; copies of record.*—The board shall keep a record of proceedings under this Article and a record of all persons licensed under it. The record shall show the name of every living licensee, his last known place of business and last known place of residence and the date and number of his licensure certificate as a physical therapist or physical therapist assistant. Any interested person in the State is entitled to obtain a copy of that record on application to the board and payment of such reasonable charge as may be fixed by it based on the costs involved.

“§ 90-259. *Disposition of funds.*—All fees and other moneys collected and received by the board shall be used for the purposes of implementing this Article. The financial records of the board shall be subjected to an annual audit and paid for out of the funds of the board.

“§ 90-260. *Qualifications of applicants for examination; application; fee.*—Any person who desires to be licensed under this Article and who

(1) is of good moral character;

(2) if an applicant for physical therapy licensure, has been graduated from a physical therapy program accredited by an agency recognized by either the U. S. Office of Education or the Council on Postsecondary Accreditation; and

(3) if an applicant for physical therapist assistant licensure, has been graduated from a physical therapist assistant educational program accredited by an agency recognized by either the U. S. Office of Education or the Council on Postsecondary Education; or has had training or experience deemed equivalent to such an educational program by the board; provided that such training or experience must be completed by July 1, 1982;

may make application on a form furnished by the board for examination for licensure as a physical therapist or physical therapist assistant. At the time of making such application, the applicant shall pay to the secretary-treasurer of the board the fee prescribed by the board, no portion of which shall be returned.

“§ 90-261. *Licensure of foreign-trained physical therapists.*—Any person who has been trained as a physical therapist in a foreign country and desires to be licensed under this Article and who

(1) is of good moral character;

(2) holds a diploma from an educational program for physical therapists approved by the board;

(3) submits documentary evidence to the board that he has completed a course of professional instruction substantially equivalent to that obtained by an applicant for licensure under G.S. 90-260; and

(4) demonstrates satisfactory proof of proficiency in the English language; may make application on a form furnished by the board for examination as a foreign-trained physical therapist. At the time of making such application, the applicant shall pay to the secretary-treasurer of the board the fee prescribed by the board, no portion of which shall be returned.

“§ 90-262. *Certificates of licensure.*—(a) The board shall furnish a certificate of licensure to each applicant successfully passing the examination for licensure as a physical therapist or physical therapist assistant, respectively.

(b) The board shall furnish a certificate of licensure to any person who is a physical therapist or physical therapist assistant registered or licensed under the laws of another state or territory, if the individual's qualifications were at the date of his registration or licensure substantially equal to the requirements

under this Article. When making such application, the applicant shall pay to the secretary-treasurer of the board the fee prescribed by the board, no portion of which shall be returned.

“§ 90-263. *Renewal of license, lapse, revival.*—(a) Every licensed physical therapist or physical therapist assistant shall, during the month of January of every year, apply to the board for a renewal of licensure and pay to the secretary-treasurer the prescribed fee. Licenses that are not so renewed shall automatically lapse.

(b) The manner in which lapsed licenses shall be revived or extended shall be established by the board in its discretion.

“§ 90-264. *Fees.*—The board is authorized to charge and collect fees established by its rules and regulations, but fees shall not exceed the following schedule for the specified items:

- |                                                         |          |
|---------------------------------------------------------|----------|
| (1) Each application for examination                    | \$100.00 |
| (2) Certificate of licensure pursuant to G.S. 90-262(b) | \$ 75.00 |
| (3) License renewal                                     | \$ 25.00 |

“§ 90-265. *Exemptions from licensure, certain practices exempted.*—(a) The following persons shall be permitted to practice physical therapy in this State without obtaining a license under this Article upon the terms and conditions specified herein:

- (1) students enrolled in accredited physical therapist or physical therapist assistant educational programs, while engaged in completing a clinical requirement for graduation, which must be performed under the supervision of a licensed physical therapist;
  - (2) physical therapists licensed in other jurisdictions while enrolled in graduate educational programs in this State that include the evaluation and treatment of patients as part of their experience required for credit, so long as the student is not at the same time gainfully employed in this State as a physical therapist;
  - (3) practitioners of physical therapy employed in the United States Armed Services, United States Public Health Service, Veterans Administration or other federal agency;
  - (4) physical therapists or physical therapist assistants licensed in other jurisdictions who are teaching or participating in special physical therapy education projects, demonstrations or courses in this State, in which their participation in the evaluation and treatment of patients is minimal;
  - (5) a physical therapy aide while in the performance of those acts and practices specified in G.S. 90-256(5).
- (b) Nothing in this Article shall be construed to prohibit:
- (1) any act in the practice of his profession by a person duly licensed in this State;
  - (2) the administration of simple massages and the operation of health clubs so long as not intended to constitute or represent the practice of physical therapy;
  - (3) the performance by any person of simple mechanical or machine-assisted acts in the physical care of a patient, not requiring the knowledge and skill of a physical therapist, under orders or directions of a licensed medical doctor or dentist.

“§ 90-266. *Unlawful practice.*—If any person shall:

(1) practice, attempt to practice, teach, consult, or supervise in physical therapy or hold himself out as being able to do so in this State without first having obtained a license from the board;

(2) use in connection with his name any letters, words, or insignia indicating or implying that he is a physical therapist or physical therapist assistant unless he is licensed in accordance with this Article;

(3) practice or attempt to practice physical therapy while his license is revoked or suspended;

(4) practice physical therapy except by referral from a licensed medical doctor or dentist;

(5) violate any of the provisions of this Article;

said person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both fined and imprisoned, in the discretion of the court. Each act of such unlawful practice shall constitute a distinct and separate offense.

“§ 90-267. *Disciplinary authority in board.*—Grounds for disciplinary action shall include but not be limited to the following:

(1) the employment of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license, or the renewal thereof;

(2) the use of drugs or intoxicating liquors to an extent which affects professional competency;

(3) conviction of an offense under any municipal, State, or federal narcotic or controlled substance law, until proof of rehabilitation can be established;

(4) conviction of a felony or other public offense involving moral turpitude, until proof of rehabilitation can be established;

(5) an adjudication of insanity or incompetency, until proof of recovery from the condition can be established;

(6) engaging in any act or practice violative of any of the provisions of this Article or of any of the rules and regulations adopted by the board, or aiding, abetting or assisting any other person in the violation of the same;

(7) the commission of an act or acts of malpractice, gross negligence or incompetence in the practice of physical therapy;

(8) practice as a licensed physical therapist or physical therapist assistant without a valid certificate of renewal;

(9) engaging in conduct that could result in harm or injury to the public.

“§ 90-268. *Enjoining illegal practices.*—(a) The board may, if it finds that any person is violating any of the provisions of this Article, apply in its own name to the superior court for a temporary or permanent restraining order or injunction to restrain such person from continuing such illegal practices. All such actions by the board for injunctive relief shall be governed by the Rules of Civil Procedure and Article 37, Chapter 1 of the General Statutes.

(b) The venue for actions brought under this section shall be the superior court of any county in which such illegal or unlawful acts are alleged to have been committed, in the county in which the defendants in such action reside, or in the county in which the board maintains its offices and records.

“§ 90-269. *Title.*—This Article may be cited as the ‘Physical Therapy Practice Act’.

“§ 90-270. *Osteopaths, chiropractors, and podiatrists not restricted.*—Nothing in this Article shall restrict the use of physical therapy modalities by licensed osteopaths, chiropractors, or podiatrists.”



**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## H. B. 580

## CHAPTER 488

AN ACT TO CIRCUMSCRIBE THE CONDITIONS UNDER WHICH THE DEPARTMENT OF HUMAN RESOURCES WILL ASSUME THE RESPONSIBILITY FOR ADMINISTERING A COUNTY CHILD SUPPORT ENFORCEMENT PROGRAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 110-141, as the same appears in the 1978 Interim Supplement to the General Statutes of North Carolina, is hereby amended by rewriting the second paragraph thereof as follows:

"In the event that a board of county commissioners does not desire to continue to administer the program it may only so notify the Department of Human Resources between July 1 and September 30 of the current fiscal year. The obligation of the Department to assume responsibility for the administration of the program in that county shall not commence prior to July 1 of the subsequent fiscal year. Until that time, it shall be the responsibility of the board of county commissioners to administer or provide for the administration of the program in the county."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## H. B. 610

## CHAPTER 489

AN ACT TO PERMIT THE LIMITED OPERATION OF THE GAME OF BINGO IN CRAVEN AND CASWELL COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** It is lawful for fire departments and charitable, civic, religious and veterans' organizations to operate the game of bingo in Craven and Caswell Counties.

**Sec. 2.** The gross proceeds obtained from the operation of the game of bingo, except for prize money, must go into the treasury of the organization operating the game of bingo. No organization shall pay salaries or commissions to persons operating bingo games.

**Sec. 3.** No organizations shall allow nonmembers to supervise or conduct the organization's bingo games.

**Sec. 4.** Organizations may only operate bingo games upon their own premises or at the place where they regularly conduct their meetings. Organizations which regularly conduct their meetings at places which they do not own shall pay to the owners for each session of bingo conducted at these places, rent not to exceed the rent which they pay for each of their regular meetings.

**Sec. 5.** An organization may operate the game of bingo only one day per week for a maximum period of six hours on that day. A location may not be used more than once a week for a bingo session.

**Sec. 6.** The highest prize which an organization may offer on each day that it operates the game of bingo is five hundred dollars (\$500.00).

**Sec. 7.** Chapter 665 of the 1975 Session Laws is repealed.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## H. B. 642

## CHAPTER 490

AN ACT TO PROVIDE THAT THE YADKIN COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE IN DECEMBER FOLLOWING THEIR ELECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 406, Session Laws of 1969 is amended by adding the following before the period at the end of the section “, except that beginning with the 1986 primary, persons so elected in the primary shall qualify for membership on the Board of Education by taking the oath of office on the first Monday in December next succeeding their election.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## H. B. 667

## CHAPTER 491

AN ACT TO PERMIT THE LIMITED OPERATION OF THE GAME OF BINGO IN STOKES COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It is lawful for municipal fire departments, county fire departments, volunteer fire departments recognized by the Stokes County Commissioners, any rescue squad recognized by the Stokes County Commissioners, or any other nonprofit civic organization to operate the game of bingo in Stokes County. It is also lawful for members of an auxiliary of any such department or rescue squad to operate the game of bingo in Stokes County.

**Sec. 2.** The gross proceeds obtained from the operation of the game of bingo, except for prize money, must go into the treasury of the organization operating the game of bingo. No nonprofit organization shall pay salaries or commissions to persons operating the game of bingo.

**Sec. 3.** An organization may operate the game of bingo only one day per week and only for a maximum period of six hours on that day.

**Sec. 4.** Bingo may not be played on Sunday in Stokes County.

**Sec. 5.** Notwithstanding the provisions of Section 2 and Section 3, organizations described in Section 1 may annually operate or sponsor the game of bingo for one six-consecutive-day period without an hours per day limitation.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

H. B. 692

**CHAPTER 492**

AN ACT TO REPEAL THE REQUIREMENT THAT DARE COUNTY AIRPORT AUTHORITY BONDS BE APPROVED BY THE DARE COUNTY BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subdivision (5) of Section 4 of Chapter 503, Session Laws of 1971 is rewritten to read as follows: "To borrow money pursuant to General Statutes Chapter 159".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

H. B. 812

**CHAPTER 493**

AN ACT TO ALLOW THE COUNTY ENGINEER TO ENFORCE LAWS DEALING WITH OBSTRUCTION OF STREAMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 77-13 and G.S. 77-14 are each amended by adding the following language at the end of each section:

"In any county with a population in excess of 325,000, this section may also be enforced by the County Engineer."

**Sec. 2.** 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 provision or application, and to this end the provisions of this act are declared to be severable.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

H. B. 819

**CHAPTER 494**

AN ACT TO AMEND G.S. 163-9 CONCERNING DISTRICT JUDGE VACANCIES TO CONFORM TO A 1975 AMENDMENT TO G.S. 7A-142.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-9 as the same appears in the 1976 Replacement Volume 3D of the General Statutes of North Carolina is amended on the 15th line by deleting the word "two" and substituting in lieu thereof the word "four".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

H. B. 902

**CHAPTER 495**

AN ACT TO EXPAND THE COVERAGE OF THE STATUTE PROHIBITING UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL TAX INFORMATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-259 is amended by deleting the word “and” from line 4 of the section and by inserting after the word “authorities;” in line 5 of the section the following:

“(iii) any other person authorized in this section to receive information concerning any item contained in any report or return, or authorized to inspect any report or return; and (iv) the Commissioner of Insurance and all other officers or employees and former officers and employees of the Department of Insurance with respect to State and federal income tax returns filed with the Commissioner of Insurance by domestic insurance companies.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

H. B. 906

**CHAPTER 496**

AN ACT TO AMEND THE DEFINITION OF “RESIDENT” FOR PURPOSES OF QUALIFYING FOR PUBLIC ASSISTANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-24(7), as the same appears in Part I of Volume 3A of the General Statutes, is hereby rewritten to read as follows:

“(7) ‘Resident’ is a person who is living in North Carolina voluntarily with the intention of making his home in the State and not for a temporary purpose. A child is a resident of North Carolina if he is living in the State other than on a temporary basis.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

H. B. 1033

**CHAPTER 497**

AN ACT TO PERMIT CORPORATE INSURERS TO TERMINATE THE MOTOR VEHICLE INSURANCE POLICIES OF MEMBERS OF AN ORGANIZATION WHO FAIL TO MEET MEMBERSHIP REQUIREMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new subdivision, numbered (5), is added to G.S. 58-248.36 to read as follows:

“(5) The named insured, at the time of renewal, fails to meet the requirements contained in the corporate charter, articles of incorporation, and/or bylaws of the insurer, when the insurer is a company organized for the sole purpose of providing members of an organization with insurance policies in North Carolina.”

**Sec. 2.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## H. B. 1129

## CHAPTER 498

## AN ACT TO CODIFY THE RESOLUTION ACCEPTING PROPERTIES IN THE STATE NATURE AND HISTORIC PRESERVE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 25B of the General Statutes as the same appears in 1978 Replacement Volume 3C is amended by adding a new section G.S. 143-260.10 to read as follows:

“§ 143-260.10. *Components of State Nature and Historic Preserve.*—The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(a) All lands and waters within the boundaries of the following units of the State Parks System as of March 6, 1979: Bay Tree Lake, Bushy Lake Natural Area, Cliffs of the Neuse State Park, Crowders Mountain State Park, Duke Power Recreation Area, Fort Macon State Park, Goose Creek State Park, Hammocks Beach State Park, Hanging Rock State Park, Hemlock Bluffs Natural Area, Jockeys Ridge State Park, Jones Lake State Park, Lake Waccamaw, Lake Waccamaw State Park, Merchants Millpond State Park, Morrow Mountain State Park, Mount Jefferson State Park, Mount Mitchell State Park, Pilot Mountain State Park, Raven Rock State Park, Theodore Roosevelt Natural Area, Singletary Lake State Park, South Mountains State Park, Stone Mountain State Park, Weymouth Woods-Sandhills Nature Preserve, and White Lake; Carolina Beach State Park in New Hanover County west of Dow Road, S.R. 1573; Mitchells Millpond Natural Area in Wake County north of S.R. 2224.

(b) All lands and waters within the boundaries of Eno River State Park and William B. Umstead State Park as of March 6, 1979, with the exception of those tracts recommended for exclusion in the petition of the Council of State dated March 6, 1979, on file with the Secretary of Administration.

(c) All lands within the boundaries of Pettigrew State Park as of March 6, 1979, with the exception of the tract recommended for exclusion in the petition of the Council of State dated March 6, 1979, on file with the Secretary of Administration.

(d) All lands and waters located within the boundaries of the following State Historic Sites as of March 6, 1979: Alamance Battleground Historic Site, Historic Bath Historic Site, Bentonville Battleground Historic Site, Brunswick Town Historic Site, Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site, Duke Homestead Historic Site, House in the Horseshoe Historic Site, James Iredell House Historic Site, President James K. Polk Memorial Historic Site, Stagville Preservation Center Historic Site, State Capitol Historic Site, Town Creek Indian Mound Historic Site, Tryon Palace Historic Site, Governor Zebulon B. Vance Birthplace Historic Site, and Thomas Wolfe Memorial Historic Site.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## S. B. 186

## CHAPTER 499

## AN ACT TO AMEND G.S. 20-71(b) RELATING TO ALTERING OR FORGING MOTOR VEHICLE TITLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-71(b) is hereby rewritten to read as follows:

“(b) It shall be unlawful for any person with fraudulent intent to reproduce or possess a blank North Carolina certificate of title or facsimile thereof. Any person, firm or corporation violating the provisions of this section shall be guilty of a felony and upon conviction shall be punished as provided in G.S. 20-177.”

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

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## S. B. 460

## CHAPTER 500

## AN ACT TO AMEND ARTICLE 22A OF CHAPTER 163 RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-278.6(18) is amended by changing the period at the end to a comma and by adding the following, “but this Article shall otherwise be applicable to such candidates for municipal and county offices.”

**Sec. 2.** G.S. 163-278.7(b)(1) is rewritten to read:

“(1) The name, address and purpose of the candidate or political committee, and when the political committee is created pursuant to G.S. 163-278.19(b), the purpose of the political committee shall include the name of the corporation, insurance company, business entity, labor union or professional association whose officials, employees, or members established the political committee;”.

**Sec. 3.** G.S. 163-278.9(a)(1) is amended by adding at the end thereof a new sentence to read:

“Any candidate whose campaign is being conducted by a political committee which is handling all contributions and expenditures for his campaign shall file a statement with the board stating such fact at the time required herein for the organizational report. Thereafter, the candidate’s political committee shall be responsible for filing all reports required by law.”

**Sec. 4.** G.S. 163-278.16(f) is amended by adding at the end thereof the following:

“The media shall not publish or broadcast any political advertisement unless it bears the legend or includes the statement required herein.”

**Sec. 5.** G.S. 163-278.17(a) is amended by deleting “and” at the end of subsection (2) and by deleting the period at the end of subdivision (3) and replacing it with “; and”, and by adding a new subsection (4) to read:

“(4) The name and address of any public relations firm or agency which makes direct payment to the media on behalf of any candidate, treasurer, political committee, political party or individual.”

**Sec. 6.** G.S. 163-278.17(a) is further amended by adding the following language at the end of the subsection:

“The reports required by this subsection shall be only for the offices of Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer,

Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. The written authorization for each expenditure and the legend for each advertisement shall be required as to all candidates and political committees covered by this Article."

**Sec. 7.** G.S. 163-278.23 is amended by deleting the figure "10" in the first sentence and inserting in lieu thereof the figure "30".

**Sec. 8.** G.S. 163-278.24 is amended by deleting the words "three months" in the title and in the first sentence and inserting in lieu thereof the words "four months".

**Sec. 9.** G.S. 163-278.22(8) is amended by deleting the words "solicitor (district attorney)" and inserting in lieu thereof the words "district attorney".

**Sec. 10.** G.S. 163-278.27 is amended by deleting the words "solicitor (district attorney)" wherever they appear therein, and by inserting in lieu thereof the words "district attorney"; and further amend G.S. 163-278.27 by deleting the word "solicitorial" wherever it appears therein, and inserting in lieu thereof the word "prosecutorial", and further amend by deleting the words "solicitors (district attorneys)", and inserting in lieu thereof the words "district attorneys".

**Sec. 11.** G.S. 163-278.28 is amended by deleting the words "solicitor (district attorney)" wherever they appear therein and inserting in lieu thereof the words "district attorney"; and further amend said section by deleting the word "solicitorial" wherever it appears therein and inserting in lieu thereof the word "prosecutorial", and further amend said section by deleting the words "solicitors (district attorneys)", and inserting in lieu thereof the words "district attorneys".

**Sec. 12.** G.S. 163-278.22 is amended by inserting in line 1 immediately before the word "Board" the word "State".

**Sec. 13.** G.S. 163-278.22(5) is rewritten to read:

"(5) To preserve reports and statements filed under this Article. Such reports and statements, after a period of two years following the election year, may be transferred to the Department of Cultural Resources, Division of Archives and History, and shall be preserved for a period of 10 years."

**Sec. 14.** G.S. 163-278.30(2) is rewritten to read:

"(2) To preserve reports and statements filed under the Federal Election Campaign Act. Such reports and statements, after a period of two years following the election year, may be transferred to the Department of Cultural Resources, Division of Archives and History, and shall be preserved for a period of 10 years or for such period as may be required by federal law."

**Sec. 15.** Article 22A of Chapter 163 of the General Statutes is amended by adding at the end thereof a new section to read:

"§ 163-278.37. *County boards of elections to preserve reports.*—The county boards of elections shall preserve all reports and statements filed with them pursuant to this Article for such period of time as directed by the State Board of Elections."

**Sec. 16.** G.S. 163-278.9 is amended by adding a new paragraph lettered (d) to read:

"(d) Candidates and committees in municipalities required to submit reports, as defined in G.S. 163-278.6(18), shall file all reports due under this Article with the county board of elections in the county in which the municipality is located,

notwithstanding any provisions to the contrary that might be contained in any city charter. Filing reports, as required by this Article, by such candidates and committees shall constitute compliance with filing requirements for municipal candidates and committees.”

**Sec. 17.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## S. B. 475

## CHAPTER 501

### AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF HIGH POINT AND TO REPEAL PRIOR CHARTER ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of High Point is hereby revised and consolidated to read as follows:

#### “THE CHARTER OF THE CITY OF HIGH POINT.

##### “ARTICLE I.

##### “INCORPORATION, POWERS AND BOUNDARIES.

“Sec. 1.1. Incorporation.

“Sec. 1.2. Powers.

“Sec. 1.3. Corporate limits.

“Sec. 1.4. Form of government.

“Sec. 1.1. Incorporation. The City of High Point, North Carolina lying in the counties of Guilford, Randolph and Davidson, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the ‘City of High Point’.

“Sec. 1.2. Powers. The City of High Point 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 High Point specifically or upon municipal corporations generally, by this charter, by the State Constitution, or by general or special statute. Provided further that the City of High Point 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.

“Sec. 1.3. Corporate limits. The corporate limits of the City of High Point 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 city 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.

“Sec. 1.4. Form of government. The government of the city provided by this charter shall be the ‘Council-Manager Form of Government’ as provided by Part 2, Article 7, Chapter 160A of the General Statutes.

##### “ARTICLE II.

##### “MAYOR AND COUNCIL.

“Sec. 2.1. Governing body.

“Sec. 2.2. Council; number; terms of office.



"Sec. 2.3. Mayor; term of office; duties.

"Sec. 2.4. Mayor pro tempore.

"Sec. 2.5. Organization; meetings; rules; quorum; voting.

"Sec. 2.1. Governing body. The mayor and council shall be the governing body of the city. On behalf of the city, and in conformity with applicable laws, the mayor and council shall provide for the exercise of all municipal powers, and shall be charged with the general government of the city.

"Sec. 2.2. Council; number; terms of office. The council shall be composed of eight (8) members, each of whom shall be elected by the qualified voters of the city to serve for a term of two (2) years in the manner provided by Article III of this charter.

"Sec. 2.3. Mayor; term of office; duties. (a) The mayor shall be elected by the qualified voters of the city to serve for a term of two (2) years, in the manner provided by Article III of this charter.

(b) The mayor shall preside at meetings of the council and shall have the power to vote on all questions before the council. The mayor shall be the official head and spokesman of the city in all acts of ceremony and shall represent the city in matters of governmental affairs.

"Sec. 2.4. Mayor pro tempore. At its organizational meeting, the council shall elect from its membership a mayor pro tempore to exercise the functions of mayor whenever the mayor is absent, disabled or unable to discharge the duties of the office of mayor.

"Sec. 2.5. Organization; meetings; rules; quorum; voting. (a) The council shall meet for organization in the council chamber on the date and at the time of the first regular meeting in December after the results of the election have been certified, or if such day is a legal holiday, on the next following day not a legal holiday. At that meeting, the mayor and each member of the council shall take and subscribe the oath prescribed in Article VI, Sec. 7 of the Constitution of North Carolina.

(b) The council shall by ordinance adopt and publish rules to govern its proceedings and transaction of business, including the time and place of holding regular meetings.

(c) Any five (5) council members, or any four (4) council members and the mayor shall constitute a quorum for the transaction of business in any matter before the council. A majority vote of the quorum shall control, except that in the matter of ordinances and resolutions a majority of the members of the council shall be required for passage of an ordinance or resolution.

### "ARTICLE III.

### "ELECTIONS.

"Sec. 3.1. Method of election.

"Sec. 3.2. Time of elections; regular and primary.

"Sec. 3.3. Ward boundaries.

"Sec. 3.4. Qualification of voters; candidates.

"Sec. 3.5. Manner of holding elections; tabulation of votes; declaration of results.

"Sec. 3.6. Vacancies in office; manner of filling.

"Sec. 3.7. Absentee voting.

"Sec. 3.1. Method of election. Regular municipal elections shall be held in the City biennially in odd-numbered years, and shall be conducted in accordance with State law governing municipal elections. The mayor and members of the

council shall be elected by the partisan primary election and method provided for in G.S. 163-291.

“Sec. 3.2. Time of elections; regular and primary. The regular city election shall be held on Tuesday after the first Monday in November, biennially in odd-numbered years. The first primary shall be held on the sixth Tuesday before the regular city election, and the second primary, if required, shall be held on the third Tuesday before the regular city election.

“Sec. 3.3. Ward boundaries. The boundaries of wards from which members of the council are elected shall be defined by ordinance.

“Sec. 3.4. Qualification of voters; candidates. (a) All persons entitled to vote for members of the General Assembly, and who have been residents of the city and ward in which they offer to vote for 30 days next preceding the date of the regular city election, and who shall have registered and qualified as provided in the General Laws of North Carolina relative to municipal elections, shall be allowed to vote for mayor and council members from each of the four (4) wards of the city, and no person not a resident of the city and ward from which the person offers to vote shall be an elector of the city. If any duly qualified elector shall have moved from one (1) ward of the city to another within 30 days next preceding the date of the regular city election, the person shall be entitled to vote in the election in the ward from which he shall have moved.

(b) Any qualified elector of the city shall be eligible for election to the office of mayor. Any qualified elector of the city who is a resident of the ward from which the person shall offer as a candidate for council member shall be eligible for election to the office of council member.

“Sec. 3.5. Manner of holding elections; tabulation of votes; declaration of results. At the times of election as provided in Section 3.2, the following procedures shall govern the election of the mayor and members of the council:

(1) There shall be held in the several precincts of the city a primary election for the purpose of nominating one (1) candidate of each political party for mayor and eight (8) candidates of each political party for council members. The nominees of each political party for council members shall be selected in the following manner: The candidate from each of the four (4) wards receiving the highest number of votes of any candidate residing in the same ward shall be declared the first four nominees of their respective party for the offices of council member. The next four (4) candidates receiving the highest number of votes, regardless of the ward in which they reside, shall be declared the remaining four (4) nominees of their respective party for the offices of council member. The candidate of each political party for mayor receiving the highest number of votes shall be declared the nominee of his respective political party for such office to be elected at the regular city election.

(2) If not more than eight (8) names from each political party be filed with the Guilford County Board of Elections as candidates for council member, the board shall declare such persons to be the duly nominated candidates of such political party for such offices; and if not more than one (1) name from each political party for the nomination of candidate for mayor be filed with the Guilford County Board of Elections, then such person shall be declared the candidate of such political party for mayor. If there be more than eight (8) candidates of any one political party for council member or if there be more than one (1) candidate of any one political party for mayor, then the primary shall be held as to such candidates only.

(3) If not more than one (1) name from each ward and four (4) additional names, regardless of the ward in which they reside, of any political party, be filed with the Guilford County Board of Elections for nomination as candidates for council member, and one (1) name from each political party as candidate for mayor, then the board shall declare such persons to be the duly nominated candidates of such political party for such offices for the election to be held at the regular city election.

(4) At the regular city election, the candidate for mayor receiving the highest number of votes shall be elected, and the candidate in each of the four (4) wards receiving the highest number of votes of any candidate in the ward in which he resides shall be declared a duly elected council member from the ward and the next four (4) candidates receiving the highest number of votes, regardless of the ward in which they reside, shall be the duly elected four (4) council members at large.

(5) The Guilford County Board of Elections shall meet immediately after the Board of Canvassers shall have completed their canvass and tabulate the votes and certify to the Council of the City of High Point the results of the election, setting forth the names of the candidates elected, the respective offices to which they have been elected and the term of office for which each has been elected. The result as tabulated shall be certified by the Guilford County Board of Elections and shall be filed with the Council of the City of High Point on the date on which the canvass is made by the Board of Canvassers. The council shall set out in the minutes of the council the report of the Board of Canvassers as certified by the Guilford County Board of Elections. Upon qualifying, the candidates so elected shall take office as provided in Section 2.5 of this charter.

“Sec. 3.6. Vacancies in office; manner of filling. (a) A vacancy in the office of mayor or membership of the council shall exist when a duly elected person fails to qualify, or when the mayor or a member who has been duly elected and qualified either dies, resigns, moves from the city or from the ward which the person represents, or becomes disabled for any cause.

(b) In the event of a vacancy in the office of the mayor, the council shall by majority vote of its membership, choose one (1) of its members to fill the office of mayor and serve the balance of the unexpired term of this office.

(c) In the event of a vacancy in the office of council member, council may choose a member from among the qualified voters to fill the vacancy and to serve until the next regular municipal election when such vacancy shall be filled by a vote of the people as provided in this Article; provided that removal from the ward in which the member resided at the time of the election shall not disqualify the person from serving as council member if there remains in the ward after removal at least one (1) other member of the council residing in that ward. If a vacancy occurs leaving no remaining member of the council residing in the ward in which the vacancy occurred, the council shall fill the vacancy from among the qualified voters in the ward from which the vacancy occurred.

“Sec. 3.7. Absentee voting. The provisions of Articles 20 and 21 of Chapter 163 of the General Statutes shall be applicable to all municipal elections and primaries in the City of High Point; provided that absentee ballots shall not be permitted in a second primary or runoff election. The Guilford County Board of Elections shall administer the absentee voting laws for all municipal elections in the City of High Point and is hereby authorized to adopt rules and

regulations which may be necessary to adapt the procedures of Articles 20 and 21 of Chapter 163 to municipal elections.

“ARTICLE IV.

“ADMINISTRATION.

“CHAPTER 1.

“CITY MANAGER.

“Sec. 4.1. Appointment; qualifications; term and compensation.

“Sec. 4.2. Powers and duties.

“Sec. 4.3. Other duties and procedures.

“Sec. 4.1. Appointment; qualifications; term and compensation. (a) The council shall appoint the city manager who shall be the administrative head of the city government. He shall be chosen by the city council without regard to his political opinions and solely upon the basis of his character, training, experience and administrative qualifications and need not be a resident of the city or State when appointed. No member of the council, during the term for which elected, shall be appointed as city manager. The city manager shall receive such compensation as shall be provided by the city council. He shall give such bond as may be required by the council. He shall be appointed for an indefinite period and hold office during the pleasure of the council.

“Sec. 4.2. Powers and duties. The city manager shall:

(1) be administrative head of the city government, shall, except as specifically otherwise provided for herein, subject to the approval of the city council, organize the administrative functions and affairs of the city into various departments, and through such departments efficiently administer the functions and affairs of the city as provided for in this section or as authorized by law or by the city council;

(2) see that within the jurisdiction of the city the laws of the State and the ordinances, resolutions, and regulations of the council are faithfully executed;

(3) attend all meetings of the council with the right to take part in the discussion but with no vote, and recommend for adoption such measures as he shall deem expedient;

(4) make reports to the council from time to time upon the affairs of the city, and keep the council fully informed and advised of the city's financial condition and its present and future financial needs;

(5) have power and authority, pending action by the council to revoke licenses issued subject to revocation;

(6) have the sole power to appoint and remove all heads of departments and all subordinate officers and employees of the city, unless otherwise provided in this charter.

“Sec. 4.3. Other duties and procedures. (a) Except for the purpose of inquiry, the council and its members shall deal with the administrative service of the city through the city manager. No member of the council shall give orders to or attempt to influence the action of any subordinate of the city manager either publicly or privately. Where this charter gives to the city manager the power to appoint or to employ persons in the administrative service of the city, neither the council nor any of its members shall attempt to in any manner influence the city manager in the appointment or employment of any such person or persons, but the city manager shall be left free to exercise his own judgment in appointing such person or persons and he shall have the power to suspend and dismiss any person appointed and his action in every case shall be final.



(b) The city manager shall, except when clearly inconsistent with the provisions of this charter, exercise supervision and control over all departments and divisions of the city. He shall prepare and submit to the city council for its consideration and action a proposed annual budget and shall keep the council at all times advised as to the conditions and efficiency of the various departments of the city under his direction and control and of the needs and condition of the city. He shall perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the council.

(c) The city manager shall not engage in electioneering nor take an active part in political campaigns nor attempt to influence the result of State, county or city elections except by exercising his right as a citizen to hold his own political views and to cast his own vote. Electioneering or improper political activities by the city manager or attempts to influence the results of election or primaries shall be cause for his immediate suspension or removal from office, either by the council or by any judge of the superior court having jurisdiction upon mandamus or other appropriate proceedings instituted by any taxpayer of said city.

## “CHAPTER 2.

### “CITY CLERK.

“Sec. 4.1. Appointment; term; compensation.

“Sec. 4.2. Duties.

“Sec. 4.1. Appointment; term; compensation. The council shall appoint a city clerk, who shall serve at the pleasure of the council. The compensation of the city clerk shall be as fixed by the council.

“Sec. 4.2. Duties. The city clerk shall keep a journal of the proceedings of the council, maintain in a safe place all records and documents pertaining to the affairs of the city and perform such other duties as may be required by law or as the council or city manager may direct.

## “ARTICLE V.

### “CAREER SERVICE COMMISSION.

“Sec. 5.1. Composition of commission.

“Sec. 5.2. Employee representation on the commission.

“Sec. 5.3. Function of commission.

“Sec. 5.4. Amendments to personnel ordinance.

“Sec. 5.1. Composition of commission. There shall be established a Career Service Commission which shall consist of five (5) members. The members shall be appointed by the Council of the City of High Point. One (1) member shall be appointed to a term of one (1) year. Two (2) members shall be appointed for a term of two (2) years. Two (2) members shall be appointed for a term of three (3) years. Thereafter, members shall be appointed for three-year terms. A chairman and other officers deemed necessary shall be selected annually by the members of the commission. A member shall not be able to succeed himself more than one (1) time unless the appointment is for less than a complete term. A member can be removed by the council prior to the expiration of his term only for cause. Membership of the Career Service Commission shall consist of qualified voters of the City of High Point.

“Sec. 5.2. Employee representation on the commission. The Career Service Commission shall provide for two (2) employee members in any event in which the commission shall assume the role of an administrative, fact-finding advisory hearing board as defined in Section 5.3(1). Employees shall be selected in an

objective and impartial manner by the members of the commission to the extent that any appellant shall have peer representation on the hearing board, and that no member of the appellant's department shall sit on the hearing board at the time the appellants' hearing is being conducted. The employee peer representative shall not be more than one (1) salary range above or below the salary range of the appellant. Assistant division heads and above shall not be eligible to serve on the appeals board except as a peer representative of the appellant.

"Sec. 5.3. Function of commission. The Career Service Commission shall serve in a fact-finding and advisory capacity to the city manager in matters relating to personnel administration of the city. The personnel director shall provide staff assistance as needed. The Career Service Commission shall make recommendations to the personnel director and city manager in the following areas of personnel administration:

(1) shall serve as an administrative advisory and fact-finding hearing board in the event any permanent employee who has completed his/her initial probationary period is suspended, demoted or dismissed from the city service. The commission shall act as a hearing board only at the request of the suspended, demoted or dismissed employee. Any suspended, demoted or dismissed employee shall have the right to appeal directly to the city manager, provided such appeal shall be requested in writing and further that such request shall waive the right to appeal to the Career Service Commission. Hearings shall be administrative in nature and shall be conducted in closed session, unless an open session is requested by the employee. Both the employee and the appointing authority may have any person of his choice available to represent him. In the event such person is an attorney, the attorney will be permitted only to represent his client, not plead his case as in a court of law. In this capacity, the hearing board shall gather facts through written and oral testimony from the appellant and the department head and/or witnesses for the appellant and the department head; determine facts derived from such written and oral testimony and submit recommendations and finding of facts in writing to the city manager and the employee. Final action shall be taken by the city manager within 10 days from the time such recommendations and finding of facts are received from the commission (10 working days). Final action taken by the city manager shall be in writing with copies to the appellant, the department head, all members of the hearing board and the personnel file of the appellant;

(2) shall advise in methods used for recruitment and selection of candidates for appointment and promotion in city employment;

(3) shall serve as an oral interview board for designated classes of positions;

(4) shall advise on matters pertaining to the maintenance of the city's classification plan;

(5) shall advise on matters relating to affirmative action and equal employment opportunity in city employment;

(6) shall advise on matters pertaining to the job performance appraisal system of the city;

(7) shall advise on policies and procedures governing the city's fringe benefit programs;

(8) shall advise concerning methods of improving employee-employer relations;

(9) shall advise on matters pertaining to training and safety programs for city employees;

(10) shall advise on any other personnel matters as requested by the city manager.

"Sec. 5.4. Amendments to personnel ordinance. Amendments to the Personnel Ordinance of the City of High Point shall be made only after notice and a public hearing. Such notice shall be published at least twice in a newspaper having general circulation in the City of High Point. The first notice shall be published not less than 20 days prior to the public hearing and the second notice shall be published not more than three (3) days prior to the public hearing. After the public hearing, if the amendment as originally proposed or as thereafter revised, be approved by the council, it shall become effective as otherwise provided by law.

#### "ARTICLE VI.

##### "ALCOHOLIC BEVERAGE CONTROL.

"Sec. 6.1. Membership; term of office; appointment; vacancy.

"Sec. 6.2. Powers and duties.

"Sec. 6.3. Distribution of profit.

"Sec. 6.1. Membership; term of office; appointment; vacancy. The City of High Point Board of Alcoholic Control shall be composed of a chairman and two (2) other members who shall be well known for their character, ability, and business acumen. The chairman and two (2) other members of the Board shall serve for terms of three (3) years each on a staggered basis, with the term of one (1) member expiring each year. All appointments to the Board, including appointments to fill vacancies, shall be made by the Mayor and City Council of High Point. Compensation of the members of the board of alcoholic control shall be fixed by the council. Any member appointed to the board must be a resident of the City of High Point and in the event any member, during the term of his appointment, shall move out of the corporate limits of the City of High Point it shall be the duty of the council to appoint a person to fill the vacancy.

"Sec. 6.2. Powers and duties. The Board shall have all the powers and duties imposed by State law on county boards of alcoholic control, shall be subject to the authority of the State Board of Alcoholic Control to the same extent as are county boards of alcoholic control, and shall operate all city alcoholic beverage control stores in accordance with State laws regulating the operation of county alcoholic beverage control stores. The Council of the City of High Point shall, upon its request, have the right to review any action taken by said Alcoholic Beverage Control Board and to either approve or disapprove the action.

"Sec. 6.3. Distribution of profit. The City of High Point Board of Alcoholic Control shall at the end of each quarterly period following the establishment of liquor control stores deduct the necessary expenses of the operation of such stores, and shall expend for law enforcement, education and rehabilitation purposes not less than five percent (5%) nor more than fifteen percent (15%) of the total profits, and shall retain a sufficient and proper working capital, the amount to be determined by the board; and the entire net profits derived from the operation of liquor control stores in the City of High Point shall be paid as follows:

a. Twenty percent (20%) of the net profits shall be apportioned and paid into the General Fund of Guilford County.

b. Eighty percent (80%) of the net profits shall be paid to the city collector of the City of High Point and may be used by the City of High Point for any public purposes.

#### “ARTICLE VII.

##### “EMINENT DOMAIN.

- “Sec. 7.1. Condemnation procedure; interest acquired.
- “Sec. 7.2. Effort to purchase not required.
- “Sec. 7.3. Resolution proposing condemnation.
- “Sec. 7.4. Service of resolution proposing condemnation.
- “Sec. 7.5. Failure of owners to appoint appraiser.
- “Sec. 7.6. Appointment of third appraiser; oath.
- “Sec. 7.7. First meeting of appraisers.
- “Sec. 7.8. Subsequent meetings; when notice required.
- “Sec. 7.9. Determination of damages and benefits; report.
- “Sec. 7.10. Action of council on report.
- “Sec. 7.11. Vesting of title in city.
- “Sec. 7.12. Appeal to superior court.
- “Sec. 7.13. Record upon appeal.
- “Sec. 7.14. Condemnation before determination of compensation.
- “Sec. 7.15. Registration of condemnation proceedings.
- “Sec. 7.16. Sale or other disposition of land condemned.
- “Sec. 7.17. Removal by city of structures on condemned land; lien.
- “Sec. 7.18. Procedure not exclusive.

“Sec. 7.1. Condemnation procedure; interest acquired. The City of High Point shall possess the power of eminent domain, and may acquire, either by purchase or condemnation, any land, right of access, right of way, water right, privilege, easement, or any other interest in or relating to land or water, either within or beyond the city limits, including and limited to a right of way in and across land owned or held as right of way by a railroad or other public utility company (provided that the operation of such railroad or other public utility company may not be impaired unreasonably thereby), for any lawful public use or purpose. Unless otherwise expressly provided in the condemnation resolution, a fee simple title shall pass to the city upon the condemnation of any such interest. In any case where the owner of land to be condemned or of any interest therein is a minor, an insane person, or otherwise under any disability, any notice hereinafter required by this Article to be served upon such owner shall be served upon his guardian, and service upon such guardian shall be sufficient without service on the minor, insane person, or person under disability. Thereafter such guardian may exercise on behalf of his ward with respect to such condemnation proceeding all the powers conferred upon such person as owner. Water rights or other interests relating to water may be condemned under the procedure set forth in this Article for the condemnation of land and interests therein.

If the City of High Point acquires, by purchase, condemnation, or otherwise, interests in or relating to land or water for a lawful public use or purpose, it may convey or lease the air rights over any public facility or facilities constructed on the property so acquired. The City may convey or lease these air rights pursuant to G.S. 160A-273 or pursuant to any other procedure authorized to it by this charter or other local act.



“Sec. 7.2. Effort to purchase not required. It shall not be necessary to the condemnation by the city of any land or interest therein, whether pursuant to this Article or otherwise, that the City shall have attempted to acquire the needed land by grant or purchase prior to the commencement of condemnation proceedings.

“Sec. 7.3. Resolution proposing condemnation. (a) When any land required by the city for any purpose allowed by this charter or the general law of the State is proposed to be condemned under the specific provisions of this charter, the council shall adopt a resolution which shall contain substantially the following provisions:

- (1) a description of the land proposed to be condemned in fee, or the interest or easement proposed to be condemned;
- (2) if there is any building or other property situated wholly or partly upon the land to be condemned, the determination of the city council as to whether the owner shall be allowed to remove such property or whether the same shall be condemned;
- (3) a statement of the purpose for which the land or easement is proposed to be condemned;
- (4) the name and address of the owner or owners of the land and of any other person or persons interested therein whom it is necessary to make a party to the proceeding;
- (5) the name of a disinterested freeholder of the city appointed as appraiser by the council;
- (6) a notice that the owner or owners of the land, or interest therein, or a majority in interest of the owners, may, within five days after service of the resolution upon all of them, appoint one appraiser (who shall be a disinterested freeholder of the city) to represent them, the name of which appraiser shall be reported in writing to the city clerk within said five days;
- (7) a notice that the appraiser appointed by the city and the appraiser appointed by the owner or owners, or if the owner or owners fail to appoint, then the two appraisers appointed by the city, shall appoint a third appraiser, and that the three thus appointed shall constitute a board of appraisers, whose duty it shall be to determine the damages and benefits which will result from the condemnation of said land or easement or interest therein;
- (8) a notice of the time fixed for the first meeting of the appraisers, and that the meeting will be held upon the premises to be condemned.

(b) It shall not be necessary to institute separate condemnation proceedings against the several owners of tracts or parcels of land affected by proposed local improvements.

“Sec. 7.4. Service of resolution proposing condemnation. A copy of the resolution proposing condemnation shall be personally served upon each of the owners of the land proposed to be condemned; provided, that if the resolution cannot be personally served upon any of the owners, then it may be served by publication once a week for two successive weeks in some newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the city.

“Sec. 7.5. Failure of owners to appoint appraiser. If within five days after service of the resolution upon all of the owners, they or a majority in interest of

them fail to appoint an appraiser and to report his name to the city clerk, the council shall appoint a disinterested freeholder of the city to represent them.

“Sec. 7.6. Appointment of third appraiser; oath. The appraiser appointed by the council, and the appraiser appointed by the owner or owners, or if the owner or owners fail to appoint, then the two appraisers appointed by the council, shall appoint a third appraiser, who shall be a disinterested freeholder of the city, and shall report his name to the city clerk. Each appraiser shall take an oath or affirmation that he will fairly and impartially discharge his duties as an appraiser.

“Sec. 7.7. First meeting of appraisers. At the time fixed by the resolution of condemnation, the appraisers shall meet on the premises proposed to be condemned. If for any reason a meeting cannot be held at the time fixed by the council, then a meeting shall be held at another time fixed by the appraisers, in which case notice of the time and place of the meeting shall be personally served upon each of the owners of the land or easement proposed to be condemned, or if the notice cannot be personally served, it may be served by publication once a week for two (2) successive weeks in some newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three (3) public places in the city. The notice, whether given personally, by publication, or by posting, shall be served not less than five (5) days prior to the date of the hearing. At the first meeting the appraisers shall view the premises affected by the proposed condemnation; and shall hear, but need not reduce to writing, any evidence as to damages and benefits that will result from the proposed condemnation presented by the owners or by the city. The appraisers may make their report at or after the hearing or they may, in their discretion, hold subsequent meetings.

“Sec. 7.8. Subsequent meetings; when notice required. Subsequent meetings of the appraisers shall be held at such times and places as may be determined by them. Of such meetings no notice need be given either to the owners or to the city unless the meetings are to be public and for the purpose of hearing evidence. If held for such purpose, then unless the meeting is held at a time and place to which a former meeting of which the parties had lawful notice was adjourned, notice of the meeting shall be personally served upon all the parties, or, if such notice cannot be personally served, it may be served by publication once a week for two (2) successive weeks in a newspaper published in the city which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three (3) public places in the city. The notice shall be served or publication or posting thereof completed not less than five (5) days prior to the time fixed for the meeting.

“Sec. 7.9. Determination of damages and benefits; report. In determining the compensation to be paid by the city for the land or easement condemned, the appraisers shall take into consideration both the loss or damage which will result to the owners from the condemnation of the land or easement and the benefits that will result to any remainder of such land from the improvement for which the land or easement is to be condemned, the benefits to include both benefits or advantages special to the land and the benefits or advantages to the land in common with other lands affected by the improvement. The appraisers shall also take into consideration the value of any building or other property situated on the land proposed to be condemned if the owner is to be allowed to remove the building or other property, and the value thereof shall not be

included in the compensation award. Having determined damages and benefits, the appraisers shall make their report to the council, in which report the appraisers shall show separately the amount of damages, the amount of benefits, and the amount which shall be paid by the city if it finally condemns the land or easement. In the event the property condemned is subject to a recorded lease or leases, the appraisers shall apportion the award between or among the person or persons owning the fee or fees and the person or persons owning the leasehold interest or interests; but in no event shall the total of the amounts so apportioned exceed the value of the property were it not subject to a recorded lease or leases. The report shall be sufficient if it is concurred in by two (2) of three (3) appraisers. In the event that no two (2) of the three (3) appraisers can agree upon an appraisal, three new appraisers may be appointed in the same manner as the original appraisers, and the new appraisal board shall follow the same procedure as required of the original appraisal board.

“Sec. 7.10. Action of council on report. Within 30 days after the report of the appraisers is submitted to the council, the council shall determine what action it will take thereon. If the council determines to abandon the proposed condemnation, it shall adopt a resolution to the effect; but the abandonment of the condemnation shall not prevent the council from thereafter instituting a proceeding to condemn the same land or easement. If the council determines to condemn the land or easement, it shall adopt a resolution which shall contain substantially the following:

(1) a recital that a board of appraisers has been appointed to determine the compensation to be paid for the land or easement, as provided by this charter, and that the appraisers have submitted their report to the council;

(2) a statement of the amount of damages and benefits as fixed by the appraisers and of the compensation to be paid by the city for the land or easement condemned as fixed by the appraisers;

(3) the determination of the council as to the condemnation of the land or easement;

(4) a description of the land condemned in fee or of the easement condemned;

(5) a statement of the purpose for which the land or easement is condemned;

(6) the name of the owner or owners of the land and of other persons interested therein who were made parties to the proceeding;

(7) the determination of the council as to the time when the city will take possession of the land or easement condemned, and a direction that such premises shall be vacated by such time, and, in case the owner is allowed to remove any building or part thereof or any other property on the premises, a direction that such property shall be removed before said date and that if the owner fails to remove the same within said time, the council will have the same removed and the cost thereof shall be a lien upon the remainder of the property.

“Sec. 7.11. Vesting of title in city. The adoption by the city council of a final resolution of condemnation, as provided in the preceding section, shall have the effect of a judgment against the City of High Point for the amount of compensation fixed by the appraisers and shall vest in the city title to the land or easement condemned.

“Sec. 7.12. Appeal to superior court. If upon the adoption by the council of a final resolution of condemnation, either the owner of the land or easement condemned or the city council itself is dissatisfied with the amount of the



compensation to be paid for such land or easement as fixed by the appraisers, such owner or the city or both may, within 10 days from the date of adoption of such resolution, appeal to the General Court of Justice, High Point Superior Court Division. The party or parties appealing shall, within 10 days, give notice of appeal to the other party by personal service if practicable and, if not, by publication of a notice one time in a newspaper published in the city which is qualified to carry legal notices. The appeal or appeals shall not interfere with the vesting in the city of the title to the land or easement condemned or hinder the city in any way from proceeding with the improvements for which such land or easement was condemned, except that if the land or interest therein is owned by another public or quasi-public body, or by a railroad or public utility company, the vesting of title in the city shall not become effective until the court has rendered final judgment on the question of whether the condemnation by the city is in the public interest, and has determined the amount of compensation to be awarded for the condemnation, in which case the court may, in its discretion, reduce the amount of land or interest therein which it shall allow to be condemned.

“Sec. 7.13. Record upon appeal. Upon an appeal taken by either party, the city clerk shall certify a copy of the record in the condemnation proceeding to the General Court of Justice, High Point Superior Court Division, and such appeal shall be tried as other actions at law. The record upon appeal shall be composed of the preliminary resolution of condemnation, the oath of appraisers, the report of appraisers, the final resolution of condemnation, and the notice or notices of appeal. The record upon appeal, or any part thereof, shall be competent as evidence upon the trial of an appeal.

“Sec. 7.14. Condemnation before determination of compensation. When, in the judgment of the council, the public interest requires that the city enter into immediate possession of any land, it shall adopt a resolution stating such necessity and the reason therefor, and condemning the required land or easement, and providing for the determination of the compensation to be paid by the city for the land or easement. The procedure therefor with respect to determination of such compensation shall follow as closely as practicable the provisions of this Article, or of the provisions of Article 11, Chapter 160A of the General Laws of North Carolina concerning ‘Eminent Domain.’ This section shall not apply to land, or interests therein, owned by another public or quasi-public body, or railroad or public utility company.

“Sec. 7.15. Registration of condemnation proceedings. In any case where any land or any easement therein has been or may hereafter be condemned by the council, a copy of so much of the condemnation proceedings as may be necessary to show the land or easement therein condemned and the condemnation thereof shall be certified by the city clerk and the same, upon being probated by the Clerk of the Superior Court, or other person authorized by law to probate instruments for registration, shall be registered in the office of the Register of Deeds of Guilford County.

“Sec. 7.16. Sale or other disposition of land condemned. When any land condemned in fee by the city is no longer needed for the purpose for which it was condemned, the same may be used by the city for any other public purpose or may be sold or otherwise disposed of.

“Sec. 7.17. Removal by city of structures on condemned land; lien. When property upon which any building or other structure is wholly or partly located



is condemned by the city under the provisions of this charter or any other law, and the owner is allowed to remove such building or structure or part thereof, the council may, after the report of the appraisers has been made, name the time within which the owner may remove the building or structure, or part thereof, and if the owner fails to remove the same within said time, the council may remove the same and the cost thereof shall be a lien upon the remainder of said land, or such cost may be recovered by the city in any court of competent jurisdiction.

“Sec. 7.18. 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. 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.

#### “ARTICLE VIII.

##### “LOCAL IMPROVEMENTS.

- “Sec. 8.1. General purpose.
- “Sec. 8.2. Procedure herein prescribed complete but not exclusive.
- “Sec. 8.3. Definition of terms.
- “Sec. 8.4. Local improvements authorized.
- “Sec. 8.5. Power to make local improvements embraced in this Article.
- “Sec. 8.6. Petition may embrace any one or more local improvements to which this Article is applicable.
- “Sec. 8.7. The petition; certificate of sufficiency of petition.
- “Sec. 8.8. When petition unnecessary.
- “Sec. 8.9. Preliminary resolution.
- “Sec. 8.10. Public hearing on preliminary resolution.
- “Sec. 8.11. Contents of resolution ordering improvement; publication.
- “Sec. 8.12. Governing body to determine details of construction; power with respect to contracts for construction.
- “Sec. 8.13. Governing body to determine cost of improvement.
- “Sec. 8.14. Preliminary assessment.
- “Sec. 8.15. Preliminary assessment roll.
- “Sec. 8.16. Filing of preliminary assessment roll; publication of notice of hearing thereon.
- “Sec. 8.17. Hearing; revision; confirmation; lien.
- “Sec. 8.18. Appeal to Superior Court.
- “Sec. 8.19. Power to correct error in assessment.
- “Sec. 8.20. Reassessment.
- “Sec. 8.21. Publication of notice of confirmation of assessment roll.
- “Sec. 8.22. Payment of assessments in cash or by installments.

- “Sec. 8.23. Enforcement of payment of assessments.
- “Sec. 8.24. Assessment of cost of water main and sewer extensions.
- “Sec. 8.25. Annual assessment of cost of maintenance and operation of lighting improvement.
- “Sec. 8.26. Apportionment of assessments.
- “Sec. 8.27. No change of ownership affects proceedings.
- “Sec. 8.28. Lands subject to assessment.
- “Sec. 8.29. Proceedings in rem.
- “Sec. 8.30. Street utility assessments.
- “Sec. 8.31. Sidewalk; paving, maintenance and repair.

“Sec. 8.1. General purpose. It is the purpose of this Article to provide a method whereby one or more local improvements of the kind specified in Section 8.4 of this Article and the assessments therefor may be made on or in one (1) or more streets in a single proceeding by the city.

“Sec. 8.2. Procedure herein prescribed complete but not exclusive. This Article is intended to prescribe the complete procedure for the making of those local improvements referred to in the Article and for assessing and collecting such portion of the cost thereof as is hereinafter provided; but the method hereby provided is not intended to be exclusive, and the city may proceed with respect to such local improvements either as prescribed by this Article or as is now or may hereafter be prescribed by the charter of the city or by other general laws of the State.

“Sec. 8.3. Definition of terms. In this Article certain words and phrases will be used with the following meaning, unless some other meaning is plainly intended:

- (1) The word ‘city’ shall mean the City of High Point, North Carolina.
- (2) ‘Governing body’ means the City Council of the City of High Point.
- (3) A ‘local improvement’ is an improvement defined by this Article and made under the provisions hereof.
- (4) A ‘street’ is a public way embracing a street, boulevard, avenue, lane, alley, parkway, court and terrace, but not embracing sidewalks.
- (5) A ‘sidewalk’ is a path for pedestrians along a street.
- (6) A ‘storm sewer’ is a conduit above or below ground for the passage of storm water, and may embrace a pumping station and outlet where deemed necessary; and may also embrace the building of culverts over or the enclosing of streams where necessary or advisable to carry off storm water.
- (7) A ‘sanitary sewer’ is an underground conduit for the passage of sewage, and may embrace a pumping station and outlet where deemed necessary.
- (8) A ‘water main’ is a pipe for the passage of city water for public hydrants and private and public use and consumption.
- (9) A ‘lateral’ is a pipe connecting a storm or sanitary sewer or water main with the line of adjacent property or the curb line, as the governing body may prescribe, being either a sewer lateral or a water lateral, but does not include a building connection, that is a pipe extending from a lateral at the property line or curb line to the house or plumbing fixtures on the property to be served.
- (10) The word ‘sewer’ includes both sanitary and storm sewers unless a contrary intention is shown.

"Sec. 8.4. Local improvements authorized. Improvements authorized to be made under the provisions of this Article are divided into eight classes, as follows:

(1) Water main improvements, which include the laying or construction of water mains, the relaying where necessary of parts of paved streets and sidewalks torn up or damaged incident to the laying or construction of such mains, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the governing body so directs, the laying of water laterals.

(2) Storm sewer improvements, which include the laying or construction of storm sewers, the relaying, where necessary, of parts of paved streets and sidewalks torn up or damaged incident to the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the governing body so directs, the laying of storm sewer laterals.

(3) Sanitary sewer improvements, which include the laying or construction of sanitary sewers, the relaying, where necessary, of parts of streets and sidewalks torn up or damaged incident to the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the governing body so directs, the laying of sanitary sewer laterals.

(4) Street paving improvements, which include the grading, regrading, paving, repaving, macadamizing and remacadamizing of streets, with necessary drainage, sewer inlets, manholes and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case where the improvement is made without petition if the governing body so directs, it may include the construction or reconstruction of curbs, gutters and drains.

(5) Sidewalk improvements, which include the grading, regrading, construction and reconstruction of paved or otherwise improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvement, and in any case where the improvement is made upon petition, if the petition so requests, or in any case where the improvement is made without petition if the governing body so directs, it may include the construction or reconstruction of curbs, gutters and drains.

(6) Grass plot improvements, which include the grading and planting of grass plots in a street or along one or both sides of a street.

(7) Lighting improvements, which include the construction of street lighting systems, consisting of ornamental lights or of lights of greater strength, or lights placed at more frequent intervals, or both, than is ordinarily provided by the city for streets of such character at public expense.

(8) Water front improvements, which embrace the construction of boardwalks, bulkheads, seawalls and other retaining walls along a bay, river, canal or lake, with necessary fills and dredging, and may embrace the acquisition by purchase, condemnation or otherwise of land, rights and easements therefor.

"Sec. 8.5. Power to make local improvements embraced in this Article. The power of the city to make the local improvements embraced in this Article shall be exercised only upon petition as set out in Section 8.7 of this Article, except in

those cases covered by Section 8.8 of this Article in which cases such power may be exercised without petition.

“Sec. 8.6. Petition may embrace any one or more local improvements to which this Article is applicable. Any petition to the governing body of the city for the making of the local improvements authorized by this Article may embrace any one (1) or more of the classes of local improvements named in Section 8.4, and may embrace improvements to be made on or in one (1) or more streets; provided, any improvement to be made on or in more than one (1) street shall be practically uniform in cost and kind throughout the improvement.

“Sec. 8.7. The petition; certificate of sufficiency of petition. The petition for any one (1) or more of such local improvements shall designate by a general description the improvement or improvements proposed, and shall request that the same be made in conformity with the provisions of this Article and that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the property abutting on the street or streets or part thereof in which or on which such improvements are proposed to be made. The petition shall be signed by at least a majority in number of the owners, which majority must own at least a majority of all the lineal feet of frontage, of the lands abutting upon the street or streets or part of a street or streets proposed to be improved, excluding street intersections, and for the purpose of the petition, all the owners of undivided interests in any land shall be deemed and treated as one (1) person and such land shall be sufficiently signed for when the petition is signed by the owner or owners of a majority in amount of such undivided interests; provided, that for the purpose of this section the word ‘owners’ shall be considered to mean the owners of any life estate, of an estate by entirety, or of the estate of inheritance, and shall not include mortgagees, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights of curtesy or dower. Upon the filing of such petition with the city, the clerk, or other person designated by the governing body thereof, shall investigate the sufficiency of the petition, and if it is found to be sufficient, he shall certify the same to the governing body.

“Sec. 8.8. When petition unnecessary. (a) Whenever in the judgment of the governing body of the city any street or part of a street is unsafe and dangerous, or whenever the paving or repaving of any street or part thereof is necessary in order to connect streets already paved, or whenever the paving of any street is necessary in order to connect any paved portion of the city’s streets with a paved highway outside the corporate limits of the city, or whenever the paving of any street or part thereof is necessary to provide a paved approach to any railroad underpass or overpass or other bridge, or whenever any paved street or part thereof has been widened, if in such case, in the opinion of the governing body, public interest requires that said improvement be made, and if, in the opinion of the governing body, the abutting property will be benefited by said improvement to the extent of the part of the cost thereof to be assessed against such abutting property, the governing body may without petition of the property owners order the making of such improvement. Whenever any such improvement is ordered made by authority of this section, the ordering of the paving of any street or part thereof may include the necessary water main and sewer improvements and the necessary water and sewer laterals, and it may, but



need not, include the construction of sidewalks on one (1) or both sides of the street.

(b) Whenever in the opinion of the governing body the best interest of the city will be served, and it will be more economical and the interest of the property owners will best be served by constructing either water or sanitary sewer mains, or both, between the streets rather than in a street, the petition may provide therefor, or in the event the water and sanitary sewer mains may be constructed in a street without petition, they may be constructed between streets without petition, and the cost of the construction of such water or sewer mains and laterals shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street; provided that the city shall provide the rights-of-way for construction and maintenance of such mains at its own expense and without assessing the costs thereof.

“Sec. 8.9. Preliminary resolution. Upon the finding by the governing body that the petition for a local improvement or improvements is sufficient, or when it is proposed to make without petition any improvement or improvements authorized to be made without petition by Section 8.8 of this Article, the governing body shall adopt a resolution which shall contain substantially the following:

(1) that a sufficient petition has been filed for the making of the improvement or improvements; or, if it is proposed to make the improvement or improvements without petition, a statement of the reasons proposed for the making thereof;

(2) a brief description of the proposed improvement or improvements;

(3) the proportion of the cost of the improvement or improvements to be specially assessed and the terms of payment;

(4) a notice of the time and place, when and where a public hearing will be held on the proposed improvement or improvements. (The time fixed for such public hearing shall be such as to allow for notice being given thereof not less than 10 days prior thereto.);

(5) a notice that all objections to the legality of the making of the proposed improvement or improvements shall be made in writing, signed in person or by attorney, and filed with the city clerk of the city at or before the time of such hearing, and that any such objections not so made will be waived.

The resolution shall be published one (1) time in a newspaper published in the city, or if there be no such newspaper, such resolution shall be posted in three (3) public places in the city for at least five (5) days, the date of publication or posting of the resolution to be not less than 10 days prior to the date fixed for the hearing.

“Sec. 8.10. Public hearing on preliminary resolution. At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the governing body shall consider such objections to the legality of the making of the improvement or improvements as have been made in compliance with subsection (5) of the preceding section, together with such objections as may be made to the policy or expediency of the making of the improvement or improvements; and the governing body shall thereafter determine whether it will order the making of said improvement or improvements. Any objection against the legality of the making of the improvement or improvements not made in writing, signed in person or by

attorney, and filed with the city clerk of the city at or before the time or adjourned time of such hearing shall be considered as waived; and if any such objection shall be made and shall not be sustained by the governing body, the adoption of the resolution ordering the making of the improvement or improvements as provided in the next following section, shall be the final adjudication of the issues presented, unless within 10 days after the adoption of such resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

“Sec. 8.11. Contents of resolution ordering improvement; publication. After such public hearing, if the governing body determines to make the improvement or improvements proposed, the governing body shall adopt a resolution which shall contain:

(1) if the improvement or improvements are to be made by virtue of a petition, a finding by the governing body as to the sufficiency of the petition. (The finding of the governing body as to the sufficiency of the petition shall be final and conclusive.) If the improvement or improvements are to be made without petition by virtue of the authority contained in Section 8.8 of this Article, a finding by the governing body of such facts as are required by said section in order to authorize said governing body to order such improvement or improvements made without petition;

(2) a general description of the improvement or improvements to be made and the designation of the street or streets or parts thereof where the work is to be done;

(3) if the improvement directed to be made is the paving of a street or part thereof wherein a street railway or railroad company has tracks, a direction that said company pave that part of the street occupied by its tracks, such part to include the space between the tracks, the rails of the tracks and 18 inches in width outside such tracks, with such material and in such manner as the governing body may prescribe, and that unless such paving shall be completed on or before a day specified in the resolution, the governing body will cause the same to be done; provided, however, that where any such company shall occupy such street or streets under a franchise or contract which otherwise provides, such franchise or contract shall not be affected by this section, except insofar as may be consistent with the provisions of such franchise or contract;

(4) if the improvement directed to be made includes the construction of water mains or sewers, and in order to provide such mains or sewers in the street or streets to be improved it is necessary to extend the same beyond the limits of such street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting on the street or streets in which such extensions are made but that such assessment shall not be made until such time as the governing body shall thereafter determine;

(5) if the improvement directed to be made is the paving of a street or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting on the part of the street to be improved, connect his lot by means of laterals with water mains, gas or sewer pipes, or any one (1) or more thereof, located in the street adjacent to his premises in accordance with the requirements of the city governing the laying of such laterals, and that unless such owners cause such laterals to be laid on or

before a date specified in the resolution, such date to be not less than 30 days after the date of the resolution, the governing body will cause the same to be laid;

(6) a designation of the proportion of the cost of the improvement or improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid. Said resolution after its passage shall be published at least once in some newspaper published in the city, or, if there be no such newspaper, such resolution shall be posted in three (3) public places in the city for at least five (5) days.

“Sec. 8.12. Governing body to determine details of construction; power with respect to contracts for construction. The governing body of the city shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any of the improvements authorized by this Article and to determine whether any work to be done by the city shall be done by contract or by forces of the city. Such governing body shall have power also subject to the provisions of Section 8.11, subsection (5) of this Article, to determine the number of water, sewer and gas laterals that shall be laid to any lot on any street to be improved. If said work or any part thereof is to be done by contract, the city may let all of said work in one (1) contract, or it may divide the same into several contracts, and may let said contracts separately. In any case where part of a street is required to be paved by a street railway or railroad company as provided in the next preceding section, the city may, in the discretion of its governing body, contract with said street railway or railroad company for said paving, or work incidental thereto, or both, and the cost of said paving or work incidental thereto, or both, as fixed by said contract shall constitute a lien on the franchises and other property of such street railway or railroad company.

“Sec. 8.13. Governing body to determine cost of improvement. Upon the completion of the improvement or improvements to be made by said resolution, the governing body of the city shall ascertain the total cost thereof. In addition to other items of cost, there shall be included in such total cost the cost of all necessary legal services, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of such damages, and the cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for such property damage, including the cost of moving or altering any building. In determining the cost of any street lighting improvement, the governing body shall ascertain the excess of cost of construction of said system of lighting over and above the cost of construction of such system of lighting as the city provides at public expense for streets of the same kind, and such excess shall be considered the cost thereof. In determining the cost of any of the improvements authorized by this act, the governing body shall include therein the interest paid on the cost of the improvement during the period of construction. The determination of the governing body as to the total cost of any improvement shall be conclusive.

“Sec. 8.14. Preliminary assessment. Having determined such total cost, the governing body of the city shall thereupon make a preliminary assessment as hereinafter set out in this section. Such preliminary assessment shall, however, be advisory only, and shall be subject to the action of the governing body thereon as hereinafter set out in Section 8.17 of this Article. Said preliminary



assessment shall be made on the basis hereinafter set out in this section for the classes of improvements indicated; provided, that if the petition, or the resolution, in those cases where the improvement was ordered made without petition, specified that there should be specially assessed against the abutting property a smaller proportion of the cost of any improvement than is hereinafter specified in this section, then there shall be assessed against such abutting property only such proportion of the cost of such improvement as was specified in said petition or in said resolution.

(1) Street paving. The total cost of any street paving improvement, exclusive of so much of said cost as is incurred at street intersections and the share of street railways or railroads, shall be specially assessed against the lots and parcels of land abutting directly on the street paved, according to the extent of their respective frontages thereon, by an equal rate per foot of such frontage. The cost of that part of the paving required to be borne by a street railway or railroad, which paving is done by the city after default by said street railway in making the same, as hereinbefore provided in this Article, or which is done by the city by contract with such railway or railroad as provided in Section 8.12 of this Article, shall be assessed against such street railway or railroad, and such assessment shall be a lien on all of the franchises and property of such street railway or railroad company, and may be collected by sale of such property and franchises as is provided in Section 8.23 of this Article.

(2) Sidewalks. The total cost of constructing or reconstructing sidewalks shall be assessed against the lots and parcels of land abutting on that side of the street upon which such improvement is made, according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lots to the curb line of an intersecting street.

(3) Water mains and sewers. In the case of water mains and storm and sanitary sewers, the cost of not exceeding an eight (8) inch water or sanitary sewer main and of not exceeding a 30 inch storm sewer main and of such portion of said mains as lie within the limits of the street or streets, or part thereof, to be improved as provided in the petition or resolution ordering the same, shall be assessed against the abutting property. Such cost shall be assessed against the lots and parcels of land abutting on said street or streets or parts thereof, according to their respective frontages thereon by an equal rate per foot of such frontage; provided, that in case of a corner lot, used as a single lot, where there is a water main or sewer already laid on the intersecting street on which such lot abuts and by which such lot is or can be served, no assessment shall be made against said lot for the second water main or sewer for any part of the frontage of said lot except that portion in excess of 150 feet if said lot is in a residential section of the city, or in excess of 100 feet if said lot is in a business section of the city, and in such case such portion of said cost as would otherwise be assessed against said lot shall be borne by the city; provided further, that if a water or sanitary sewer main in excess of eight (8) inches in size or a storm sewer main in excess of 30 inches in size is laid in said portion of said street or streets, then the cost of such water or sanitary sewer main in excess of the cost of an eight (8) inch main and the cost of such storm sewer main in excess of a 30 inch main shall be borne by the city; provided further, that if the resolution ordered the construction of any pumping station, outfall, septic tank or disposal plant,



no part of the cost of the same shall be specially assessed. Nothing contained herein shall be construed to limit the right of the city to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract.

(4) Water and sewer laterals. The entire cost of each water and sewer lateral required to be laid by the owner of the property for or in connection with which such lateral is laid, but laid by the city after default by such property owner in making the same as hereinbefore provided, shall be specially charged against the particular lot or parcel of land for or in connection with which it was made.

(5) Grass plots. The entire cost of grading or otherwise improving, or of planting, the grass plots in any street or part thereof, shall be assessed against the lots and parcels of land abutting on the street or part thereof wherein or whereon such improvements are made by an equal rate per front foot of such frontage; provided, that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or otherwise improved, the cost thereof shall be assessed against all of the property abutting on the street within the block where such grass plot is located.

(6) Lighting improvements. The cost of any lighting improvement, such cost being determined as provided in Section 8.13 of this Article, shall be specially assessed against the lots and parcels of land abutting directly on the street or streets, or part thereof, where such improvement is made, according to their respective frontages thereon by an equal rate per foot of such frontage.

(7) Water front improvements. The cost of any water front improvement shall be specially assessed against the lots and parcels of land abutting on the improvement according to their respective frontages thereon by an equal rate per foot of such frontage.

"Sec. 8.15. Preliminary assessment roll. For the purpose of assessment, the governing body of the city shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each such lot as determined under the provisions of the next preceding section, and the name or names of the owner or owners of each such lot, as far as the same can be ascertained; provided, that a general plan map of the improvement or improvements on which is shown the frontage and location of each lot on the street improved, together with the amount assessed against each such lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all of the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately.

"Sec. 8.16. Filing of preliminary assessment roll; publication of notice of hearing thereon. After such preliminary assessment roll has been completed, the governing body of the city shall cause it to be filed in the office of the clerk of the city for inspection by parties interested, and shall cause to be published one (1) time, in some newspaper published in the city, or if there be no such newspaper the governing body shall cause to be posted in three (3) public places in the city, a notice of the completion of the assessment roll, setting forth a description in general terms of the local improvement or improvements, and

stating the time fixed for the meeting of the governing body for the hearing of objections to the special assessments, such meeting to be not earlier than 10 days after the first publication or from the date of posting of said notice. Any number of assessment rolls may be included in one (1) notice. The governing body shall publish in said notice the amount of each assessment.

“Sec. 8.17. Hearing; revision; confirmation; lien. At the time appointed for that purpose or at some other time to which it may adjourn, the governing body of the city shall hear the objections to the preliminary assessment roll of all persons interested, who may appear and offer proof in relation thereto. Then or thereafter, the governing body shall either annul or sustain or modify in whole or in part the prima facie assessment as indicated on said roll, either by confirming the prima facie assessment against any or all lots or parcels described therein, or by cancelling, increasing or reducing the same, according to the special benefits which said governing body decides each of said lots or parcels has received or will receive on account of such improvement, except that assessments against railroads made because of contract or franchise obligations to pay a portion of cost shall be in accordance with such obligations. If any property which may be chargeable under this Article shall have been omitted from said preliminary roll or if the prima facie assessment has not been made against it, the governing body may place on said roll an apportionment to said property. The governing body may thereupon confirm said roll, but shall not confirm any assessment in excess of the special benefits to the property assessed and the assessments so confirmed shall be in proportion to the special benefits, except as hereinabove provided in the case of franchise obligations of railroads. Whenever the governing body shall confirm an assessment for a local improvement, the city clerk of the city shall enter on the minutes of the governing body and on the assessment roll, the date, hour, and minute of such confirmation, and from the time of such confirmation the assessments embraced in the assessment roll shall be a lien on the property against which the same are assessed of the same nature and to the same extent as county and city taxes and superior to all other liens and encumbrances. After the assessment roll is confirmed a copy of the same shall be delivered to the tax collector of the city.

“Sec. 8.18. Appeal to Superior Court. If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of such assessment he may, within 10 days after the confirmation of the assessment roll, give written notice to the mayor or city clerk of the city that he takes an appeal to the General Court of Justice, High Point Superior Court Division, in which case he shall within 20 days after the confirmation of the assessment roll serve on said mayor or city clerk a statement of facts upon which he bases his appeal. The appeal shall be tried as other actions at law. The remedy herein provided for any person dissatisfied with the amount of the assessment against any property of which he is the owner or in which he is interested shall be exclusive.

“Sec. 8.19. Power to correct error in assessment. If it shall be made to appear to the governing body after confirmation of any assessment roll that any error has been made therein, then the governing body shall cause to be published one (1) time in some newspaper published in the city, or if there be no such newspaper the governing body shall cause to be posted at three (3) public places in the city, a notice referring to the assessment roll in which such error was

made, naming the owner or owners of the lot or parcel of land with respect to which such error was made, if the same can be ascertained, and naming the time and place fixed for the meeting of the governing body for the correction of such error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of said notice. At the time fixed in the notice or at some subsequent time to which the governing body may adjourn, said governing body, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct such error, and the assessment then made shall have the same force and effect as if it had originally been properly made.

“Sec. 8.20. Reassessment. The governing body shall have the power, when in its judgment there is any irregularity, omission, error or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it, and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the public improvement involved, all interest paid or accrued on notes or certificates of indebtedness, or bonds issued by the city to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

“Sec. 8.21. Publication of notice of confirmation of assessment roll. After the expiration of 20 days from the confirmation of the assessment roll, the tax collector, or such other officer of the city as the governing body may direct so to do, shall cause to be published one (1) time in some newspaper published in the city, or, if there be no such newspaper, shall cause to be posted at three (3) public places in the city, a notice that any assessment contained in the assessment roll, naming and describing it, may be paid to him at any time before the expiration of 30 days from the date of publication or posting of the notice, without interest from the date of confirmation of said assessment roll, but that if such assessment is not paid in full within said time, all installments thereof shall bear interest at the rate of at least six percent (6%) per annum from said date of confirmation of the assessment roll.

“Sec. 8.22. Payment of assessments in cash or by installments. The property owner or street or railway or railroad hereinbefore mentioned in this Article shall have the option and privilege of paying for the improvements hereinbefore provided for in cash as provided in the preceding section or in not less than five (5) nor more than 10 equal annual installments as may have been determined in the original resolution ordering the improvement or improvements. If paid in installments, such installments shall bear interest at the rate of at least six percent (6%) per annum from the date of the confirmation of the assessment roll. If any assessment is not paid in cash, the first installment thereof with interest thereon shall become due and payable 30 days after the publication or posting of the notice required by the preceding section and one subsequent installment and interest thereon shall be due and payable on the same day of the same month in each successive year until said assessment is paid in full; provided, however, that if the governing body shall so direct such installments shall become due and payable on the same date when property taxes of the city are due and payable. If any installment with interest thereon is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided



for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

“Sec. 8.23. Enforcement of payment of assessments. In case of the failure of any property owner or street railway or railroad company to pay any installment when the same shall become due and payable, then and in that event all of the installments remaining unpaid shall immediately become due and payable, and such property and franchises may be sold by the city under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale of land for unpaid taxes. Collection of such assessments with interest and penalties, may also be made by the city by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution. After default in the payment of any installment, the payment of said installment, together with interest and penalties due thereon, before the lot or parcel of land, against which the same is a lien, is sold or said lien is foreclosed as hereinbefore provided, shall bar the right of the city to sell said land or to foreclose the lien thereon by reason of said default.

“Sec. 8.24. Assessment of cost of water main and sewer extensions. If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main or sewer or sewers, as provided in Section 8.11, subsection (4), of this Article, at such time after the completion of said extension or extensions as, in the judgment of the governing body, circumstances justify the assessment of the cost thereof, the governing body shall cause a preliminary assessment to be made as provided in Section 8.14, subsection (3), of this Article, and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed in this Article.

“Sec. 8.25. Annual assessment of cost of maintenance and operation of lighting improvement. After any lighting improvement is made as provided in this Article, the city is hereby authorized, as long as said lighting system shall be maintained, to make an annual assessment against the lands assessed with the original cost of the improvement sufficient to cover the excess of actual cost of maintenance and operation of said lighting system over and above the cost of maintenance and operation of such system of lighting as the city provides at public expense for streets of the same character as that whereon said lighting improvement is made. To that end the governing body of the city shall cause to be prepared a preliminary assessment which shall, as far as practicable, conform to the requirements of Section 8.14, subsection (6), of this Article; and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed in this Article.

“Sec. 8.26. Apportionment of assessments. When any special assessment has been made against any property for any improvement authorized by this Article, and it is desirable that said assessment be apportioned among subdivisions of said property, the governing body of the city shall have authority, upon petition of the owner of said property, to apportion said assessment fairly among said subdivisions. Thereafter, each of said subdivisions shall be relieved of any part of such original assessment except the part thereof apportioned to said subdivision; and the part of said original assessment



apportioned to any such subdivision shall be of the same force and effect as the original assessment.

“Sec. 8.27. No change of ownership affects proceedings. No change of ownership of any property or interest therein after the passage of a resolution ordering the making of any improvement authorized by this Article shall in any manner affect subsequent proceedings, and such improvement may be completed and assessments made therefor as if there had been no change in such ownership.

“Sec. 8.28. Lands subject to assessment. No lands in the city shall be exempt from special assessment as provided in this Article except lands belonging to the United States; and the governing body of the city in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvement authorized by this Article.

“Sec. 8.29. Proceedings in rem. All proceedings for special assessment under the provisions of this Article shall be regarded as proceedings 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 a substantial mistake or omission.

“Sec. 8.30. Street utility assessments. (a) The governing body of the city, by resolution duly adopted, is hereby authorized to provide that assessments levied against abutting lots or parcels of land for water main improvements or sanitary sewer improvements, when in the opinion of the governing body such improvement or improvements may not presently be used by the owner or owners of the abutting lots or parcels of land, may be held in abeyance without the payment of any interest thereon until such time as the governing body shall, by resolution duly adopted, determine that any such assessment or assessments shall be paid in accordance with the terms set out in the resolution confirming such assessment or assessments; provided, that a part of the assessments, levied for the improvement or improvements herein set out on a street or streets or portion thereof, may be held in abeyance as herein provided without holding all of said assessments in abeyance.

(b) All statutes of limitations, authorized by law are hereby suspended during the time that any assessment or assessments are held in abeyance without the payment of interest, as provided in subsection (a) of this section, and such time shall not be a part of the time limited for the commencement of action for the enforcement of the payment of any such assessment or assessments, and such action may be brought at any time within 10 years from the date of the adoption of a resolution by the governing body determining that such assessment or assessments shall be paid in accordance with the original resolution confirming such assessments.

“Sec. 8.31. Sidewalk; paving, maintenance and repair. Every owner of a lot abutting on a paved street, if so ordered by the Council of the City of High Point, shall pave, repave, repair and maintain in such manner as the council may direct, the sidewalk as far as it may extend along such lot, with such materials and in such manner as may be required by the council, and all work done under this section shall be under the strict supervision of the city manager, and on failure to do so as directed within 30 days after notice from the city manager or the director of public works of the city to such owner (if the owner be a nonresident, once a week for two (2) successive weeks in a newspaper published in High Point of a notice directed to said owner), calling on the owner

to pave, repave, repair and maintain the sidewalk, the Council of the City of High Point may cause the same to be made, and the expense shall be paid by the owner or owners in default, and the expense thereof shall be a lien upon the lot superior and prior to all liens except taxes, and collected in the same manner as provided by law for the collection of taxes.

“ARTICLE IX.

“GENERAL PROVISIONS.

- “Sec. 9.1. Removal of weeds, debris, trash; lien for cost of removal.
- “Sec. 9.2. Traffic Bureau.
- “Sec. 9.3. Public facilities on Deep River.
- “Sec. 9.4. Promotion of city.
- “Sec. 9.5. Purchasing, contracting, bidding.
- “Sec. 9.6. Appointment of park rangers and lake wardens.
- “Sec. 9.7. Public library.
- “Sec. 9.8. Downtown development projects.

“Sec. 9.1. Removal of weeds, debris, trash; lien for cost of removal. The council is hereby authorized and empowered, in its discretion, to promulgate ordinances, rules and regulations requiring the owner of any property on which there exists any debris, garbage, litter, weeds, undergrowth, trash or other offensive matter or thing to remove the same. If after due notice and an opportunity to be heard, the owner fails or refuses to remove such debris, garbage, litter, weeds, undergrowth, trash or other offensive matter or thing, the City of High Point is hereby authorized and empowered to cause the same to be removed and the cost of removal shall become a lien upon the property from which such removal occurred.

“Sec. 9.2. Traffic Bureau. (a) The Council of the City of High Point may by ordinance provide a traffic bureau to accept a plea of guilty and to otherwise handle the following traffic violations within the city:

- Parking over the allowed time
- Parking between one a.m. and six a.m.
- Parking more than 12 inches from the curb
- Parking within 25 feet of a street corner
- Parking within 15 feet of a fire hydrant
- Parking in a nonparking space
- Illegal use of loading zones, bus stops, and taxi stands
- Parking at entrance of alley or driveway
- Parking left side of curb
- Double parking

(b) Any person, firm or corporation receiving citations for the above offenses shall pay through the traffic bureau one dollar (\$1.00) as partial payment of the court cost for such violations or such other amounts as fixed from time to time by the council.

(c) Any person, firm or corporation cited by the law enforcement personnel of the City of High Point to appear before the traffic bureau may submit thereto a plea of guilty to such traffic violation or violations and tender the sum or sums provided for in subsection (b) of this section as partial payment of court cost for the violation or violations. In the event the person, firm or corporation so cited shall be unwilling to submit a plea of guilty to the traffic violation or violations, shown in the citation, thereupon a warrant shall be duly issued by the Police

Department of the City of High Point and the person so charged with the violation or violations shall be tried upon such warrant in the District Court.

No State tax shall be paid to the State of North Carolina in such cases, except where a warrant is issued and the case is tried in the District Court.

“Sec. 9.3. Public facilities on Deep River. (a) The council is authorized to make rules and regulations for the protection and use of the city’s raw water reservoir located on Deep River. Such rules and regulations shall include terms and conditions under which fishing and boating shall be permitted, fix a charge for fishing permits, and provide for a warden or wardens to enforce the rules and regulations.

(b) The council is authorized to make such rules and regulations as it may deem necessary to enforce the provisions of this section, and to carry out its true purpose and intent, for the protection, betterment, administration and use of the city’s park and swimming pool located on Deep River just below its water supply lake. Such rules and regulations shall provide for the use of streets, alleys, driveways, and authorize the establishing of parking areas and places in the park, and prohibit the sale and use of beer, wine and whiskey in the park.

(c) All rules and regulations adopted by the council pursuant to this section shall, upon their adoption, have the force and effect of ordinances and shall be enforced by law enforcement personnel of the city.

(d) Any parking regulations adopted pursuant to this section shall also be enforced by police officers of the city. Any police officer of the city who may be injured while enforcing the rules and regulations in the park shall be covered by the provisions of North Carolina Workmen’s Compensation Act.

(e) The violation of any of the rules and regulations shall be a misdemeanor and any person found guilty of violation of any one or more of the rules and regulations shall be punished for the violation by a fine of \$25.00 and the cost of the court.

“Sec. 9.4. Promotion of city. The council is hereby authorized and empowered to appropriate annually and to expend, in its discretion, a sum not exceeding \$10,000 for the purpose of advertising the city or promoting the public interest and general welfare of the city; provided, however, that any such appropriation, which is hereby declared to be for a public purpose, shall be from currently available nontax revenue.

“Sec. 9.5. Purchasing, contracting, bidding. (a) Contracts on informal bids. All contracts for construction or repair work or for the purchase of apparatus, supplies, materials or equipment involving expenditure of public funds in the amount of \$5,000 or more, but not in excess of \$10,000 made by any officer, department, board or commission of the city, when practical, shall be awarded to the lowest responsible bidder taking into consideration quality, performance and the time specified in the proposal for the performance of the contract, after informal bids have been secured; provided, contracts may be awarded upon receipt of one bid in all cases where there is only one (1) source of supply and in all cases where only one (1) bid has been received after efforts have been made in writing to secure more than one (1) bid, and it shall be the duty of such officer, department, board or commission to keep record of all bids submitted, and such records shall be subject to public inspection at any time.

(b) Procedure for letting Public Contracts. No construction or repair work or purchases of apparatus, supplies, materials or equipment requiring estimated expenditure of public money in an amount more than \$10,000, except in cases of

special emergencies as determined by the council involving health and safety of the people or their property, shall be performed and no contract shall be awarded therefor unless the provisions of this section are complied with.

(c) Advertisement for letting of contracts. Proposals shall be invited by advertisement at least one (1) week before the time specified for opening of such proposals in a newspaper having general circulation in the city. Such advertisement shall state the time and place where plans and specifications of proposed work or a complete description of the apparatus, supplies, materials, or equipment may be had, and the time and place for opening the proposals and the council shall reserve the right to reject any or all such proposals.

Proposals shall not be rejected for the purpose of evading the provisions of this section and the council shall not assume responsibility for the construction or purchase contracts and shall not guarantee payment of labor or materials therefor. All proposals shall be opened in public and shall be recorded on the minutes of the council and the award shall be made to the lowest responsible bidder, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract; provided, a committee selected by the council may open such proposals in advance of the meeting of council, analyze the bids and make recommendations to the council. In the event the lowest responsible bid is in excess of funds available for such purpose, the council is authorized to enter into negotiations with the lowest responsible bidder and may award such contract to such bidder if such bidder agrees to perform same, without making substantial changes in the plans and specifications, at a sum within the funds available therefor. If the contract cannot be let under the above conditions, the council is authorized to readvertise, as herein provided, the said letting and make such changes in the plans and specifications as may be necessary to bring the cost of the project within funds available therefor. The procedure above specified may be repeated if necessary in order to secure an acceptable contract within the funds available therefor. No proposal shall be considered or accepted by the council unless at the time of its filing the same shall be accompanied by a deposit with the council of cash or a cashier's check or a certified check on some bank or trust company insured by the Federal Deposit Insurance Corporation in an amount equal to not less than five percent (5%) of the proposal. In lieu of making cash deposit as above provided, such bidder may file a bid bond executed by a corporate surety licensed under the laws of North Carolina to execute such bonds, conditioned that the surety will upon demand forthwith make payment to the obligee upon the bond if the bidder fails to execute the contract in accordance with the bid bond and upon failure to forthwith make payment the surety shall pay the obligee an amount equal to double the amount of the bid bond. The deposit shall be retained if the successful bidder fails to execute the contract within 10 days after the award or fails to give satisfactory surety as herein required. All contracts to which this section applies shall be executed in writing, and the council shall require the person to whom the award of contract is made to furnish bond in some surety company authorized to do business in North Carolina, or require a deposit of money, certified check or government securities for the full amount of the contract for faithful performance of the terms of the contract in connection with awarding contracts covering construction or repair work only; and no such contract shall be altered except by written agreement of the contractor, sureties on his bond and the council. Such



surety bond or securities required herein shall be deposited with the city until the contract has been carried out in all respects.

Nothing in this section shall operate so as to require any public agency to enter into a contract that will prevent the use of unemployment relief labor paid for in whole or in part by appropriations or funds furnished by the State or Federal Government.

The council may enter into any contract with the United States of America or any agency thereof for the purchase, lease or acquisition of any apparatus, supplies, materials or equipment without regard to the provisions of this section which require:

- (1) Posting of notice or public advertisement for proposals or bids,
- (2) Inviting or receiving of competitive bids,
- (3) Delivery of purchases before payment,
- (4) Posting of deposits of bonds or other sureties,
- (5) Execution of written contracts.

The council may designate any office holder of the city to enter a bid or bids in its behalf at any sale of apparatus, supplies, materials, equipment or other property owned by the United States of America or any agency thereof, and may authorize such person to make any partial or down payment, or payment in full that may be required by regulations of the United States of America or any agency thereof in connection with such bid or bids.

(d) Minimum number of bids for public contracts. Proposal forms shall be mailed to prospective bidders in connection with awarding contracts under section (b) listed above, but the award may be made if only one (1) bid has been received.

(e) No evasion permitted. No bid or contract shall be divided for the purpose of evading the provisions of this section.

(f) City not limited on certain construction or repairs with own regular employees. The city is authorized to make repairs, install any sewer lines, water lines, street improvements, improvements or repairs to the electric utilities, or other improvements with its own regular employees regardless of the amount of the estimated cost, and to construct new buildings with its own regular employees when the estimated cost of each building shall not exceed \$50,000; provided, funds have been made available for the repairs or improvements.

“Sec. 9.6. Appointment of park rangers and lake wardens. (a) With respect to the use of city-owned reservoirs or bodies of water in Guilford County, the council may employ wardens to enforce any regulations, and stock such reservoirs with fish, and any lake wardens so employed shall, upon taking a proper oath, have all of the powers of peace officers, including the power of arrest, for the purpose, and no other, of enforcing federal and State laws and ordinances, rules and regulations of the city, which laws, ordinances, rules and regulations pertain to the protection of the city watershed and the protection of game and wildlife in this area; provided, that such lake wardens shall not be police officers of the city, nor shall they be eligible for membership in the Law Enforcement Officers Benefit and Retirement Fund, or in the High Point Policemen's Pension and Disability Retirement Fund.

(b) With respect to the use of city-owned or leased parks, playgrounds and recreation areas, the council may employ park rangers to enforce any such rules and regulations and any rangers so employed shall, upon taking a proper oath, have all of the powers of peace officers, including the power of arrest, for the

purpose, and no other, of enforcing federal and State laws and ordinances, rules and regulations of the city pertaining to parks and recreation areas; provided, that such park rangers shall not be police officers of the city, nor shall they be eligible for membership in the Law Enforcement Officers Benefit and Retirement Fund, or in the High Point Policemen's Pension and Disability Retirement Fund.

"Sec. 9.7. Public library. The council shall appoint a board of library trustees as now or hereafter authorized by the General Statutes of North Carolina.

"Sec. 9.8. Downtown development projects. (a) Definition. In this section, 'downtown development project' means a capital project in the city's central business district, as defined by the city council, comprising one or more buildings 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 a downtown 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 may, 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. A downtown development project may be constructed on property acquired by the developer or developers, on property directly acquired by the city, or on property acquired by the city while exercising the powers, duties, and responsibilities of a redevelopment commission pursuant to G.S. 160A-505.

(d) Property disposition. In connection with a downtown 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 while the city was exercising the powers, duties, and responsibilities of a redevelopment commission, the city may convey property interests pursuant to the 'Urban Redevelopment Law' or any local modification thereof.
- (2) If the property was acquired by the city directly, the city may convey property interests by private negotiation or sale, and G.S. Chapter 160A, Article 12 does not apply to such dispositions.

(e) Construction of the project. The contract between the city and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire downtown 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 G.S. Chapter 143, Article 8.

(f) Operation. The city may contract for the operation of any public facility or facilities included in a downtown redevelopment 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 a downtown development project, the city may apply for, accept and expend grant funds from the federal or State governments.

#### “ARTICLE X.

##### “TRANSITIONAL PROVISIONS.

- “Sec. 10.1. Terms of present officers.
- “Sec. 10.2. Ordinances and regulations.
- “Sec. 10.3. Contracts and obligations; proceeding.
- “Sec. 10.4. Section captions; rules of construction.

“Sec. 10.1. Terms of present officers. All present elected officers of the city shall hold their offices until the expiration of their present terms, and until their successors are elected and qualified, except as herein provided.

“Sec. 10.2. Ordinances and regulations. Existing ordinances, resolutions, rules and regulations of the city and its agencies now lawfully in effect not inconsistent with the provisions of this charter shall remain effective until they have been repealed, modified or amended.

“Sec. 10.3. Contracts and obligations; proceeding. (a) All contracts, orders, leases, bonds and other obligations or instruments entered into by the city or for its benefit prior to the effective date of this charter shall continue in effect according to the terms thereof, as obligations and rights of the city.

(b) No action or proceeding of any nature (whether civil or criminal), judicial or administrative, or otherwise, pending at the effective date of this charter by or against the city or its departments and agencies shall be abated or otherwise affected by the adoption of this charter.

(c) The existing agency and departmental organization of the city shall continue in effect upon the effective date of this charter until such organization is changed or reorganized as authorized by this charter.

“Sec. 10.4. Section captions; rules of construction. (a) The captions of the several sections of this charter are informative only and are not to be construed as a part thereof.

(b) The word ‘shall’ in this charter is intended to be mandatory and the word ‘may’ is to be permissive.

(c) In the construction of this charter, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the adopting body:

- (1) City. The words ‘the city’ or ‘this city’ shall mean the City of High Point, North Carolina.
- (2) County. The words ‘the county’ or ‘this county’ shall mean the respective Counties of Guilford, Randolph, and Davidson, North Carolina.

- (3) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
- (4) Governing body or governing authority. The words 'governing body' or 'governing authority' shall mean the Mayor and Council of the City of High Point, North Carolina.
- (5) Number. Words used in the singular include the plural, and the plural includes the singular number.
- (6) Or, and. 'Or' may be read 'and,' and 'and' may be read 'or' if the sense requires it.
- (7) Other officials or officers, etc. Whenever reference is made to officials, boards, commissions, departments, etc., by title only, i.e., 'mayor,' 'city council,' 'city manager,' they shall be deemed to refer to officials of the City of High Point, North Carolina.
- (8) Council or city council. The words 'council' or 'city council' shall mean or refer to Mayor and Council of the City of High Point.
- (9) Person. The word 'person' shall extend and be applied to firms, partnerships, associations, organizations and bodies politic and corporate, or any combination thereof, as well as to individuals.
- (10) State. The words 'the state' or 'this state' shall be construed to mean the State of North Carolina."

**Sec. 2.** City officers and employees. All elected or appointed officers and employees of the city immediately prior to the adoption of this act shall continue in their positions until the end of their terms of office or if no term is provided then as otherwise provided by this charter or ordinance.

**Sec. 3.** Laws unaffected. 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 High Point;

(2) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, pensions or obligations of any kind;

(3) any acts creating or amending the policemen's or firemen's pension systems of the city.

**Sec. 4.** Specific repealer. 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.

<u>Year</u>	<u>Chapter</u>	<u>Laws</u>
1909	468	Public laws
1911	332	Private laws
1913	95	Public-Local and Private laws
1915	33	Private laws
1915	169	Private laws
1931	71	Private laws
1931	107	Private laws
1931	122	Private laws
1931	131	Private laws



1931	158	Private laws
1931	171	Private laws
1933	130	Private laws
1933	150	Private laws
1933	251	Public-Local
1933	407	Public
1935	83	Private laws
1935	149	Private laws
1935	230	Private laws
1935	549	Public-Local
1937	107	Public-Local
1937	144	Public-Local
1937	402	Private laws
1939	89	Public-Local
1939	231	Public-Local
1939	238	Public-Local
1939	433	Public-Local
1939	516	Public-Local
1941	98	Public-Local
1941	161	Public-Local
1941	251	Public-Local
1941	266	Public-Local
1941	287	Public-Local
1943	212	Session laws
1943	402	Session laws
1943	429	Session laws
1943	533	Session laws
1945	27	Session laws
1945	28	Session laws
1945	133	Session laws
1945	746	Session laws
1947	349	Session laws
1947	523	Session laws
1947	528	Session laws
1947	629	Session laws
1947	841	Session laws
1947	962	Session laws
1947	1040	Session laws
1949	510	Session laws
1949	835	Session laws
1951	49	Session laws
1951	50	Session laws
1951	834	Session laws
1951	1182	Session laws
1953	59	Session laws
1953	353	Session laws
1953	749	Session laws
1953	844	Session laws
1953	1186	Session laws
1955	156	Session laws

1955	299	Session laws
1955	383	Session laws
1955	391	Session laws
1955	737	Session laws
1955	841	Session laws
1955	861	Session laws
1955	1148	Session laws
1957	554	Session laws
1959	190	Session laws
1959	242	Session laws
1959	243	Session laws
1959	778	Session laws
1959	827	Session laws
1959	828	Session laws
1959	829	Session laws
1959	830	Session laws
1959	831	Session laws
1959	1032	Session laws
1961	522	Session laws
1961	671	Session laws
1961	712	Session laws
1961	929	Session laws
1963	209	Session laws
1963	1103	Session laws
1965	946	Session laws
1967	313	Session laws
1967	337	Session laws
1967	813	Session laws
1969	951	Session laws
1969	425	Session laws
1969	426	Session laws
1971	686	Session laws
1971	721	Session laws
1971	684	Session laws
1973	281	Session laws
1973	181	Session laws
1973	1169	Session laws
1973	1192	Session laws
1977	459	Session laws
1977	248	Session laws
1977	540	Session laws
1977	246	Session laws

In addition to the repeal of specific acts provided for herein, Section 30 of Chapter 224, Session Laws 1927 as the same applies to the City of High Point, North Carolina is hereby repealed.

**Sec. 5.** Effect of repeals. 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 effect enumerated or designated laws.

**Sec. 6. Severability.** 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. 7. Reference to General Statutes; construction.** 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. 8. General repealer.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 9. Urban Redevelopment Law amendments.** The "Urban Redevelopment Law", G.S. Chapter 160A, Article 22, is amended as provided in this section. Each of the amendments made by this section apply to the City of High Point only.

(a) G.S. 160A-505 is amended by adding a new subsection (e) at the end thereof, as follows:

"(e) If a municipality, pursuant to this section has designated its housing authority to exercise the powers, duties, and responsibilities of a redevelopment commission, the governing body of the municipality may, by resolution, undertake to exercise the powers, duties, and responsibilities of a redevelopment commission with respect to all or a portion of a particular redevelopment area. If the municipality elects to undertake these powers, duties and responsibilities with respect to a portion of a redevelopment area only, the resolution shall describe the portion of the area involved."

(b) G.S. 160A-513(j) is amended by adding a new sentence at the end thereof to read as follows: "The commission may acquire property, execute contracts, and take other necessary actions in a redevelopment area at any time during the duration of the redevelopment plan."

(c) G.S. 160A-515 is amended by adding a new unnumbered paragraph at the end of the section, to read as follows:

"In addition to its authority to exercise the right of eminent domain pursuant to the procedures set out above in this section, a municipality exercising the powers, duties, and responsibilities of a redevelopment commission pursuant to G.S. 160A-505 may exercise the right of eminent domain in accordance with any procedure set out in its charter or otherwise authorized to it by law."

**Sec. 10. Disposition of redevelopment properties.** Chapter 1060 of the 1971 Session Laws, as amended, is further amended as follows:

(a) The second line of Section 2 thereof is rewritten as follows:

"(5) Convey at private sale or by private negotiation to any other redeveloper particular properties or interests therein within."

(b) Section 4 is amended by adding a new sentence at the end thereof to read as follows: "This act also applies to the City of High Point."

**Sec. 11.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

S. B. 673

**CHAPTER 502**

AN ACT RELATING TO THE SALE OF WINE BY COMMERCIAL WINERIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-113.70(b) is amended by adding a new proviso at the end of the first proviso in the first paragraph thereof, to read as follows:

“Provided further, that persons licensed under this subsection may make retail sales to the extent authorized under the Alcoholic Beverage Control Laws (Chapter 18A of the General Statutes, and this Article) and shall be subject to the same provisions as are applicable under this Article to all other properly licensed retailers of unfortified and fortified wine.”

**Sec. 2.** G.S. 105-113.72 is amended by adding a new sentence at the end of the second paragraph thereof, to read as follows:

“Manufacturers licensed under this section may make retail sales to the extent authorized under the Alcoholic Beverage Control Laws (Chapter 18A of the General Statutes, and this Article) and shall be subject to the same provisions as are applicable under this Article to all other properly licensed retailers of unfortified and fortified wine.”

**Sec. 3.** G.S. 105-113.88 is amended by adding a new sentence at the end thereof, to read as follows:

“For the purposes of this Article, where the term ‘wholesale distributor or importer’ is used with reference to wholesale distributors or importers of fortified and unfortified wine, such term shall include resident manufacturers of fortified and unfortified wine who make retail sales thereof pursuant to G.S. 18A-36.1, and G.S. 105-113.70(b) or G.S. 105-113.72.”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

S. B. 484

**CHAPTER 503**

AN ACT RELATING TO CONDEMNATION POWERS OF THE TOWNS OF FUQUAY-VARINA, AND KNIGHTDALE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any town has the power of eminent domain and may acquire by purchase, gift, or condemnation, any land, right of access, right-of-way, water right, privilege, easement, and any other interest in or relating to land, water, or improvements, either within or without the Town limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the town is vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the town and the town may follow the procedures now or hereafter prescribed by those laws.

**Sec. 2.** As an alternative to the procedures specified in Section 1 of this act, the town may exercise the power of eminent domain for any of the purposes enumerated in Section 1, subject to the following procedures and conditions:



(a) Institution of suit. The town may institute a civil action to condemn the land or interest in land by filing in the Superior Court of Wake County a complaint and a declaration of taking and by depositing with the clerk of the court the sum specified in subsection (b) of this section. Upon filing of the complaint and declaration of taking and the deposit of the required sum, summons shall be issued and served in the manner provided for service for process in civil actions, with a copy of the complaint and declaration of taking and notice of the amount of the deposit, upon the person or persons named in the complaint.

(b) Content of complaint and declaration of taking. The complaint and declaration of taking shall each include:

- (1) a statement of the authority under which, and the public use for which, the property is taken;
- (2) a description sufficient to identify the entire tract or tracts affected by the taking.
- (3) a statement of the estate or interest in land taken for the public use, and a description sufficient to identify the area taken; and
- (4) the names and addresses of those persons who the Town is informed and believes may have or claim to have an interest in the lands, so far as this information can by reasonable diligence be obtained. If any of these persons are infants, non compos mentis, or under any other disability, or if their names or whereabouts are unknown, the complaint and declaration of taking shall so state.

The complaint shall also list any liens or other encumbrances which the Town, in the exercise of reasonable diligence, is informed and believes exist against the land; and the complaint shall include a prayer that there be a determination of just compensation in accordance with this section.

The declaration of taking shall also state the amount of money which the Town estimates to be just compensation for the taking.

The Town may amend the complaint and declaration of taking, and may increase the amount of the deposit at any time while the proceedings are pending, and the owner shall have the same rights of withdrawal of any additional amount as he had in the original deposit.

(c) Answer; reply. Not later than 30 days after service of summons, complaint, and declaration of taking, any person named in the complaint may file an answer. The answer shall contain admissions or denials of the allegations of the complaint as are appropriate, the names and addresses of the persons filing the answer, together with a statement as to their respective interests in the property taken, and any affirmative defenses or matters that are pertinent to the action. The answer may (i) pray only for a determination of just compensation, in which case title to the property shall vest in the Town when all persons named in the complaint have answered, or the 30 days time for answering has expired, or (ii) deny the right of the Town to take the property for the use of purpose stated in the complaint, and pray for a determination of just compensation if the issue of right to take is resolved in favor of the town, in which case title to the property shall vest in the Town only upon judgment entered in the Superior Court upholding the Town's right to take.

Affirmative allegations in the answer shall be deemed denied by the Town, but the Town may file a reply within 30 days from receipt of a copy of the answer.

(d) After the filing of the answer, and reply if any, the judge upon motion and 10 days' notice by any party shall, either in or out of term, hear and determine all issues raised by the pleadings, other than the issue of just compensation. Only the issue of just compensation shall be determined by a jury if either party request a jury in accordance with the rules of civil procedure.

(e) Upon vesting of title to the property in the Town, the Town shall have right of immediate possession, and the court shall proceed to determine the issue of just compensation and to disburse the sum deposited by the Town, following as nearly as practicable the procedures set out in Article 9 of G.S. Chapter 136, adapted by substituting the town in place of the Department of Transportation."

**Sec. 3.** The provisions of this act 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. 4.** This act applies only to the Towns of Fuquay-Varina, and Knightdale.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

## H. B. 1078

## CHAPTER 504

### AN ACT TO ABOLISH AND TERMINATE CERTAIN BOARDS AND COMMISSIONS WHICH ARE NO LONGER FUNCTIONAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Abolition of the Sir Walter Raleigh Commission. (a) G.S. 143B-75, G.S. 143B-76, G.S. 143B-77 and G.S. 143B-78 as the same appear in 1978 Replacement Volume 3C of the General Statutes of North Carolina are hereby repealed.

(b) The Sir Walter Raleigh Commission of the Department of Cultural Resources is hereby abolished.

**Sec. 2.** Abolition of the American Revolution Bicentennial Committee. (a) G.S. 143B-81, G.S. 143B-82 and G.S. 143B-83 as the same appear in 1978 Replacement Volume 3C of the General Statutes of North Carolina are hereby repealed.

(b) The American Revolution Bicentennial Committee of the Department of Cultural Resources is hereby abolished.

**Sec. 3.** Abolition of the Crime Study Commission. (a) G.S. 143-521, G.S. 143-522, G.S. 143-523, G.S. 143-524, G.S. 143-525 and G.S. 143-526 as the same appear in 1978 Replacement Volume 3C of the General Statutes of North Carolina are hereby repealed.

(b) The Crime Study Commission of the Department of Administration is hereby abolished.

**Sec. 4.** Abolition of the Advisory Committee on Solid Waste Recycling, Resource Recovery, and Litter Control. (a) Chapter 972 of the 1975 Session Laws of the General Assembly of North Carolina is hereby repealed.

(b) The Advisory Committee on Solid Waste Recycling, Resource Recovery, and Litter Control of the Department of Natural Resources and Community Development is hereby abolished.

**Sec. 5.** Revenue Sharing Advisory Committee abolished. The Revenue Sharing Advisory Committee created by Executive Order Number 29 signed by Governor Robert W. Scott is hereby abolished.

**Sec. 6.** Abolition of State Employees' Awards Committee. The State Employees' Awards Committee heretofore established in the Office of State Personnel under the Department of Administration by the State Personnel Commission pursuant to G.S. 126-4(a) is hereby abolished.

**Sec. 7.** Abolition of the Advisory Panel on Design and Construction. The Advisory Panel on Design and Construction created by Executive Order Number 15 signed by Governor James E. Holshouser is hereby abolished.

**Sec. 8.** Abolition of Hospital Advisory Council. (a) G.S. 131-120(c) as the same appears in 1974 Replacement Volume 3B of the General Statutes of North Carolina is repealed.

(b) G.S. 131-120(d), as the same appears in Volume 3B of the General Statutes, is hereby amended by deleting the words "and the said State Advisory Council set up by the Governor as herein authorized" and the comma at the end of that phrase.

(c) The Hospital Advisory Council of the Department of Human Resources is hereby abolished.

**Sec. 9.** Abolition of Council for Institutional Boards. (a) G.S. 143B-169, G.S. 143B-170, G.S. 143B-171 and G.S. 143B-172 as the same appear in 1978 Replacement Volume 3C of the General Statutes of North Carolina are hereby repealed.

(b) The Council for Institutional Boards of the Department of Human Resources is abolished.

**Sec. 10.** Abolition of Council for Human Skills and Resource Development. (a) G.S. 143B-197, G.S. 143B-198, G.S. 143B-199, G.S. 143B-200 and G.S. 143B-201 as they appear in 1978 Replacement Volume 3C of the General Statutes of North Carolina are hereby repealed.

(b) The Commission for Human Skills and Resource Development of the Department of Human Resources is hereby abolished.

**Sec. 11.** Abolition of North Carolina Drug Advisory Council. The North Carolina Drug Advisory Council appointed by the Governor upon recommendation of the North Carolina Drug Authority pursuant to P. L. 255 of the 92nd Congress of the United States of America is hereby abolished and terminated.

**Sec. 12.** Abolition of the North Carolina Council on Juvenile Justice and Delinquency Prevention. The North Carolina Council on Juvenile Justice and Delinquency Prevention appointed by the Governor pursuant to the Juvenile Justice and Delinquency Act adopted by the 93rd Congress of the United States of America is hereby abolished and terminated.

**Sec. 13.** Abolition of the Nutrition Advisory Council. (a) G.S. 143B-216.6 and G.S. 143B-216.7 as the same appear in the 1978 Replacement Volume 3C of the General Statutes of North Carolina are hereby repealed.

(b) The Nutrition Advisory Council is hereby abolished.

**Sec. 14.** Abolition of the State Advisory Council for Hospitals. (a) Subsection (c) of G.S. 131-120 as the same appears in 1974 Replacement Volume 3B of the General Statutes of North Carolina is hereby repealed.

(b) Subsection (d) of G.S. 131-120 as the same appears in 1974 Replacement Volume 3B of the General Statutes of North Carolina is hereby amended by deleting on the first and second lines of said subsection (d) the words: "and the said State Advisory Council set up by the Governor as herein authorized,".

(c) The State Advisory Council for Hospitals is hereby abolished.

**Sec. 15.** Abolition of Public Health Standards Advisory Committee. (a) The first sentence of subsection (g) of G.S. 130-9 as the same appears in the 1977 Cumulative Supplement to 1974 Replacement Volume 3B of the General Statutes of North Carolina is hereby rewritten to read as follows: "The Commission for Health Services shall have the power, in the best interests of the public health, to establish reasonable standards governing the nature and scope of public health services rendered by local health departments."

(b) The Public Health Standards Advisory Committee is hereby abolished.

**Sec. 16.** G.S. 108-75.5 is repealed.

**Sec. 17.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1979.

## S. B. 383

## CHAPTER 505

### AN ACT TO CREATE AN ARTICLE TO DEAL SPECIFICALLY WITH PRIVATE CHURCH SCHOOLS AND SCHOOLS OF RELIGIOUS CHARTER.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Article is added to Chapter 115 of the General Statutes to read as follows:

#### "Article 32A.

##### "Private Church Schools and Schools of Religious Charter.

"§ 115-257.1. *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.'

"§ 115-257.2. *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 Article relates and which complies with this Article 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.

"§ 115-257.3. *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 1, 2, 3, 6, and 9. 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. 115-320.26, 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.

“§ 115-257.4. *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 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. 115-320.26, 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.

“§ 115-257.5. *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.

“§ 115-257.6. *New school notice requirements, termination.*—(a) Any new school to which this Article 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 Article applies shall notify a duly authorized representative of the State of North Carolina upon termination.

“§ 115-257.7. *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 Article shall be designated by the Governor.

“§ 115-257.8. *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 Article, shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1979.

S. B. 526

**CHAPTER 506****AN ACT TO CREATE AN ARTICLE TO DEAL WITH CERTAIN QUALIFIED NONPUBLIC SCHOOLS.***The General Assembly of North Carolina enacts:*

**Section 1.** A new Article is added to Chapter 115 of the General Statutes to read as follows:

**“ARTICLE 32B.****“Qualified Nonpublic Schools.**

“§ 115-257.8. *Qualification of nonpublic schools.*—The provisions of this Article shall apply to nonpublic schools which:

- (a) shall be accredited by the State Board of Education; or
- (b) shall be accredited by the Southern Association of Colleges and Schools; or
- (c) shall be an active member of the North Carolina Association of Independent Schools; or
- (d) receives no funding from the State of North Carolina.

“§ 115-257.9. *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 Article relates and which complies with this Article 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.

“§ 115-257.10. *Standardized 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 1, 2, 3, 6, and 9. 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. 115-320.26, 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.

“§ 115-257.11. *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 eleventh 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. 115-320.26, 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.

“§ 115-257.12. *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.

“§ 115-257.13. *New school notice requirements, termination.*—(a) Any new school to which this Article 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 Article applies shall notify a duly authorized representative of the State of North Carolina upon termination.

“§ 115-257.14. *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 Article shall be designated by the Governor.

“§ 115-257.15. *Requirements exclusive.*—No qualifying nonpublic school, which complies with the requirements of this Article, shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1979.

## H. B. 294

## CHAPTER 507

AN ACT TO PREVENT THE USE OF ARTIFICIAL LIGHT IN AREAS INHABITED BY GAME IN THE COUNTIES OF WILKES, CALDWELL AND YADKIN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 6 of Chapter 436 of the 1977 Session Laws is amended to read as follows:

“Sec. 6. This act shall apply only to the counties of Scotland, Wilkes, Caldwell and Yadkin.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1979.

H. B. 364

## CHAPTER 508

AN ACT TO AMEND THE NORTH CAROLINA BUSINESS CORPORATION ACT WITH RESPECT TO SALES OF SHARES AND OPTIONS TO EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55-45 is amended to read as follows:

“§ 55-45. *Sale of shares and options to employees.*—(a) Subject to the provisions contained in this Chapter or in its charter or by-laws, a corporation may provide for and carry out a plan for the sale or other disposition of its unissued or treasury shares, including but not limited to the issuance of rights or options to acquire such shares, to its employees or to the employees of its subsidiary corporations or to a trustee on their behalf. Such plan may include provisions, among others, for the kind and amount of consideration, payment in installments or at one time; aiding any such employees in paying for such shares by compensation for services, by loans, or otherwise; limiting the transferability of such shares, rights or options; the fixing of eligibility for participation in the plan; the class and price of shares to be sold under the plan; the number of shares which may be purchased, the method of payment therefor, the reservation of title until full payment; the effect of termination of employment; an option or obligation on the part of the corporation to repurchase the shares; and the time limits and termination of the plan; provided, however, that if the corporation providing for any such plan has fewer than 10 shareholders, such plan shall be approved by a majority of the outstanding shares of such corporation unless the charter of the corporation provides that such approval is not required. The term ‘employees’, as used in this section, includes officers in the full-time employment of the corporation, but nothing in this section is intended to permit financial aid to such officers in violation of G.S. 55-22.

(b) In any actions by, against or in behalf of a corporation to challenge the validity of any stock option granted to any employee, the *situs* of the option is deemed to be at the registered office of the corporation, and such action may be brought as an action *quasi in rem* with service of process by publication or outside the State as provided by law. Such action may also be brought as an action in *personam*. If two or more grantees of stock options are necessary or proper parties, they may be joined in accordance with the provisions of law applicable to class actions.”

**Sec. 2.** G.S. 55-56(c)(4) is amended to read as follows:

“(4) Shares sold or agreed to be sold to employees or rights or options for shares granted to employees as provided in G.S. 55-45, provided a plan for such sales or options is approved by the affirmative vote of a majority of the outstanding shares entitled to vote, or”.

**Sec. 3.** This act is effective April 1, 1980.

In the General Assembly read three times and ratified, this the 3rd day of May, 1979.



## H. B. 539

## CHAPTER 509

AN ACT TO PROVIDE THAT A CLAIM AGAINST A DECEDENT'S ESTATE IS NOT AUTOMATICALLY BARRED IF NOT PRESENTED WITHIN SIX MONTHS, TO THE EXTENT THAT SUCH CLAIM IS PROTECTED BY INSURANCE AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 28A-19-3 is hereby amended by adding a new subsection thereto to read as follows:

“(i) Nothing in this section shall bar:

- (1) any claim alleging the liability of the decedent or personal representative; or
- (2) any proceeding or action to establish the liability of the decedent or personal representative; or
- (3) the recovery on any judgment against the decedent or personal representative

to the extent that the decedent or personal representative is protected by insurance coverage with respect to such claim, proceeding or judgment.”

**Sec. 2.** G.S. 28A-14-3 is hereby rewritten to read as follows:

“§ 28A-14-3. *Personal notice to creditors.*—The personal representative or collector may cause the notice to be personally served on any creditor.”

**Sec. 3.** This act shall become effective September 1, 1979, and shall apply to the administration of estates of decedents dying on or after the effective date.

In the General Assembly read three times and ratified, this the 3rd day of May, 1979.

## H. B. 564

## CHAPTER 510

AN ACT TO PROHIBIT ACTS OF MEDICAID FRAUD AND ABUSE BY PROVIDERS AND ADMINISTRATORS AND TO PROVIDE PUNISHMENT FOR SUCH CRIMES.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 108 is amended by adding the following sections to Part 5 of Article 2:

“§ 108-61.5. *Medicaid 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
- (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 felony and, upon conviction, shall be punished by a fine of not more than ten

thousand dollars (\$10,000) or imprisonment for not more than five years, or both, in the discretion of the court.

“§ 108-61.6. *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 monies of a recipient resident of a provider health care facility with the funds or monies 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 felony punishable by a fine of not more than five thousand dollars (\$5,000) or imprisonment for not more than five years, or both, in the discretion of the court.

(c) For purposes of this Part:

- (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.”

**Sec. 2.** G.S. 108-48(b) is amended in line 7 by striking the words, “as in cases of larceny” and by substituting therefor the following:

“by a fine of not more than ten thousand dollars (\$10,000) or imprisonment for not more than five years, or both, in the discretion of the court.”

**Sec. 3.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 3rd day of May, 1979.

## H. B. 672

## CHAPTER 511

### AN ACT TO INCREASE THE PENALTIES FOR VIOLATING ORDINANCES OF THE CITY OF JACKSONVILLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-4 is amended by deleting the words “fined not more than fifty dollars (\$50.00), or imprisoned not more than thirty days.”, and inserting in lieu thereof the words “fined not more than five hundred dollars (\$500.00), or imprisoned not more than six months.”

**Sec. 2.** This act shall apply to the City of Jacksonville only.

**Sec. 3.** This act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1979.

## S. B. 541

## CHAPTER 512

## AN ACT AUTHORIZING BORROWING BY DEVELOPMENT AUTHORITIES CREATED BY GENERAL ASSEMBLY.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Article 12 is added to Chapter 159 of the General Statutes to read as follows:

“Article 12.

“Borrowing by Development Authorities Created by General Assembly.

“§ 159-183. *Borrowing Authority.*—A Development Authority created as a body corporate and politic by an act of the General Assembly, and having as its purpose to stimulate, foster, coordinate, plan, improve and encourage economic development in order to relieve poverty, dependency, chronic unemployment, underemployment and to promote the improvement and development of the economy of a county of the State, and whose members are appointed by the Board of Commissioners of such county, shall have authority to borrow money from an agency or instrumentality of the United States government and to execute and deliver obligations for the repayment thereof and to encumber its property for the purpose of securing any such obligation and to execute and deliver such mortgages, deeds of trust and other instruments as are necessary or proper for such purpose; provided, that such obligations shall be repayable only from the revenues of such authority.”

**Sec. 2.** Insofar as the provisions of this act are not consistent with the provisions of any other act or law, public or private, the provisions of this act shall be controlling.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1979.

## S. B. 550

## CHAPTER 513

## AN ACT TO EXTEND THE SUNSET PROVISION ON THE CONFEDERATE WOMEN'S HOME.

Whereas, the State of North Carolina has had a long standing commitment to the Confederate Women's Home in Fayetteville for the care of elderly daughters, wives, and widows of soldiers who fought in North Carolina regiments during the Civil War; and

Whereas, each of the 13 remaining residents had to initially give up all assets in order to meet the indigency requirement for admission to the home; and

Whereas, the Department of Human Resources has the authority under G.S. 112-3 to decide the location of the home; and

Whereas, by extending the sunset provision on the home in G.S. 112-1 the Department of Human Resources will continue to pay for the cost of care for these women, though not necessarily at the present location in Fayetteville; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 112-1 is amended by deleting the words “January 1, 1980,” and inserting in lieu thereof the words “July 1, 1984.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of May, 1979.

## H. B. 677

## CHAPTER 514

AN ACT TO PERMIT THE ENERGY POLICY COUNCIL TO UPDATE THE EMERGENCY PROGRAM AS NECESSARY AND FOR REIMBURSEMENT OF MEMBERS BY REGULAR APPROPRIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113B-4(c), as the same appears in the 1977 Cumulative Supplement to the 1975 Replacement Volume 3A of the General Statutes, is hereby amended by deleting the last sentence of subsection (c).

**Sec. 2.** G.S. 113B-9(j), as the same appears in the 1977 Cumulative Supplement to the 1975 Replacement Volume 3A of the General Statutes, is hereby amended to read as follows:

“The council shall update said program upon a finding by it that an update is justified and shall follow the procedures for adoption pursuant to G.S. 113B-7(e) and (f).”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

## H. B. 918

## CHAPTER 515

AN ACT TO REQUIRE RUBBER TIRES, OR TIRES OF OTHER RESILIENT MATERIAL, ON VEHICLES OPERATING ON PUBLIC HIGHWAY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 20 of the General Statutes is hereby amended by rewriting G.S. 20-122(a) to read as follows:

“No vehicle will be allowed to move on any public highway unless equipped with tires of rubber or other resilient material which depend upon compressed air, for support of a load, except by special permission of the Department of Transportation which may grant such special permits upon a showing of necessity. This subsection shall have no application to the movement of farm vehicles on highways.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.



## H. B. 922

## CHAPTER 516

AN ACT TO ESTABLISH A CIVIL AIR PATROL DIVISION WITHIN THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY AND TO PROVIDE BENEFITS FOR CIVIL AIR PATROL MEMBERS WHILE ON STATE APPROVED MISSIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part 5 to read:

“PART 5.

“Civil Air Patrol.

“§ 143B-490. *Civil Air Patrol Division-powers and duties.*—(a) There is hereby established, within the Department of Crime Control and Public Safety, the Civil Air Patrol Division, which shall be organized and staffed in accordance with this Part and within the limits of authorized appropriations.

(b) The Civil Air Patrol Division shall:

- (1) receive and supervise the expenditure of State funds provided by the General Assembly or otherwise secured by the State of North Carolina for the use and benefit of the North Carolina Wing-Civil Air Patrol;
- (2) supervise the maintenance and use of State provided facilities and equipment by the North Carolina Wing-Civil Air Patrol;
- (3) receive, from State and local governments, their agencies, and private citizens, requests for State approval for assistance by the North Carolina Wing-Civil Air Patrol in natural or man-made disasters or other emergency situations. Such State requested and approved missions shall be approved or denied by the Secretary of Crime Control and Public Safety or his designee under such rules, terms and conditions as are adopted by the Department.

“§ 143B-491. *Personnel and benefits.*—(a) The Wing Commander of the North Carolina Wing-Civil Air Patrol shall certify to the Secretary or his designee those senior members, 18 years of age or older, and who are in good standing, as senior members eligible for benefits. The Wing Commander shall provide the Secretary with two copies of the certification. The Secretary shall acknowledge receipt of, sign, and date both copies and return one to the Wing Commander. The Wing Commander shall, in the form and manner provided above, notify the Secretary of any changes in personnel within 30 days thereof. Upon the Secretary's signature, those members listed on the certification shall be eligible for the benefits listed below.

(b) Those members of the North Carolina Wing-Civil Air Patrol certified under subsection (a) of this section shall be deemed and considered employees of the Department of Crime Control and Public Safety for workmen's compensation purposes, and for no other purposes, while performing duties incident to a State requested and approved mission. Such period of employment shall not extend to said members while performing duties incident to a United States Air Force authorized mission or any other Wing activities.

“§ 143B-492. *State liability.*—Unless otherwise specifically provided, the members of the North Carolina Wing-Civil Air Patrol shall serve without compensation and shall not be entitled to the benefits of the retirement system for teachers and State employees as set forth in Chapter 135 of the General Statutes. The provisions of Article 31 of Chapter 143 of the General Statutes,

with respect to tort claims against State departments and agencies, shall not be applicable to the activities of the North Carolina Wing-Civil Air Patrol, and the State or its agencies shall not in any manner be liable for injury or damage to any person, firm, or corporation by reason of the acts of the North Carolina Wing-Civil Air Patrol, its subdivisions or any of the members or officers thereof. The State shall not in any manner be liable for any of the contracts, debts, or obligations of the said organization."

**Sec. 2.** G.S. 143-166.2(c) is amended on line two by deleting "or senior member of the Civil Air Patrol" and adding a new sentence at the end which reads as follows:

"When applied to a senior member of the Civil Air Patrol as defined in this Article, 'killed in the line of duty' shall mean any such senior member of the North Carolina Wing-Civil Air Patrol who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while engaged in a State requested and approved mission pursuant to Article 11 of Chapter 143B of the General Statutes."

**Sec. 3.** G.S. 143-166.2(d) is amended by deleting the last sentence and substituting the following in lieu thereof:

"The term 'Civil Air Patrol members' shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a)."

**Sec. 4.** G.S. 97-2(2), as the same appears in the 1977 Cumulative Supplement to Volume 2D of the North Carolina General Statutes, is amended by deleting paragraph five beginning on line 59 and substituting in lieu thereof the following:

"The term employee shall also include senior members of the Civil Air Patrol, 18 years of age or older, and currently certified pursuant to G.S. 143B-491(a) when performing duties in the course and scope of a State requested and approved mission pursuant to Article 11 of Chapter 143B."

**Sec. 5.** G.S. 97-2(5), as the same appears in the 1977 Cumulative Supplement to Volume 2D of the North Carolina General Statutes, is amended by deleting the word and number "Article 5" from lines four and five of the fifth paragraph, and by substituting in lieu thereof the word and number "Article 11".

**Sec. 6.** G.S. 167-2 is repealed.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

H. B. 924

## CHAPTER 517

## AN ACT TO PERMIT LIMITED ADMINISTRATION COSTS TO BE RECEIVED BY POLITICAL COMMITTEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-278.19 is amended by adding a new subsection (e) to read:

“(e) Notwithstanding the prohibitions specified in this Article and Article 22 of this Chapter, a political committee organized under provisions of this Article shall be entitled to receive and the corporation, business entity, labor union, professional association, or insurance company designated on the committee’s organizational report as the parent entity of the employees or members who organized the committee is authorized to give reasonable administrative support that shall include, but not be limited to, record keeping, computer services, billings, mailings to members of the committee, and such other support as is reasonably necessary for the administration of the committee.

The approximate cost of any record keeping, computer services, billings, mailings, office supplies, and office space provided on a continuing basis shall be submitted to the committee, in writing, and the committee shall include that cost on the annual report required by G.S. 163-278.9(a)(e). Also included in the report shall be the approximate allocable portion of the compensation of any officer or employee of the corporation, business entity, labor union, professional association, or insurance company who has devoted more than thirty-five percent (35%) of his time during normal business hours of the corporation, business entity, labor union, professional association, or insurance company during the period covered by the required report. The approximate cost submitted by the parent corporation, business entity, labor union, professional association, or insurance company shall be entered on the committee’s annual report as the final entry on its list of ‘contributions’ and a copy of the written approximate cost received by it shall be attached.”

**Sec. 2.** The administrative support given by a corporation, business entity, labor union, professional association, or insurance company shall be designated on the books of the corporation, business entity, labor union, professional association, or insurance company as such and may not be treated by it as a business deduction for State income tax purposes.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

H. B. 941

## CHAPTER 518

## AN ACT TO PROVIDE FOR THE REMOVAL OF SHERIFFS AS IN THE CASE OF OTHER PUBLIC OFFICERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 162-4 as the same appears in 1976 Replacement Volume 3D of the General Statutes is hereby repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

H. B. 1102

**CHAPTER 519****AN ACT RELATING TO MEMBERSHIP ON SOIL AND WATER CONSERVATION DISTRICT BOARDS.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 139-6, as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by adding the following sentence to the fifth paragraph:

“If the position of district supervisor is not filled by failure to elect, then the office shall be deemed vacant upon the expiration of the term of the incumbent, and the office shall be filled as provided in G.S. 139-7.”

**Sec. 2.** G.S. 139-7, as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by adding the words “from the district” after the word “persons” on line eight; by adding the words “the office shall be deemed vacant on the date the term is set to expire and” after the comma following the word “required” on line 10; and by substituting the words “person from the district” for the words “district supervisor” on line 27.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

H. B. 1149

**CHAPTER 520****AN ACT TO MAKE STATEWIDE A LAW ALLOWING SANITARY DISTRICTS IN CERTAIN COUNTIES TO PROVIDE SEWER SERVICE OUTSIDE THE DISTRICT BOUNDARIES.***The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 882, Session Laws of 1973 (Second Session, 1974), is repealed.

**Sec. 2.** G.S. 130-128(9)b. is amended by inserting immediately after the word “water” in line 3, the words “and sewer service” and by adding after the word “water” in the last line, the words “and adequate sewer service”.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

H. B. 1266

**CHAPTER 521****AN ACT RELATING TO CERTIFICATION OF MUNICIPAL AND COUNTY BUILDING INSPECTORS.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-151.13(c) is amended by rewriting the last sentence of the first paragraph to read as follows:

“The limited certificate shall be valid only as an authorization for the official to continue in the position he held on the applicable date and shall become invalid if he does not complete in-service training within two years following the applicable date in the schedule below, according to the governmental jurisdiction’s population as published in the 1970 U.S. Census:

Counties & Municipalities over 75,000 population - July 1, 1979

Counties & Municipalities between 50,001 & 75,000 - July 1, 1981



Counties & Municipalities between 25,001 & 50,000 - July 1, 1983  
Counties & Municipalities 25,000 & under - July 1, 1985."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

## H. B. 1267

## CHAPTER 522

AN ACT TO CONTINUE THE ENFORCEMENT OF BUILDING CODE  
INSULATION AND ENERGY UTILIZATION STANDARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 12 of Chapter 703, Session Laws of 1977, is hereby repealed.

**Sec. 2.** Article 9C of Chapter 143 of the General Statutes, G.S. 143-151.26 through G.S. 143-151.36, is hereby reenacted.

**Sec. 3.** (a) G.S. 143-151.27 is amended on lines 1 and 2 by deleting the words and punctuation "Prior to September 1, 1977," and by capitalizing the word "the" following immediately thereafter.

(b) G.S. 143-151.27 is further amended on line 11 by deleting the words and punctuation "which is in existence on June 23, 1977." and by placing a period after the word "department".

(c) G.S. 143-151.27 is further amended on lines 5 and 12 by deleting on each line the word "shall" and inserting in lieu thereof the word "may".

**Sec. 4.** G.S. 143-151.28 is hereby amended on lines 1 and 2 by deleting the words and punctuation "Prior to January 1, 1978, and periodically thereafter," and by capitalizing the word "the" following immediately thereafter.

**Sec. 5.** G.S. 143-151.29 is hereby amended on line 1 by deleting the words and punctuation "On and after January 1, 1978," and inserting in lieu thereof the words "The governing body of a city or county may provide that".

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.

## H. B. 167

## CHAPTER 523

AN ACT TO MAKE IT A FELONY FOR A DEPARTMENT OF  
TRANSPORTATION EMPLOYEE TO FALSIFY TEST OR INSPECTION  
REPORTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 136 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 136-13.2. *Falsifying highway inspection reports.*—(a) Any employee or agent employed by the Department of Transportation or by an engineering or consulting firm engaged by the Department of Transportation, who knowingly falsifies any inspection report or test report required by the Department of Transportation in connection with the construction of highways, shall be guilty of a felony.

(b) Any employee, supervisor, or officer of the Department of Transportation who directs a subordinate under his direct or indirect supervision to falsify an

inspection report or test report required by the Department of Transportation in connection with the construction of highways, shall be guilty of a felony.

(c) Any person convicted of the violation of this section shall be subject to a fine of not more than ten thousand dollars (\$10,000) or imprisoned not more than five years, or both."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

## H. B. 623

## CHAPTER 524

### AN ACT TO INCREASE THE PENALTY FOR ASSAULTS ON CERTAIN JUDICIAL OFFICIALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-33(b) is amended by adding a new subdivision to read:

"(5) assaults an officer of the North Carolina General Court of Justice while engaged in official judicial duties or on account of the performance of official judicial duties."

**Sec. 2.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

## H. B. 853

## CHAPTER 525

### 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. 1-21 as the same appears in the 1969 Replacement Volume 1A is hereby amended by adding a new paragraph at the end thereof to read as follows:

"The provisions of this section shall not apply to the extent that a court of this State has or continues to have jurisdiction over the person under the provisions of G.S. 1-75.4."

**Sec. 2.** G.S. 1-75.10(4) is hereby rewritten to read as follows:

"(4) Service by registered or certified mail. In the case of service by registered or certified mail, by affidavit of the serving party showing the circumstances warranting the use of service by registered or certified mail and averring:

- a. that a copy of the summons and complaint was deposited in the post office for mailing by registered or certified mail, return receipt requested;
- b. that it was in fact received as evidenced by the attached registry receipt or other evidence satisfactory to the court of delivery to the addressee; and
- c. that the genuine receipt or other evidence of delivery is attached."

**Sec. 3.** G.S. 7A-289.28 as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended on lines 3 and 4 by deleting the following: "or within 30 days from the date of first publication if service is by publication" and inserting in lieu thereof "or within

the time period established for a defendant's reply by G.S. 1A-1, Rule 4(j)(9)c. if service is by publication."

**Sec. 4.** G.S. 28A-19-12 as the same appears in the 1976 Replacement Volume 2A is hereby amended on lines 4 and 5 by deleting the following:

"; but such claim must be established upon the same proof and paid in like manner and order as required by law in case of other debts" and by inserting at the end thereof the following:

"Prior to payment of his own claim the personal representative shall receive written approval of the clerk of superior court. If the clerk does not approve the claim the personal representative may refer the claim as a disputed claim under the provisions of G.S. 28A-19-15. The provisions of G.S. 28A-19-1 and G.S. 28A-19-3 shall not apply to such claims and the personal representative may present his own claim at any time prior to the filing of his final account."

**Sec. 5.** G.S. 31-42(c) as the same appears in the 1976 Replacement Volume 2A is hereby rewritten to read as follows:

"(c) Devolution of void, revoked, or lapsed devises or legacies. If subsections (a) and (b) above are not applicable and if a contrary intent is not indicated by the will:

(1) Where a devise or legacy of any interest in property is void, is revoked, or lapses or which for any other reason fails to take effect, such a devise or legacy shall pass:

a. under the residuary clause of the will applicable to real property in case of such devise, or applicable to personal property in case of such legacy, or

b. as if the testator had died intestate with respect thereto when there is no such applicable residuary clause; and

(2) Where a residuary devise or legacy is void, revoked, lapsed or for any other reason fails to take effect with respect to any devisee or legatee named in the residuary clause itself or a member of a class described therein, then such devise or legacy shall continue as a part of the residue and shall pass to the other residuary devisees or legatees if any; or, if none, shall pass as if the testator had died intestate with respect thereto."

**Sec. 6.** G.S. 31B-3 is hereby amended by designating the existing provisions thereof as subsection (a) and by adding a new subsection (b) thereto to read as follows:

"(b) In the event that the property or interest renounced was created by testamentary disposition, the devolution of the property or interest renounced shall be governed by G.S. 31-42(a) and (b) notwithstanding that in fact the renouncer has not actually died before the testator."

**Sec. 7.** G.S. 31B-2(a) is hereby rewritten to read as follows:

"(a) An instrument renouncing a present interest shall be filed within the time period required under the applicable federal statute for a renunciation to be given effect for federal estate tax purposes. If there is no such federal statute the instrument shall be filed not later than seven months after the death of the decedent or donee of the power."

**Sec. 8.** G.S. 39-12 as the same appears in the 1977 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 5 after "fact." by adding a new sentence to read as follows: "When such a married person executes a power of attorney authorized by the preceding sentence

naming his or her spouse as attorney in fact the acknowledgment by the spouse of the grantor is not necessary.”

**Sec. 9.** A power of attorney executed by a married person naming his or her spouse as attorney in fact during the period between January 1, 1978, and the effective date of this act shall not be invalid because the spouse named as attorney in fact did not acknowledge the power of attorney if otherwise executed in accordance with G.S. 39-12.

**Sec. 10.** G.S. 50-4 as the same appears in the 1976 Replacement Volume 2A is hereby amended by deleting the following: “the second proviso contained in”.

**Sec. 11.** G.S. 90-220.4 is hereby amended by adding a new subsection to read as follows:

“(f) The making of a gift shall be deemed to include an authorization to the donee to review any medical records of the donor after the death of the donor.”

**Sec. 12.** Section 1 of this act shall become effective January 1, 1980, and shall not apply to causes of action arising prior to January 1, 1980. The remaining sections of this act are effective upon ratification, except they shall not affect pending litigation and Section 4 shall apply only to the administration of the estates of decedents dying on or after the effective date.

**Sec. 13.** G.S. 1-501 as the same appears in the 1977 Cumulative Supplement to Volume 1A (1975 Replacement) of the General Statutes is hereby amended on line 5 to add a new sentence to read as follows:

“Any resident judge of the Superior Court Division or any nonresident judge of the Superior Court Division assigned to a district who appoints receivers pursuant to the authority granted hereby while holding court in that district may, in his discretion, retain jurisdiction and supervision of the original action, of the receivers appointed therefor and of any other civil actions pending in the same district involving the receivers, following his rotation out of the district.”

**Sec. 14.** Section 13 of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

H. B. 952

## CHAPTER 526

### AN ACT TO CREATE THE CRIMINAL OFFENSE OF ALTERING COURT DOCUMENTS OR ENTERING UNAUTHORIZED JUDGMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 14 of the General Statutes is amended by adding a new section thereto to read:

“§ 14-221.2. *Altering court documents or entering unauthorized judgments.*—Any person who without lawful authority intentionally enters a judgment upon or materially alters or changes any criminal or civil process, criminal or civil pleading, or other official case record is guilty of a felony.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.



## H. B. 1097

## CHAPTER 527

AN ACT TO AMEND CHAPTER 48 OF THE 1979 SESSION LAWS TO FURTHER CLARIFY THE LIABILITY OF RETAIL DEALERS OF MOTOR VEHICLES TO PAY THE SALES TAX THEREON AND MAKE TECHNICAL CHANGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.4(1), as amended by Chapter 48 of the 1979 Session Laws, is further amended by adding at the end of the third paragraph thereof the following proviso:

“Provided, however, persons who lease or rent motor vehicles shall collect and remit the tax provided for in this Article on the separate retail sale of motor vehicles in addition to the tax imposed upon the receipts from the lease or rental of such motor vehicles.”

**Sec. 2.** G.S. 105-164.6(3A), as the same was enacted in Chapter 48 of the 1979 Session Laws, is amended by adding at the end of the second paragraph thereof the following proviso:

“Provided, however, persons who lease or rent motor vehicles in this State shall collect and remit the tax provided for in this Article on the separate retail sale of motor vehicles in this State in addition to the tax imposed upon the receipts from the lease or rental of such motor vehicles.”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

## H. B. 1123

## CHAPTER 528

AN ACT TO AMEND G.S. 58-61.2 TO PERMIT SOLICITATION, NEGOTIATION OR PAYMENT OF PREMIUMS ON TRAVEL ACCIDENT INSURANCE THROUGH CREDIT CARD FACILITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-61.2 is hereby amended by adding the following new paragraph at the end thereof:

“Nothing in this Article shall prohibit any authorized insurer qualified to do business in the State of North Carolina pursuant to the provisions of this Chapter, and any representative of such insurer or insurance broker, from employing or availing itself of the facilities of any person, firm or corporation engaged in the business of extending credit through a credit card system for the limited purposes of soliciting for or negotiating any contract of travel accident insurance upon any life or risk within the State of North Carolina arising from travel, including but not limited to airline flight insurance, or accepting the payment of premiums thereon, through the use of any credit card facility. Nor shall anything in this Article prohibit any person, firm or corporation engaged in the business of extending credit through a credit card system on behalf of any insurer, its representative or any insurance broker, from utilizing his or its credit card facilities for the limited purposes of soliciting for or negotiating contracts of travel accident insurance, including but not limited to airline flight insurance, or accepting the payment of premiums thereon, from credit card holders or prospective credit card holders who reside in this State.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

S. B. 337

### CHAPTER 529

AN ACT TO MAKE STATEWIDE THE PROVISIONS OF LAW  
REQUIRING PHYSICIANS AND HOSPITALS TO REPORT CERTAIN  
WOUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-21.21 is repealed.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

S. B. 374

### CHAPTER 530

AN ACT TO ALLOW THE TOWN OF MOUNT OLIVE TO INCREASE THE  
TAX LEVY ON MOTOR VEHICLES TO A MAXIMUM OF FIVE  
DOLLARS (\$5.00).

*The General Assembly of North Carolina enacts:*

**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 Mount Olive,".

**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 Mount Olive".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

S. B. 483

### CHAPTER 531

AN ACT RELATING TO CONDEMNATION POWERS OF THE TOWN OF  
WAKE FOREST.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Wake Forest, as found in Chapter 273, Session Laws of 1973, is amended by adding a new Article XIII to read:

#### "ARTICLE XIII.

#### "Eminent Domain.

"Sec. 13.1. Eminent domain: powers and procedures. The Town of Wake Forest has the power of eminent domain and may acquire by purchase, gift, or condemnation, any land, right of access, right-of-way, water right, privilege, easement, and any other interest in or relating to land, water, or improvements, either within or without the town limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the town is vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the Town of Wake Forest, and the town may follow the procedures now or hereafter prescribed by those laws.

"Sec. 13.2. Alternative procedures. As an alternative to the procedures specified in Sec. 13.1 of this Article, the Town of Wake Forest may exercise the power of eminent domain for any of the purposes enumerated in Sec. 13.1, subject to the following procedures and conditions:

(a) Institution of suit. The Town of Wake Forest may institute a civil action to condemn the land or interest in land by filing in the Superior Court of Wake County a complaint and a declaration of taking and by depositing with the clerk of the court the sum specified in subsection (b) of this section. Upon filing of the complaint and declaration of taking and the deposit of the required sum, summons shall be issued and served in the manner provided for service for process in civil actions, with a copy of the complaint and declaration of taking and notice of the amount of the deposit, upon the person or persons named in the complaint.

(b) Content of complaint and declaration of taking. The complaint and declaration of taking shall each include:

- (1) A statement of the authority under which, and the public use for which, the property is taken.
- (2) A description sufficient to identify the entire tract or tracts affected by the taking.
- (3) A statement of the estate or interest in land taken for the public use, and a description sufficient to identify the area taken.
- (4) The names and addresses of those persons who the Town is informed and believes may have or claim to have an interest in the lands, so far as this information can by reasonable diligence be obtained. If any of these persons are infants, non compos mentis, or under any other disability, or if their names or whereabouts are unknown, the complaint and declaration of taking shall so state.

The complaint shall also list any liens or other encumbrances which the Town, in the exercise of reasonable diligence, is informed and believes exist against the land; and the complaint shall include a prayer that there be a determination of just compensation in accordance with this section.

The declaration of taking shall also state the amount of money which the Town estimates to be just compensation for the taking.

The Town may amend the complaint and declaration of taking, and may increase the amount of the deposit at any time while the proceedings are pending, and the owner shall have the same rights of withdrawal of any additional amount as he had in the original deposit.

(c) Answer; reply. Not later than 30 days after service of summons, complaint, and declaration of taking, any person named in the complaint may file an answer. The answer shall contain admissions or denials of the allegations of the complaint as are appropriate, the names and addresses of the persons filing the answer, together with a statement as to their respective interests in the property taken, and any affirmative defenses or matters that are pertinent to the action. The answer may (i) pray only for a determination of just compensation, in which case title to the property shall vest in the Town when all persons named in the complaint have answered, or the 30 days time for answering has expired, or (ii) deny the right of the Town to take the property for the use or purpose stated in the complaint, and pray for a determination of just compensation if the issue of right to take is resolved in favor of the Town,

in which case title to the property shall vest in the Town only upon judgment entered in the superior court upholding the Town's right to take.

Affirmative allegations in the answer shall be deemed denied by the Town, but the Town may file a reply within 30 days from receipt of a copy of the answer.

(d) After the filing of the answer, and reply if any, the judge upon motion and 10 days' notice by any party shall, either in or out of term, hear and determine all issues raised by the pleadings, other than the issue of just compensation. Only the issue of just compensation shall be determined by a jury if either party request a jury in accordance with the rules of civil procedure, Chapter 1A of the General Statutes.

(e) Upon vesting of title to the property in the Town, the Town shall have right of immediate possession, and the court shall proceed to determine the issue of just compensation and to disburse the sum deposited by the Town, following as nearly as practicable the procedures set out in Article 9 of G.S. Chapter 136, adapted by substituting the Town of Wake Forest in place of the Department of Transportation."

**Sec. 2.** The provisions of this act 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. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

S. B. 538

**CHAPTER 532****AN ACT TO AMEND THE RIGHTS OF INNKEEPERS AND GUESTS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 72-1 is amended to read as follows:

"§ 72-1. *Must furnish accommodations, contracts for termination valid.*—(a) Every innkeeper shall at all times provide suitable lodging accommodations for persons accepted as guests in his inn or hotel.

(b) A written statement setting forth the time period during which a guest may occupy an assigned room, signed or initialed by the guest, shall be deemed a valid contract, and at the expiration of such time period the lodger may be restrained from entering and any property of the guest may be removed by the innkeeper without liability, except for damages to or loss of such property attributable to its removal."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.



## S. B. 567

## CHAPTER 533

## AN ACT TO ADD A PUBLIC MEMBER TO THE NORTH CAROLINA STATE BOARD OF OPTICIANS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-238 is amended by deleting the second, third, and fourth sentences of that section and substituting in lieu thereof the following:

“The Board shall consist of six members appointed by the Governor as follows:

(1) five dispensing opticians, each of whom shall serve a five-year term. Each year, as the term of one dispensing optician expires, the Governor shall appoint a dispensing optician to the Board chosen from a list of names submitted by the North Carolina Opticians Association. That list shall be composed of the names of dispensing opticians licensed to practice in this State who will have been engaged in the practice of dispensing opticianry for at least five years prior to appointment to the Board.

(2) one citizen and resident of North Carolina who is not licensed to practice opticianry, who shall serve a four-year term.

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.”

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of May, 1979.

## H. B. 131

## CHAPTER 534

## AN ACT TO PREVENT A PERSON FROM SIGNING THE NAME OF ANOTHER PERSON TO AN ELECTION PETITION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-221 is rewritten to read:

“§ 163-221. *Persons may not sign name of another to petition.*—(a) No person may sign the name of another person to:

- (1) any petition calling for an election or referendum;
- (2) any petition under G.S. 163-96 for the formulation of a new political party;
- (3) any petition under G.S. 163-107.1 requesting a person to be a candidate;
- (4) any petition under G.S. 163-122 to have the name of an unaffiliated candidate placed on the general election ballot, or under G.S. 163-296 to have the name of an unaffiliated or nonpartisan candidate placed on the regular municipal election ballot; or
- (5) any petition under G.S. 163-213.5 to place a name on the ballot under the Presidential Preference Primary Act.

(b) Any name signed on a petition, in violation of this section, shall be void.

(c) Any person who willfully violates this section is guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than six months or fined in an amount not to exceed five hundred dollars (\$500.00), or both.”

**Sec. 2.** G.S. 163-122 is amended by adding a new subdivision (3) to read: “The board of elections shall examine and verify the signatures on the petition

and shall certify only the names of signers who are found to be qualified registered voters in the county."

**Sec. 3.** G.S. 163-296 is amended by adding the following language at the end of the section: "The board of elections shall examine and verify the signatures on the petition, and shall certify only the names of signers who are found to be qualified registered voters in the municipality."

**Sec. 4.** G.S. 163-296 and G.S. 163-299(a)(2) are amended by deleting the word "independent", and inserting in lieu thereof the word "unaffiliated".

**Sec. 5.** This act is effective with respect to elections held on or after July 1, 1979.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## H. B. 175

## CHAPTER 535

AN ACT TO AMEND THE OIL POLLUTION CONTROL ACT OF 1973; G.S. 143-215.75, ET SEQ.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.75 as it now appears in the 1978 Replacement Volume 3C of the General Statutes is amended by deleting the words "Oil Pollution Control Act of 1973" as they appear in line 2 and by inserting instead "Oil Pollution and Hazardous Substances Control Act of 1978".

**Sec. 2.** G.S. 143-215.76 as it now appears in the 1978 Replacement Volume 3C of the General Statutes is amended by

(a) inserting a comma after the word "products" as it appears in line 4 and by deleting the word "and" as it appears in line 4; and then

(b) deleting the period in line 4 and substituting instead a comma followed by the phrase "and other hazardous substances".

**Sec. 3.** G.S. 143-215.77(4) as it now appears in the 1978 Replacement Volume 3C of the General Statutes is amended by

(a) inserting the phrase "or other hazardous substances" after the word "oil" and before the word "into" as the same appears in line 2;

(b) inserting the phrase "or other hazardous substances" after the word "oil" and before the word "is" as the same appears in line 3;

(c) inserting the phrase "or other hazardous substances" after the word "oil" and before the comma as the same appears in line 10;

(d) deleting the word "on" in line 13 and substituting therefor the words "in accepted" and by deleting the word "crops" in line 14 and substituting therefor the word "practices"; and

(e) adding thereto, immediately before the period at the end of the definition of the word "discharge", the following: "; provided, further, that the use of a pesticide regulated by the North Carolina Pesticide Board in a manner consistent with the labelling required by the North Carolina Pesticide Law shall not constitute a 'discharge' for purposes of this Article."

**Sec. 4.** G.S. 143-215.77 as it now appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting a new subpart (6) which reads: "(6) 'Hazardous substance' shall mean any substance, other than oil, designated by regulation of the commission upon a finding that the discharge of the substance in any minimum prescribed quantity into or upon the waters of the State presents an imminent and substantial danger to public

health or welfare; or to fish, shellfish, wildlife, or vegetation. Provided, that only those substances and corollary harmful quantities which have been designated by the Administrator of the United States Environmental Protection Agency pursuant to 33 U.S.C. 1321(b)(2)(A) shall be designated by the commission as hazardous substances. Additions to or deletions from the list of hazardous substances by the Administrator of the Environmental Protection Agency shall be deemed to be automatically added to or deleted from this definition unless the commission objects within 120 days of publication of the action in the Federal Register. If the commission objects to a particular addition or deletion, the substance so designated will neither be added to nor deleted from the definition pending a public hearing pursuant to Article 2 of Chapter 150A of the General Statutes" and by then renumbering the existing subpart (6) as subpart (7) and appropriately renumbering all succeeding subparts.

**Sec. 5.** G.S. 143-215.77(5) as it now appears in the 1978 Replacement Volume 3C of the General Statutes is amended by

(a) inserting the phrase "or other hazardous substances" after the word "oil" and before the closing quotation mark as the same appears in line 1;

(b) inserting the phrase "or other hazardous substances" after the word "oil" and before the word "immediately" as the same appears in line 2;

(c) inserting the phrase "or other hazardous substances" after the word "oil" and before the word "onto" as the same appears in line 3; and

(d) inserting the phrase "or other hazardous substances" after the word "oil" and before the period as the same appears in line 4.

**Sec. 6.** G.S. 143-215.77(6) as it now appears in the 1978 Replacement Volume 3C of the General Statutes is amended by adding the phrase "or other hazardous substances" after the word "oil" at the end of line 1.

**Sec. 7.** G.S. 143-215.77(9) as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by

(a) deleting the phrase "oil bailee" as it appears at the beginning of line 1 and inserting instead the word "Bailee"; and

(b) inserting the phrase "or other hazardous substances" after the word "oil" and before the word "to" as the same appears in line 1.

**Sec. 8.** G.S. 143-215.77(10) as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by

(a) deleting the phrase "Oil Carrier" as it appears at the beginning of line 1 and inserting instead the word "Carrier"; and

(b) inserting the phrase "or other hazardous substances" after the word "oil" and before the word "for" in line 2.

**Sec. 9.** G.S. 143-215.77(15) as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" and before the word "discharge" as the same appears in line 5.

**Sec. 10.** G.S. 143-215.77(16) as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" and before the word "between" in line 2.

**Sec. 11.** G.S. 143-215.78 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by deleting the phrase "within the office" as it appears in line 2.

**Sec. 12.** G.S. 143-215.79 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 6, 12, 13, and 15.

**Sec. 13.** G.S. 143-215.82 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" and before the word "discharges" as the same appears in line 5.

**Sec. 14.** G.S. 143-215.83 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 3, 6, 8, and 22.

**Sec. 15.** G.S. 143-215.84 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 2, 16, and 32.

**Sec. 16.** G.S. 143-215.85 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by

(a) inserting the phrase "or other substances" after the word "oil" and before the word "discharged" as the same appear in line 2; and

(b) deleting the words "in violation of the provisions of this Article" as they appear in line 2, and substituting instead the words "in any circumstances other than pursuant to existing regulation of the Environmental Management Commission or the U. S. Environmental Protection Agency or pursuant to a permit required by G.S. 143-215.1 or the Federal Water Pollution Control Act."

**Sec. 17.** G.S. 143-215.85 is hereby amended by adding thereto at the end thereof the following sentence: "If the discharged substance of which the Department is notified is a pesticide regulated by the North Carolina Pesticide Board, the Department shall immediately inform the Secretary of the Pesticide Board. Removal operations under this Article of substances identified as pesticides defined in G.S. 143-460 shall be coordinated in accordance with the Pesticide Emergency Plan adopted by the North Carolina Pesticide Board; provided that, in instances where entry of such hazardous substances into waters of the State is imminent, the Department may take such actions as are necessary to physically contain or divert such substance so as to prevent entry into the surface waters."

**Sec. 18.** G.S. 143-215.86 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 7 and 19.

**Sec. 19.** G.S. 143-215.86 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by rewriting the catchline to read: "*§ 143-215.86. Other State agencies and State-designated local agencies.*"

Further, G.S. 143-215.86 is amended in subsection (a) on line 3 after the word "State" by inserting the phrase "and any local agency designated by the State".

And further, G.S. 143-215.86 is amended in subsection (c) on line 1 after the word "agency" by inserting the phrase "or other State-designated local agency".

**Sec. 20.** G.S. 143-215.87 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 1, 2, 7, and 13.



**Sec. 21.** G.S. 143-215.88 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by rewriting the catchline to read: “§ 143-215.88. *Payment to State agencies or State-designated local agencies.*”

And further, G.S. 143-215.88 is amended on line 3 by inserting between the words “State” and “that” the following: “or any State-designated local agency”.

**Sec. 22.** G.S. 143-215.88 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase “or other hazardous substances” after the word “oil” as it appears in lines 1, 6, 7, 10, 13, 15, 16, and 18.

**Sec. 23.** G.S. 143-215.89 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase “or other hazardous substances” after the word “oil” as it appears in lines 2, 4, and 7.

**Sec. 24.** G.S. 143-215.90 as it now appears in the 1978 Replacement Volume 3C of the General Statutes is amended as follows:

By deleting it and rewriting it to read as follows:

“§ 143-215.90. *Liability for damage to public resources.*—(a) Any person who discharges oil or other hazardous substances in violation of this Article or violates any order, rule or regulation of the Environmental Management Commission adopted pursuant to this Article, or fails to perform any duty imposed by this Article, or violates an order or other determination of the Environmental Management Commission made pursuant to the provisions of this Article, including the provisions of a discharge permit issued pursuant to G.S. 143-215.1, and in the course thereof causes the death of, or injury to fish, animals, vegetation or other resources of the State or otherwise causes a reduction in the quality of the waters of the State below the standards set by the Environmental Management Commission, shall be liable to pay the State damages. Such damages shall be an amount equal to the cost of all reasonable and necessary investigations made or caused to be made by the Environmental Management Commission in connection with such violation and the sum of money necessary to restock such waters, replenish such resources, or otherwise restore the rivers, streams, bays, tidal flats, beaches, estuaries or coastal waters and public lands adjoining the seacoast to their condition prior to the injury as such condition is determined by the Environmental Management Commission in conference with the Wildlife Resources Commission, and any other State agencies having an interest affected by such violation (or by the designees of any such boards, commissions, and agencies).

(b) Upon receipt of the estimate of damages caused, the Department shall give written notice by registered or certified mail to the person responsible for the death, killing, or injury to fish, animals, vegetation, or other resources of the State, or any reduction in quality of the waters of the State, describing the damages and their causes with reasonable specificity, and shall request payment from such person. Damages shall become due and payable upon receipt of such notice. Upon written application to the Department within 30 days of receipt of notice, the person assessed damages may request an administrative hearing pursuant to G.S. 143-215.4. On such hearing, the estimate of the replacement cost of fish or animals or vegetation destroyed, and the estimate of costs of replacing or restoring other resources of the State, and the estimate of the cost of restoring the quality of waters of the State shall be *prima facie* evidence of the actual replacement cost of fish, animals, vegetation or other resources of the State, and of the actual cost of restoring the quality of the waters of the State;

provided, that such evidence is rebuttable. In arriving at such estimate, any reasonably accurate method may be used and it shall not be necessary for any agent of the Department or Wildlife Resources Commission to collect, handle, or weigh numerous specimens of dead or injured fish, animals, vegetation or other resources of the State, or to calculate the costs of restoring the quality of the waters using any technology other than that which is existing and practicable, as found to be such by the Secretary. Provided, that the Department may effect such mitigation of the amount of damages as the commission may deem proper and reasonable. Appeal from final determination of the commission or its agents pursuant to such a hearing shall be pursuant to G.S. 143-215.5. If the damages are not paid to the Department within 30 days of receipt of notice, or if the amount of damages provided in an order issued subsequent to an application to the Department is not paid within 30 days of the issuance thereof, the Attorney General, upon request of the Department, shall bring an action to recover such damages in the name of the State, in the Superior Court of Wake County, or in his discretion, in the superior court of any other county in which the damages occurred. Upon such action being brought, the scope of the court's review shall be as provided in G.S. 150A-51. Any money recovered by the Attorney General or by payment of damages by the person charged therewith by the Department shall be transferred by the Environmental Management Commission to appropriate funds administered by the State agencies affected by the violation for use in such activities as food fish or shellfish management programs, wildlife and waterfowl management programs, water quality improvement programs and such other uses as may best mitigate the damage incurred as a result of the violation. No action shall be authorized under the provisions of this section against any person operating in compliance with the conditions of a waste discharge permit issued pursuant to G.S. 143-215.1 and the provisions of this Part.

(c) For the purpose of carrying out its duties under this Article, the Environmental Management Commission shall have the power to direct the investigation of any death, killing, or injury to fish, animals, vegetation or other resources of the State, or any reduction in quality of the waters of the State, which in the opinion of the Environmental Management Commission is of sufficient magnitude to justify investigation."

**Sec. 25.** G.S. 143-215.91 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 2 and 40.

G.S. 143-215.91(a), as the same now appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting into line 9, after the comma, the words "the amount expended by the violator in complying with the provisions of G.S. 143-215.84, the estimated damages attributed to the violator under G.S. 143-215.90" and inserting a comma thereafter.

**Sec. 26.** G.S. 143-215.91 is hereby amended by adding at the end thereof an additional subsection (c), to read as follows:

"(c) The civil and criminal penalties provided by this section (except the civil penalty for failure to report) shall not apply to the discharge of a pesticide regulated by the North Carolina Pesticide Board, if such discharge would constitute a violation of the North Carolina Pesticide Law and if such discharge has not entered the surface waters of the State."

**Sec. 27.** G.S. 143-215.92 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 3 and 5.

**Sec. 28.** G.S. 143-215.93 as it appears in the 1978 Replacement Volume 3C is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in line 2.

**Sec. 29.** G.S. 143-215.94 as it appears in the 1978 Replacement Volume 3C is amended by inserting the phrase "or other hazardous substances" after the word "oil" as it appears in lines 5 and 6.

**Sec. 30.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## H. B. 239

## CHAPTER 536

AN ACT TO PROVIDE FOR THE SIMULTANEOUS EXECUTION AND SELF-PROVEMENT OF AN ATTESTED WRITTEN WILL AND TO PROVIDE THAT WILLS PREVIOUSLY EXECUTED AND SELF-PROVED SIMULTANEOUSLY ARE VALID.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 31-11.6 as the same appears in the 1977 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended: on lines two and three by deleting the words "at the time of its execution or at any subsequent date" and inserting in lieu thereof the words "at any time subsequent to its execution"; and by designating the last sentence of the existing provisions as subsection "(c)" and by designating the remainder of the existing provisions as amended as subsection "(b)" and by adding a new subsection "(a)" to read as follows:

"(a) In addition to the procedures for the execution of a will set out in G.S. 31-3.3, any will may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer's certificate, under official seal, in substantially the following form:

"I, \_\_\_\_\_, the testator, sign my name to this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Testator

We \_\_\_\_\_, \_\_\_\_\_, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge

the testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

The State of \_\_\_\_\_  
County of \_\_\_\_\_

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_ the testator and subscribed and sworn to before me by \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_.

(Seal) (Signed) \_\_\_\_\_

\_\_\_\_\_  
(Official capacity of officer)''.

**Sec. 2.** 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 during the period between October 1, 1977 and October 1, 1979 shall be considered to be a valid execution and attestation of a written will even though the will was not 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. 3.** Section 1 of this act shall become effective on October 1, 1979. Section 2 of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## H. B. 803

## CHAPTER 537

### AN ACT RELATING TO THE PROTECTION OF OYSTER AND CLAM LEASES.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Chapter 113 of the General Statutes to read:

"§ 113-208. *Protection of oyster and clam leases.*—(a) Any person, other than the lessee, who takes or attempts to take oysters or clams from any privately leased or owned oyster or clam bottom area without written authorization of the lessee is guilty of a misdemeanor punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250.00), imprisonment for not more than 30 days, or both. The written authorization shall include the lease number, name and address of authorized person, date of issuance, and date of expiration, and it must be signed by the lessee.

(b) The prosecutor shall dismiss any case brought for a violation of this section if the defendant produces a notarized written authorization in conformance with subsection (a) which states that the defendant had permission to take oysters or clams from the leased area at the time of the alleged violation; except the prosecutor may refuse to dismiss the case if he has reason to believe that the written authorization is fraudulent."

**Sec. 2.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## H. B. 921

## CHAPTER 538

## AN ACT RELATING TO THE COMPOSITION OF GOVERNING BOARDS OF HOSPITAL SERVICE CORPORATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 57 of the General Statutes is amended by adding the following new section to read:

“§ 57-2.1. *Members of governing boards.*—(a) For the purpose of this section the words ‘board of directors’ includes the board of directors, trustees, or other governing board.

(b) The board of directors of each hospital service corporation subject to the provisions of this Article shall include persons who are representative of its subscribers and the general public. Less than one-half of the directors of any such corporation shall be persons who are licensed to practice medicine in this State or who are paid directors or employees of a corporation organized for hospital purposes.”

**Sec. 2.** This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## H. B. 989

## CHAPTER 539

## AN ACT TO PREVENT FRAUD AND TO INSURE THE LEGAL REGISTRATION OF VOTERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-72 is amended by adding a new subparagraph (d) to read as follows:

“(d) Officers authorized by G.S. 163-80(a) to register voters shall personally examine the applicant and administer the oaths prescribed in G.S. 163-72(a) and (b) to each individual applying to register, and the officer shall sign the individual’s application in the presence of the applicant at the time he takes the application.”

**Sec. 2.** G.S. 163-72 is further amended by adding a new subparagraph (e) to read as follows:

“(e) Any individual not authorized by G.S. 163-80 to register voters shall complete the registration application on behalf of any applicant only in the physical presence of an authorized registration officer, who shall in such case examine the applicant and administer the oaths required in G.S. 163-72(a) and (b). The registration officer shall sign the application in the presence of the applicant at the time he takes the application.”

**Sec 3.** G.S. 163-72 is further amended by adding a new subparagraph (f) to read as follows:

“(f) The application of any individual who is registered by a procedure other than as set out in this section shall be void.”

**Sec. 4.** G.S. 163-275 is amended by adding a new subsection (14) to read as follows:

“(14) Any officer authorized by G.S. 163-80 to register voters and any other individual who knowingly and willfully receives, completes, or signs an application to register from any voter contrary to the provisions of G.S. 163-72 shall be guilty of a felony and, upon conviction, shall be imprisoned not less than four months or fined not less than one thousand dollars (\$1,000), or both, in the discretion of the court.”

**Sec. 5.** G.S. 163-67(a) is amended by deleting in lines 5, 6, 7, and 8 of the fourth paragraph the words “provided that where the application is completed during the last 51 days prior to the election but at least 21 days prior to the election, the notification of rejection shall be made no less than 21 days prior to the election or the application shall constitute a valid registration”, and substituting in lieu thereof the following:

“provided that where the application is completed during the last 51 days prior to the election but at least 21 days, excluding Saturdays and Sundays, prior to the election, the notification of rejection shall be made no less than 14 days prior to the election or the application shall constitute a valid registration. If the application is rejected after the close of the registration books as provided in G.S. 163-67(a), the board shall notify the applicant at least 14 days before the election that it has rejected his application. The applicant may appear before the board and, if he establishes his qualifications to register prior to the election, he shall be permitted to vote.”

**Sec. 6.** This act shall become effective September 1, 1979.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## S. B. 257

## CHAPTER 540

### AN ACT TO AMEND G.S. 143B-216.5(a) TO PERMIT THE NORTH CAROLINA COUNCIL FOR THE HEARING IMPAIRED TO RECEIVE GIFTS AND BEQUESTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-216.5(a), as the same appears in the 1977 Cumulative Supplement of the General Statutes, is hereby rewritten to read as follows:

“§ 143B-216.5(a). *North Carolina Council for the Hearing Impaired; receipt of monies.*—The Department of Human Resources may receive monies from any source, including federal funds, gifts, grants and bequests which shall be expended for the purposes designated in this Part. Gifts and bequests received shall be deposited in a trust fund with the State Treasurer who shall hold them in trust in a separate account in the name of the Division of Vocational Rehabilitation Services, North Carolina Council for the Hearing Impaired. The cash balance of this account may be pooled for investment purposes, but investment earnings shall be credited pro rata to this participating account. Monies deposited with the State Treasurer in the trust fund account pursuant to this section, and investment earnings thereon, are available for expenditure without further authorization from the General Assembly. Such funds shall be administered by the North Carolina Council for the Hearing Impaired under the direction of the director and fiscal officer of the Division of Vocational

Rehabilitation Services, and will be subject to audits normally conducted with the agency.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## S. B. 535

## CHAPTER 541

AN ACT TO AMEND THE DEFINITION OF “AGENCY” AS IT APPEARS IN “THE REGISTRATION OF STATE ADMINISTRATIVE RULES ACT” AND IN AN ACT PROVIDING FOR THE REVIEW OF ADMINISTRATIVE RULES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (c) of G.S. 150A-58, as it appears in the 1978 Replacement Volume 3C of the General Statutes, is amended by adding after the comma in line six following the word “government,” and before the word “counties” the following phrase: “the Employment Security Commission,”.

**Sec. 2.** G.S. 150A-63 is amended by adding a new subsection to read as follows:

“(g) Notwithstanding any other provision of law, the Employment Security Commission shall file within 15 days of adoption for public inspection and publication purposes only all rules adopted by it with the Attorney General. The Attorney General shall compile, make available for inspection, and publish the rules filed under this subsection.”

**Sec. 3.** The definition of the word “Agency” specified by G.S. 120-30.24(1), as it appears in the 1977 Cumulative Supplement to Volume 3B, 1974 Replacement of the General Statutes, is amended by inserting on the seventh line of that subsection after the words “Utilities Commission,” and before the word “counties,” the following phrase: “the Employment Security Commission,”.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## S. B. 616

## CHAPTER 542

AN ACT TO INSURE THAT SEXUAL INTERCOURSE IN THIS STATE IS SUFFICIENT GROUNDS TO SUBJECT THE PARTICIPANTS THEREIN TO THE JURISDICTION OF THE COURTS OF THIS STATE FOR PURPOSES OF ADJUDICATING THE PATERNITY OF ANY CHILD WHO MAY HAVE BEEN CONCEIVED AS A RESULT THEREOF.

Whereas, the percentage of illegitimate births in North Carolina has in recent years steadily increased to at least sixteen and eight tenths percent (16.8%) of all births for the calendar year 1977 (14,208 illegitimate births); and

Whereas, although the biological parents of many of these children born out of wedlock conceived their offspring as a result of sexual intercourse in North Carolina, many of these same biological parents are either nonresidents of or are no longer present in North Carolina; and

Whereas, a great many of the children born out of wedlock join the public welfare rolls and thereby increase the burden on State taxpayers; and

Whereas, the persons responsible for the birth and support of these children should be obligated to return to this State for purposes of adjudicating the parentage of children, the risk of whose conception they previously assumed by engaging in sexual intercourse in this State; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3 of Chapter 49 as the same appears in the 1976 Replacement to Volume 2A of the General Statutes is hereby amended by adding a new section following G.S. 49-16, to be numbered as G.S. 49-17 and to read as follows:

“§ 49-17. *Jurisdiction over nonresident or nonpresent persons.*—(a) The act of sexual intercourse within this State constitutes sufficient minimum contact with this forum for purposes of subjecting the person or persons participating therein to the jurisdiction of the courts of this State for actions brought under this Article for paternity and support of any child who may have been conceived as a result of such act.

(b) The jurisdictional basis in subsection (a) of this section shall be construed in addition to, and not in lieu of, any basis or bases for jurisdiction within G.S. 1-75.4.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

S. B. 656

## CHAPTER 543

AN ACT TO AMEND G.S. 54-136 WITH RESPECT TO THE DEATH, WITHDRAWAL OR EXPULSION OF MEMBERS OF COOPERATIVE MARKETING ASSOCIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-136 is hereby amended by deleting therefrom all of the second full paragraph thereof and by substituting in its place the following paragraph:

“Upon the death, withdrawal or expulsion of a member, the board of directors of the association shall, within one year, cause to be paid to such member or his estate one hundred percent (100%) of all amounts due him for any and all raw products which have been delivered by him to the association. All other amounts which might be due for capital stock, certificates of interest, reserves or on account of any other equity credits shall be payable in accordance with the charter or by laws of the association.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.



## S. B. 8

## CHAPTER 544

AN ACT TO PROVIDE THAT THE DEPARTMENT OF ADMINISTRATION SHALL CONTRACT FOR ALL APPRAISALS AND SURVEYS OF REAL PROPERTY FOR ALL STATE AGENCIES EXCEPT FOR APPRAISALS AND SURVEYS OBTAINED BY THE BOARD OF TRANSPORTATION IN CONNECTION WITH THE ACQUISITION OR DISPOSITION OF HIGHWAY RIGHTS-OF-WAY, BORROW PITS, OR OTHER INTERESTS IN LAND FOR THE SAME OR SIMILAR PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-341(4) is amended by adding a new section following G.S. 143-341(4)l. to be designated as G.S. 143-341(4)m. to read as follows:

“m. To contract for or approve all contracts for all appraisals and surveys of real property for all State agencies; provided, however, this provision shall not apply to appraisals and surveys obtained in connection with the acquisition of highway rights-of-way, borrow pits, or other interests or estates in land acquired for the same or similar purposes, or to the disposition thereof, by the Board of Transportation.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

## S. B. 64

## CHAPTER 545

AN ACT TO AMEND THE NORTH CAROLINA AIR POLLUTION CONTROL LAW TO CONFORM WITH THE CLEAN AIR ACT AMENDMENTS OF 1977.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.107 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by adding a new G.S. 143-215.107(a)(7), as follows: “(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas; provided, that the Commission shall adopt no standard which is not made mandatory upon approved State programs by rules, regulations or published guidelines of the United States Environmental Protection Agency or the Federal Clean Air Act.”

**Sec. 2.** G.S. 143-215.108 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by deleting from line 4 of G.S. 143-215.108(b) the words “of the State.”

**Sec. 3.** G.S. 143-215.108 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by inserting a new G.S. 143-215.108(b)(8) to read as follows: “(8) To prohibit any stationary source within the State from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other state of any national ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state to prevent deterioration of air quality or protect visibility.”

**Sec. 4.** G.S. 143-215.114 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by deleting G.S. 143-215.114(a)(1)e and renumbering the next portion of this subsection accordingly.

**Sec. 5.** G.S. 143-215.114 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by deleting G.S. 143-215.114(a)(2) and by inserting in lieu thereof the following: "Each day of continuing violation after written notification from the Commission shall be considered a separate offense."

**Sec. 6.** G.S. 143-215.114 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by inserting on line 2 of G.S. 143-215.114(a)(3) a comma after the word "violation" and deleting the word "and", and by deleting the period on line 3 of G.S. 143-215.114(a)(3) and adding the words "and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements."

**Sec. 7.** G.S. 143-215.112 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by inserting after present G.S. 143-215.112(c)(2)d the words "Any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Federal Clean Air Act and any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers shall be adequately disclosed."

**Sec. 8.** G.S. 143-213 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by adding the words "(17) The term 'Federal Clean Air Act' refers to the Clean Air Act, 42 U.S.C. 7401 *et seq.*" to be included as G.S. 143-213(17) without deleting existing language and renumbering accordingly.

**Sec. 9.** G.S. 143-213 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by adding the words "(19) The term 'nonattainment area' refers to an area which is shown to exceed any national ambient air quality standard for such pollutant" to be included as G.S. 143-213(20) without deleting existing language and renumbering accordingly.

**Sec. 10.** G.S. 143-213 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is hereby amended by adding the words "(20) The term 'prevention of significant deterioration' refers to the statutory and regulatory requirements arising from the Federal Clean Air Act designed to prevent the significant deterioration of air quality in areas with air quality better than required by the national ambient air quality standards" to be included as G.S. 143-213(21) without deleting existing language and renumbering accordingly.

**Sec. 11.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

## S. B. 215

## CHAPTER 546

## AN ACT TO AUTHORIZE THE WILDLIFE RESOURCES COMMISSION TO REGULATE THE SEASON FOR ANTLERLESS DEER IN PENDER COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 1/2 of Chapter 386 of the 1957 Session Laws is repealed.

**Sec. 2.** Section 1 of Chapter 258 of the 1969 Session Laws is repealed.

**Sec. 3.** Section 7 of Chapter 258 of the 1969 Session Laws is amended by striking the word "male" from the second line.

**Sec. 4.** Notwithstanding any previous amendments, Section 10 of Chapter 258 of the 1969 Session Laws is rewritten to read as follows:

"Sec. 10. Except as sections have been amended to apply to only one county, or repealed, this act applies to the counties of Duplin and Pender."

**Sec. 5.** Chapter 275 of the 1971 Session Laws is repealed.

**Sec. 6.** Chapter 420 of the 1973 Session Laws is repealed.

**Sec. 7.** This act shall become effective upon ratification and the Wildlife Resources Commission may take such administrative action as required for consideration of an antlerless deer season in Pender County during the 1979-80 hunting season and all seasons thereafter.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

## S. B. 292

## CHAPTER 547

## AN ACT TO AMEND ARTICLE 4 OF CHAPTER 122 (VOLUNTARY ADMISSION) OF THE GENERAL STATUTES TO ALLOW THE VOLUNTARY ADMISSION OF AN INMATE IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION TO REGIONAL MENTAL HEALTH FACILITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4 of Chapter 122 of the General Statutes is hereby amended by adding a new section at the end of that Article to be numbered G.S. 122-56.10 and to read as follows:

"§ 122-56.10. *Voluntary admission of inmates from the Department of Correction to Regional Mental Health Facilities.*—(a) Inmates in the custody of the Department of Correction may seek voluntary admission to regional psychiatric facilities for mental illness or inebriety. Such admission may be accomplished only when the Secretary of Human Resources or his designee and the Secretary of Correction or his designee jointly agree to the inmate's request.

(b) The provisions of G.S. 122-56.3 shall apply to the voluntary admission of inmates, however, upon discharge of a voluntarily admitted inmate, the Department of Correction shall take custody of such inmate if the inmate's term of incarceration has not been completed.

(c) The Department of Correction is responsible for the security and costs of transporting inmates to and from regional psychiatric facilities for the purpose of accomplishing a voluntary admission."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

## H. B. 755

**CHAPTER 548**

AN ACT TO RESTRICT THE DISCHARGE OF RIFLES IN NORTHAMPTON COUNTY TO STANDS AT LEAST EIGHT FEET FROM THE GROUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 78 of the 1973 Session Laws is hereby amended by adding the following sentence to Section 1 of that act:

“Furthermore, it shall be unlawful to discharge (shoot) any rifle as herein prescribed unless the person discharging (shooting) such rifle is positioned at least eight feet from the ground.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

## H. B. 761

**CHAPTER 549**

AN ACT TO REPEAL CHAPTER 414 OF THE PUBLIC-LOCAL LAWS OF 1941, WHICH REGULATED THE SETTING OF TRAPS IN STOKES COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 414 of the 1941 Public-Local Laws is repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

## H. B. 471

**CHAPTER 550**

AN ACT TO REWRITE G.S. 90-96(c) TO DELETE THE REQUIREMENT THAT THE CLERKS OF COURT FILE WITH THE DEPARTMENT OF HUMAN RESOURCES THE NAMES OF ALL PEOPLE CONVICTED UNDER THE CONTROLLED SUBSTANCES ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-96(c) is rewritten to read as follows:

“(c) 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 granted a conditional discharge under the provisions of this Article, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons granted conditional discharges. 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 a conditional discharge.”

**Sec. 2.** This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.



H. B. 940

## CHAPTER 551

AN ACT TO CLARIFY THE TERM OF OFFICE OF DEPUTY SHERIFFS  
AND REGISTERS OF DEEDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-103(2), as the same appears in 1978 Replacement Volume 3C of the General Statutes, is hereby amended by adding thereto the following new sentence:

“The deputy so appointed shall serve at the pleasure of the appointing officer.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

H. B. 1201

## CHAPTER 552

AN ACT TO PROHIBIT PARKING IN DESIGNATED FIRE LANES IN  
SHOPPING CENTER PARKING LOTS OR OTHER PUBLIC  
VEHICULAR AREAS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-162, as the same is found in Volume 1C of the General Statutes, 1978 Replacement, is amended by designating the existing paragraph subsection (a) and adding immediately following this paragraph a new paragraph designated as subsection (b) to read as follows:

“(b) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any public vehicular area, street, highway or roadway in any area designated as a fire lane. This prohibition includes designated fire lanes in shopping center or mall parking lots and all other public vehicular areas. The *prima facie* rule of evidence created by G.S. 20-162.1 is applicable to prosecutions for violation of this section. The owner of a vehicle parked in violation of this subsection shall be deemed to have appointed any State, county or municipal law enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle. No law enforcement officer removing such a vehicle shall be held criminally or civilly liable in any way for any acts or omissions arising out of or caused by carrying out or enforcing any provisions of this subsection, unless the conduct of the officer amounts to wanton conduct or intentional wrongdoing.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

H. B. 1203

**CHAPTER 553**

AN ACT TO AMEND CHAPTER 115D OF THE GENERAL STATUTES TO ALLOW TECHNICAL INSTITUTES TO BE REFERRED TO AS EITHER TECHNICAL INSTITUTES OR TECHNICAL COLLEGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115D-2(7) is amended by adding a new subdivision to read:

“d. The terms ‘technical institute’ and ‘technical college’ are deemed to be synonymous. Local boards of trustees, with concurrence of the respective county commissioners, may elect to use either term.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

H. B. 58

**CHAPTER 554**

AN ACT TO ENABLE THE WASTEWATER TREATMENT PLANT OPERATORS CERTIFICATION COMMISSION TO CLASSIFY WASTEWATER TREATMENT FACILITIES UNDER THE JURISDICTION OF THE ENVIRONMENTAL MANAGEMENT COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90A-37 is amended by deleting the words “G.S. 130-161” in line 5, and inserting in lieu thereof the words “G.S. 143-215.1”.

**Sec. 2.** G.S. 90A-37, G.S. 90A-38, G.S. 90A-39, G.S. 90A-40, G.S. 90A-41, G.S. 90A-43 and G.S. 90A-44 are amended by deleting the words “Board of Certification” whenever those words appear and inserting in lieu thereof in each place the words “Wastewater Treatment Plant Operators Certification Commission”.

**Sec. 3.** G.S. 90A-40(d) is amended by adding a sentence at the end of that subsection to read “provided: that no certification shall be issued under this subsection after July 1, 1979. Operators of these facilities receiving initial notification of classification after July 1, 1979, shall be eligible for a temporary certificate to be valid as provided in subsection (e).”

**Sec. 4.** G.S. 90A-40(e) is amended by striking the period after the word “inadequate” in line 4 and inserting the following phrase: “or when certificates without examination would formerly have been granted under Subsection (d) of this section.”

**Sec. 5.** G.S. 90A-42 is rewritten to read as follows:

“Fees. The Wastewater Treatment Plant Operators Certification Commission, in establishing procedures for implementing the requirements of this act, shall impose the following schedule of fees:

1. Examination including Certificate, \$15.00;
2. Temporary Certificate, \$25.00;
3. Temporary Certification Renewal, \$50.00;
4. Conditional Certificate, \$25.00;
5. Voluntary Conversion Certificate, \$10.00;
6. Reciprocity Certificate, \$25.00;
7. Annual Renewal Fee, \$5.00;

8. Replacement of Certificate, \$5.00; and

9. Reinstatement of Operator Certification after lapse for nonpayment of Annual Renewal Fee, \$5.00 in addition to the Regular Renewal Fee called for in number 7 hereinabove."

**Sec. 6.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

## H. B. 145

## CHAPTER 555

### AN ACT TO AMEND G.S. 20-13 RELATING TO THE SUSPENSION OF A PROVISIONAL LICENSEE'S LICENSE AND TO REPEAL G.S. 20-13.1.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-13 is rewritten to read as follows:

"§ 20-13. *Suspension of license of provisional licensee.*—(a) The Division may suspend, with or without a preliminary hearing, the operator's license of a provisional licensee upon receipt of notice of the licensee's conviction of a motor vehicle moving violation, in accordance with subsection (b), if the offense was committed while the person was still a provisional licensee. A provisional licensee is a licensee who is under 18 years of age. As used in this section, the phrase 'motor vehicle moving violation' does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of this Chapter.

(b) The Division may suspend the license of a provisional licensee as follows:

- (1) For the first motor vehicle moving violation, the Division may not suspend the license of the provisional licensee. The Division must mail the licensee a warning letter, sent to his last known address, but failure of the licensee to receive the letter does not prevent the suspension of the person's license or the imposition of probation under this section.
- (2) For conviction of a second motor vehicle moving violation committed within 12 months of the date the first offense was committed, the Division may suspend the licensee's license for up to 30 days.
- (3) For conviction of a third motor vehicle moving violation committed within 12 months of the date the first offense was committed, the Division may suspend the licensee's license for up to 90 days.
- (4) For conviction of a fourth motor vehicle moving violation committed within 12 months of the date the first offense was committed, the Division may suspend the licensee's license for up to six months.

The Division may, in lieu of suspension and with the written consent of the licensee, place the licensee on probation for a period of not more than 12 months on such terms and conditions as the Division sees fit to impose.

If the Division suspends the provisional licensee's license for at least 90 days without a preliminary hearing, the parent, guardian or other person standing *in loco parentis* of the provisional licensee may request a hearing to determine if the provisional licensee's license should be restored on a probationary status. The Division may wait until one-half the period of suspension has expired to hold the hearing. The Division may place the licensee on probation for up to 12 months on such terms and conditions as the Division sees fit to impose, if the licensee consents in writing to the terms and conditions of probation.

(c) In the event of conviction of two or more motor vehicle moving offenses committed on a single occasion, a licensee shall be charged, for purposes of this section, with only one moving offense, except as otherwise provided.

(d) The suspension provided for in this section is in addition to any other remedies which the Division may have against a licensee under other provisions of law; however, when the license of any person is suspended under this section and at the same time is also suspended under other provisions of law, the suspensions run concurrently.

(e) Operators whose licenses have been suspended under the provisions of this section are not required to maintain proof of financial responsibility upon reissuance of the license solely because of suspension pursuant to this section, except as provided under Article 13 of this Chapter. The registered owner's liability insurance policy shall insure said licensee who is a member of said registered owner's household or anyone who is in lawful possession of said automobile."

**Sec. 2.** G.S. 20-13.1 is repealed.

**Sec. 3.** The provisions of this act shall not affect suspension orders promulgated pursuant to G.S. 20-13 or G.S. 20-13.1 before the effective date of this act.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

## H. B. 578

### CHAPTER 556

AN ACT TO AMEND CHAPTER 269 OF THE 1975 SESSION LAWS TO PREVENT THE USE OF ARTIFICIAL LIGHTS IN AREAS INHABITED BY GAME IN STOKES COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapter 269 of the 1975 Session Laws is amended to add Alleghany and Stokes Counties to the list of counties in that section and to reinsert Rowan County in the list following its inadvertent omission, Session Laws 1979, Chapter 441.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

## H. B. 766

### CHAPTER 557

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF FAYETTEVILLE AND TO REPEAL EXISTING CHARTER AND SPECIAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Fayetteville is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF FAYETTEVILLE.

"Chapter I. Incorporation and Corporate Powers.

"§ 1.1. *Incorporation and corporate powers.* The inhabitants of the City of Fayetteville are a body corporate and politic under the name of the 'City of Fayetteville'. 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.

“Chapter II. Corporate Boundaries.

“Article 1. City Boundaries.

“§ 2.1. *City boundaries.* The boundaries of the City of Fayetteville are set out on a map entitled ‘Boundary Map of the City of Fayetteville, North Carolina’. The map shall be maintained in the office of the city clerk, as required by G.S. 160A-22. The corporate limits shall include the area comprising the Fayetteville Municipal Airport.

“Article 2. Annexation.

“§ 2.2. *Amendments to G.S. 160A-44 and G.S. 160A-56.* G.S. 160A-44 and G.S. 160A-56 are each hereby amended by striking out of each section the following: ‘Cumberland.’

“§ 2.3. *Amendments to G.S. 160A-34 and G.S. 160A-46.* G.S. 160A-34 and G.S. 160A-46 are hereby amended to add the following provision: Provided, that the municipality shall not annex an area if, within 30 days after publication of the notice of intent has been completed, a petition signed by a majority of the registered voters residing in the area to be annexed is filed with the governing body stating that the signers are opposed to annexation.

“§ 2.4. *Amendments to G.S. 160A-43 and G.S. 160A-56.* G.S. 160A-43 and G.S. 160A-56 are each hereby amended by adding at the end thereof the following: ‘Notwithstanding the other provisions of this section, all the provisions of Part 1 of this Article shall remain in full force and effect as alternative annexation procedures for municipalities in Cumberland County.’

“Chapter III. Governing Body.

“§ 3.1. *Composition of city council.* The city council shall consist of six members and the mayor to be elected by the qualified voters of the city voting at large in the manner provided in Chapter IV.

“§ 3.2. *Term of office of members of the council and mayor.* Members of the council and the mayor are elected to two-year terms.

“§ 3.3. *Residency requirement.* No person shall be eligible to be a candidate or be elected as mayor or as a member of the city council or to serve in such capacity, unless he is a resident and qualified voter of the city.

“Chapter IV. Elections.

“§ 4.1. *Conduct of city elections.* City officers shall be elected on a nonpartisan basis and the results determined by a majority of votes cast, with a run-off election if necessary, as provided by G.S. 163-294.

“§ 4.2. *Manner of election of council and mayor.* The qualified voters of the entire city elect the members of the council and the mayor.

“§ 4.3. *Failure of officer to qualify.* If any person elected or appointed mayor, councilman, or other officer of the City of Fayetteville, shall after being duly notified, neglect or refuse to qualify within 60 days after his election, unless good cause be shown therefor, such office shall be declared vacant and filled by the city council as herein provided.

“Chapter V. Administration.

“Article 1. Administrative Organization.

“§ 5.1. *City to operate under council-manager plan.* The City of Fayetteville operates under the council-manager plan as provided in G.S. Chapter 160A, Article 7, Part 2.

“§ 5.1(1). *Public works commission not subject to control of city manager.* The city manager shall have no right or power to appoint or remove the superintendent, manager, or other employees of the Public Works Commission of the City of Fayetteville.

“Article 2. Civil Service Commission.

“§ 5.2. *Commission continued.* A commission of the City of Fayetteville known as the Civil Service Commission for the police and fire departments heretofore created is hereby continued. It shall consist of five members each of whom shall be a resident and citizen of said city. The appointments made by the resident superior court judge in June of 1977, by the Board of Education of Cumberland County in June of 1977, by the Board of Health of Cumberland County in June of 1977, by the Clerk of Superior Court of Cumberland County in June of 1975, and the appointment by the city council in June of 1975 are hereby continued for the term of their respective appointments; thereafter all successors of such original appointees on said commission shall be appointed for a term of four years by the authority by which the members, whose terms are expiring, were originally appointed. All subsequent appointments shall be made during the month of June of those years in which the terms of office expire and all appointees shall take office on the first Monday in July following such appointment. Appointments to fill vacancies for any unexpired term, whether such vacancy shall be caused by death, resignation, or disqualification, shall be made by the authority which appointed the member whose office has expired or whose office has by some reason been vacated; and the person appointed to fill such vacancy shall take office as soon as practicable, after his appointment. Any member of said board shall be eligible for reappointment. No official or employee of the City of Fayetteville shall be eligible for appointment to membership of the said civil service commission, and no attorney practicing in any of the criminal courts of Cumberland County shall be eligible for appointment to membership on the said commission.

“§ 5.3. *Suits by and against.* In the name of the Civil Service Commission of the City of Fayetteville, it may sue and be sued in all matters and things relating to or in any way connected with this act, as amended.

“§ 5.4. *Oath of members.* The members of the commission, before entering upon the duties of their office, shall take and subscribe an oath of office, which shall be filed in the office of the city clerk, to support the Constitution of the United States and the Constitution of the State of North Carolina, to obey all the laws not inconsistent therewith, to strive to secure and maintain an honest and efficient administration of the civil service commission, free from partisan distinction and control, and otherwise to perform the duties as members of the civil service commission, to the end that more efficient personnel be made available to the City of Fayetteville.

“§ 5.5. *Members not to be candidates for office.* No person while a member of said commission shall be a candidate for any office of public trust filled by election by the people.

“§ 5.6. *Power to determine qualifications and eligibility for appointment to police department and fire department; removal of policemen and firemen.* The civil service commission shall have full and complete power of determining the qualifications and eligibility of all persons to be appointed to the police department and fire department of the City of Fayetteville, except the chief of the said departments. The commission, subject to the terms of this act, shall

have full power and authority to remove and discharge any employee from the police or fire departments of the City of Fayetteville.

“§ 5.7. *Majority action of commission required for eligibility, termination or discharge of members of police or fire departments, rules and regulations for departments.* No person shall be eligible under the terms of this act for employment as a member of the police department or fire department, nor shall any member of either department be removed, suspended or discharged therefrom except by the majority action of the civil service commission; and said commission shall prescribe and make available all necessary rules and regulations relating to the qualification of the applicants for positions in each department and shall establish such rules and regulations as may be necessary for the maintenance of a high standard of service in each department. All rules and regulations so prescribed shall be subject to the approval of the city council and printed and made available for public inspection for the guidance of employees and applicants for employment in each department. Provided, however, that all such administrative or supervisory powers and authority of each department that are not specifically delegated in this act shall be retained by the City Council of the City of Fayetteville.

“§ 5.8. *Examinations for positions in police or fire departments.* All applicants for positions in the police or fire departments of the City of Fayetteville shall be required to take a written examination prepared by and conducted under the supervision of the commission, which examination shall be competitive and open to all persons possessing the right of suffrage, and otherwise qualified under the terms of this act as to age, residence, health and moral character. Such examinations shall be practical in their character and shall relate to subjects tending fairly to test the mental, physical, professional and moral fitness of the applicants for the positions designated in the examination. No applicant in the course of such examination shall be examined in any manner touching his religious or political opinion or qualifications.

“§ 5.9. *Credit to applicants for former service in police or fire departments.* The civil service commission shall provide in its system for grading applicants that all applicants who have had former service in the police or fire departments of the City of Fayetteville and who are now employed by either department shall be given 10 points credit upon the mental requirements on account of such former service and experience. Provided, however, no applicant shall be allowed any credit for his former service if he shall have been dismissed from either department on account of incompetence, moral unfitness, or because of the violation of any regulation incident to his service.

“§ 5.10. *Notice of examinations.* Notice of the time and place of all examinations conducted by the commission under this act shall be made by publication once a week for two successive weeks immediately preceding such examination in a newspaper published in the City of Fayetteville and by placing a notice in a conspicuous place in the office of the civil service commission and on the bulletin board at the police station or fire department for at least two weeks preceding such examination.

“§ 5.11. *Record of grades made at examination; certification of two highest grades for appointment.* Said commission shall prepare and keep a permanent record of all persons successfully passing such examinations, accurately reflecting the grades made by the applicants, and upon vacancy in the police department or in the fire department, the said commission shall certify to the

governing body of the City of Fayetteville two names of men whose grades are highest, the two being certified for each appointment, and appointment shall be made from the list of two men certified for each vacancy.

“§5.12. *Appointment of police chief and fire chief; terms, removal or demotion; promotions in police or fire departments; preference in duties to members in accordance with seniority.* The chief of police and the chief of the fire department shall be appointed by the city council of the City of Fayetteville, by and with the approval of the civil service commission. The chief of police and the chief of the fire department so appointed need not be residents of the City of Fayetteville at the time of their appointment.

The terms of office of the chief of police and of the chief of the fire department shall be four years from and after the date of their qualification for such offices or positions, and they shall not be removed from their offices or from their positions except for cause, and then only after notice and full hearing and by the majority action of the civil service commission, unless such dismissal or demotion was the result of such conduct as to disqualify them, or either of them, for holding a position as a police officer or as a fireman.

In the event the chief of police or the chief of the fire department is dismissed or demoted from his office or position, they shall be eligible for employment, as to the chief of police, in the police department, and as to the chief of the fire department, in the fire department, when approved by the civil service commission, unless such dismissal or demotion was the result of such conduct as would disqualify the chief of police for holding a position as a police officer, or would disqualify the chief of the fire department for holding a position as a fireman or other position with the fire department.

In the event the chief of police is or may be appointed or elected from the police department or the chief of the fire department is or may be appointed or elected from the fire department, it shall be his privilege, subject to the limitations hereafter set out in this section to return at any time to employment in the respective departments aforesaid at the same rating held by him at the time of accepting the position of such chief. Provided, that at the time of exercising the right to return to the ranks, any such chief must be in good standing, with no charges preferred by his chief administrative superior outstanding against him; and provided further, that such return to former status in the ranks of the department must have the approval of the civil service commission of the City of Fayetteville.

Promotions in the police department shall be made by the chief of police, and promotions in the fire department shall be made by the chief of the fire department, by and with the approval of the city council and the civil service commission.

The chief of police and the chief of the fire department in the assignment of their various duties to the members of the police department or fire department from time to time, and so far as may be practicable without diminishing the efficiency of either department, shall give preference in such duties to members in accordance with their seniority or length of service on the force.

“§5.13. *Dismissal, suspension or fining of member of police or fire departments.* No officer or employee other than a probationary employee of the police or fire department of the City of Fayetteville shall be fined, suspended or discharged except for cause and upon written complaint and after he shall have been given reasonable opportunity for an open hearing by the commission. In



the event charges preferred against any officer shall be sustained, the said civil service commission, in the exercise of its discretion, and upon a majority vote, may either dismiss the accused officer or employee from the service, suspend him without pay for not more than three months; or impose a fine against him in an amount not in excess of 30 days' pay. The commission, in its discretion, may suspend an officer or employee against whom charges have been preferred, pending a hearing, such suspension, however, not to exceed 30 days, or to act in any way prejudiced to the hearing of the complaint.

In the event a member of the police or the fire department commits any flagrant offense he may be suspended immediately by the chief of police or chief of the fire department for a period not exceeding 30 days, in order that a hearing relative to the charges against such policeman or fireman may be had by the civil service commission. In the conduct of all trials or investigations by the commission, the commission shall have the power and authority to issue subpoenas requiring the attendance of witnesses and the production of records necessary for a proper investigation and complete hearing of the matter at issue, and conduct itself as a court of inquiry and follow the usual procedure with reference to evidence. No promotions or demotions in rank of any member of the police or fire department and no reorganization of said police or fire department shall be made by the city council or other governing board of said city, without the consent and approval of the said commission. The action of said civil service commission with respect to the matters contained in this section shall be final and conclusive.

“§ 5.14. *Compensation of members of police and fire departments.* The prevailing wage scale in the Fayetteville police and fire departments in effect on the date of the ratification of this Charter shall constitute the basic pay of the police officers of the various ranks, and such compensation shall neither be increased nor decreased without consent and approval of the said civil service commission.

“§ 5.15. *Annual report.* Said commission at the end of the fiscal year, shall make an annual report, of its administration for the preceding year, and it may include in said report the opinions of the said commission as to the practical effects of the rules, plans, or system in use, together with recommendations for the improvement of each department, which annual report shall be kept in the office of the commission and a copy transmitted to the city council of the City of Fayetteville.

“§ 5.16. *Chairman and secretary.* Said commission, as soon as practicable, after its appointment, shall meet and organize by electing one of its members chairman and one as secretary. The secretary shall keep the minutes of the proceedings and shall be the custodian of all papers, books and records pertaining to the business of the commission. The secretary shall keep a record of all examinations held and perform other duties as may be prescribed by the commission, for which he shall be paid a salary to be fixed by the city council of the City of Fayetteville in an amount not less than one hundred fifty dollars (\$150.00) per year, to be paid monthly out of the general fund of the city.

“§ 5.17. *City to provide rooms for commission and space for examinations, etc.; city to pay expenses of commission.* The governing body of the City of Fayetteville shall provide suitable rooms for the said commission and allow such reasonable use of the public buildings for conducting examinations and hearings by the commission as may be necessary. The City of Fayetteville shall

also pay all necessary expenses of the said commission incident to its operation, and the governing body shall include in its budget such necessary expenses. However, any legal expenses incurred as the result of any action initiated against said commission shall only be payable by the city council pursuant to North Carolina General Statute 160A-167.

“§ 5.18. *Salaries.* The members of the civil service commission shall be paid from the general funds of the City of Fayetteville, a salary of not less than one hundred dollars (\$100.00) per year, except the secretary of the commission, whose salary is otherwise provided for.

“§ 5.19. *Promotions and demotions.* No promotions or demotions in rank of any member of the police or fire department and no reorganization of said police or fire department shall be made by the city council or governing bodies of said city without the consent and approval of said commission.

“§ 5.20. *Quorum.* Three members shall constitute a quorum to transact the business of the commission and no appointment or action shall be taken without a quorum present.

#### “Chapter VI. Public Works Commission.

“§ 6.1. *Commission continued; election and term of members; vacancy.* A commission of the City of Fayetteville to be known as the ‘public works commission’ as heretofore created, established and now existing, and consisting as it now does of three members, is hereby continued, and the term of office of one member of which shall expire in June each year as heretofore, and the city council shall, at its regular meeting in June of each year as heretofore, elect a member of said commission for a term of three years, and any vacancy occurring upon said commission shall be filled for the unexpired term by the city council at any regular or special meeting, but it shall require only a majority vote of the members of the city council to elect a member of said commission.

“§ 6.2. *Qualifications of commissioners.* The members of said commission shall be resident freeholders and taxpayers of the City of Fayetteville, and shall be persons 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 said city and its inhabitants.

“§ 6.3. *Duties of commission.* Said commission shall have full charge and control and the general supervision and management of the electric utility plant, the waterworks and sewerage, and shall collect all rents and profits accruing therefrom and shall make all disbursements on account of the same.

“§ 6.4. *Organization; chairman, secretary, and treasurer.* The members of the commission shall meet as soon after their election as possible, and shall elect out of their number a chairman, secretary, and 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.

“§ 6.5. *Records and accounts.* Said commission shall keep a full and complete 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 from each, the disbursements on account of each, and the net income or loss on each of the same.

“§ 6.6. *Receipts and disbursements.* All funds handled by said commission shall be paid over to the treasurer thereof, and all disbursements by said commission shall only be made by order upon the treasurer, signed by the

secretary and countersigned by the chairman thereof, and all orders shall state for what object the same is drawn, and a record shall be kept of all such orders.

“§ 6.7. *Supervision of electric light, water and sewerage plants.* Said commission shall have charge of and control over, and shall supervise the construction, repairing, alteration or enlargement of the electric light plant, the waterworks plant and the sewerage plant with 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 necessary labor and other help in said construction, repairing, alteration or enlargement but no appropriation of moneys or expenditures or contracts in excess of ten thousand dollars (\$10,000) shall be made by the said commission until the same shall have been approved by the city council provided no such appropriation, expenditure or contract shall be approved on the date on which it is submitted except by an affirmative vote equal to or greater than two-thirds of the members of the council.

“§ 6.8. *Contracts, title to property.* 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 Fayetteville, signed by the chairman and attested by the secretary of the said commission and sealed with the corporate seal of the said city. The title to all property under the management and control of said commissioners shall be and remain in the City of Fayetteville, 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.

“§ 6.9. *Proceeds of bonds and special funds to be paid to treasurer, disbursement.* 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 6.7, shall be paid over to the treasurer of said commission, who shall disburse the same as provided in this act.

“§ 6.10. *Powers of commission in management of property.* Said commission is hereby fully authorized and empowered to make all necessary contracts in the property management of said public utilities and other property under its management and control, and to employ and discharge all necessary superintendents, clerks, 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.

“§ 6.11. *Rates and rents.* Said commission is hereby fully authorized and empowered to fix all rates, rents for water, light and sewage, scales, and all other public property under their control, subject to the limitations fixed in any franchise heretofore granted or which may hereafter be granted for the same. All such rates and rents shall be established upon such terms and conditions as said commission shall deem for the best interest of the city.

“§ 6.12. *Monthly reports, special reports.* Said commission shall render a full report to the city council of the City of Fayetteville, not later than the second Monday of each month, and shall pay over to the treasurer of said city all

balances in excess of necessary expenses and disbursement to said date, as shown by said report. Said report shall show among other things:

(1) the several items of public property under the control and charge of said commission, the value of same, and the floating and bonded indebtedness outstanding against the same;

(2) the amount received from each item of public property, and the amount disbursed on account of same, separately;

(3) all amounts received and disbursed on account of construction, repairing, alteration or enlargement of said property;

(4) the physical condition of the property;

(5) the amount of insurance carried upon said property;

(6) the names of all delinquents to said city, three months or more in arrears, and the amount of such delinquency;

(7) all other facts, items and information pertaining to the condition and management of said property.

Said commission shall also furnish to the city council of said city such additional and special reports as the said council may request from time to time.

“§ 6.13. *Annual report.* 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 Chapter to be reported monthly to the said city council.

“§ 6.14. *Bonds of chairman, secretary and treasurer.* The chairman and secretary of said commission shall each give bond to the City of Fayetteville in the sum of one thousand dollars (\$1,000) each, and the treasurer of said commission shall give bond in double the amount of any funds in his hands. All bonds required by this section shall be filed with the city clerk.

“§ 6.15. *Compensation.* The members of said commission shall receive a salary as set by the council on an annual basis.

“§ 6.16. *Audit of books and accounts.* At the end of each fiscal year the books, accounts and records of said commission shall be audited by the city council.

“§ 6.17. *Neglect of duty by member.* If any member of said commission shall willfully neglect or fail to perform any duty required by the provisions of this Chapter, or required by any rule or regulations made by said commission in pursuance of the authority contained in said act, he shall be guilty of a misdemeanor, and upon conviction shall be removed from office by the city council.

“§ 6.18. *Budget.* Said commission shall cause to be prepared and published in a newspaper published in Cumberland County a budget in the same manner as is required of the city council.

“§ 6.19. *Sale of electricity, water and sewer in Cumberland County.* The Public Works Commission of the City of Fayetteville is hereby authorized and empowered to extend its electric system, water system and sewerage system anywhere in Cumberland County, and to sell water, sewer service, and electricity anywhere in Cumberland County.

“§ 6.20. *Retirement system.* The City Council of the City of Fayetteville is authorized to establish by ordinance an actuarially sound retirement system for the payment of retirement benefits to the employees of the Public Works Commission. The city council is authorized to appoint a board of trustees and to delegate to the board of trustees such powers and duties as may be deemed



necessary to administer the retirement fund; however, if a board of trustees is appointed, they shall employ an actuary and designate a trustee for the investment, care, or administration of the funds of the retirement system.

Any retirement system established by the city council for the employees of the Fayetteville Public Works Commission shall be jointly financed by employee contributions and appropriations from the funds of the Public Works Commission and shall be maintained on a solvent actuarial reserve basis for all benefits at the date of the establishment of the fund, excepting the present value of benefits based on prior service. The contributions of the Fayetteville Public Works Commission shall be sufficient to fund the liability for such prior service in not more than 30 years from the date of the establishment of such fund.

Any retirement system heretofore created for the employees of the Fayetteville Public Works System and in existence on the date of the ratification of this act shall continue in existence and remain in full force and effect after the date of the ratification of this act, the intent herein being to continue any existing retirement system under the same established requirements and criteria stated herein.

#### “Chapter VII. Planning and Regulatory Powers.

##### “Article 1. Eminent Domain.

“§ 7.1. *Authority to use Chapter 136 of the General Statutes.* In exercising the power of eminent domain, the City of Fayetteville, in addition to the provisions of Chapter 40 and Article 11, Chapter 160A of the General Statutes, is hereby authorized to use the procedures of Article 9, Chapter 136 of the General Statutes, subject expressly to the provision of G.S. 136-104.1.

“§ 7.1(1). *Special provision in using Chapter.* Chapter 136 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 136-104.1. Upon the filing of the complaint and declaration of taking and deposit into court by any condemning authority utilizing the provisions of this Article in the exercise of its power of eminent domain, except the Department of Transportation and the Department of Administration, the clerk shall issue an order to be served upon and directing the persons alleged to have an interest in the said land to appear before a judge at a time certain, but not less than 10 days from service of the order, to show cause why title to the said land or such other interest therein specified in the complaint and declaration of taking, together with the right of possession thereto, should not vest in the condemning authority. Failure of the persons to whom the order is directed to appear at the appointed place and time and show sufficient cause shall constitute an admission of the right of the condemning authority to appropriate the title to the said land or other interest therein specified in the complaint and declaration of taking. Unless otherwise ordered by the judge at the show cause hearing, the title and right of possession shall vest in the condemning authority as provided by G.S. 136-104.2; 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

use of such properties and the operation by such public service corporation. The provisions of this act shall not preclude the owner's remedy of injunction.

"§ 7.1(2). *Renumbering of General Statutes.* G.S. 136-104 is hereby renumbered G.S. 136-104.2.

"§ 7.1(3). *Prospective in nature.* This act shall not affect pending litigation.

"Article 2. Special Assessments.

"§ 7.2. *Street or sidewalk improvements.* The city council shall have the authority to order with or without petition street or sidewalk improvements and to assess for said improvements in the same manner as provided by general law for all other assessments.

"§ 7.2(1). *Lighting improvements.* In addition to those improvements authorized by general law, the City of Fayetteville shall have the authority to order with or without petition lighting improvements which include the construction of street lighting systems, consisting of ornamental lights or of lights of greater strength, or lights placed at more frequent intervals, or both, than is ordinarily provided by the municipality making the improvement for streets of such character at public expense.

"§ 7.2(2). *Annual assessment for maintenance and operation of light improvement.* After any lighting improvement is made as provided in this act, the municipality making the same is hereby authorized, as long as said lighting system shall be maintained, to make an annual assessment against the lands assessed with the original cost of the improvements sufficient to cover the excess of actual cost of maintenance and operation of said lighting system over and above the cost of maintenance and operation of such system of lighting as the municipality provides at public expense for streets of the same character as that whereon said lighting improvement is made. To that end the governing body of the municipality shall cause to be prepared a preliminary assessment which shall, as far as practicable, conform to the requirements of North Carolina General Statutes 160A-227, and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as prescribed in this general law.

"§ 7.3. *Change in ownership after resolution ordering improvement.* No change of ownership of any property or interest therein after the passage of a resolution ordering the making of any improvements authorized by this act shall in any manner affect subsequent proceedings, and such improvement may be completed and assessments made therefor as if there had been no change in such ownership.

"§ 7.4. *Mistake or omission as to name of owner of land.* 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 a substantial mistake or omission.

"§ 7.5. *Separate proceedings not required.* One or more local improvements may be made in a single proceeding, and assessments for one or more local improvements may be combined.

"Article 3. Roads and Streets.

"§ 7.6. *Establishment of proposed street lines.* Whenever, in the opinion of the city council, it is in the best interest of the city that any street should be widened or extended, or both, or that a new street should be opened, the council may pass an ordinance declaring that such street should be widened or extended, or both, or that such new street should be opened, and shall lay out in the ordinance the lines within which such street should be widened, extended

or opened. If any street under the provisions of such ordinance is to be widened, it need not be widened on both sides; and if it is to be widened on both sides, the distance to be widened on both sides need not be the same. Any ordinance introduced for the purpose of widening, extending or opening any street under the provisions of this Charter may not be adopted until the proposed ordinance is published in a newspaper of general circulation in the city and qualified to carry legal notices at least two times on separate days at least 10 days before the passage of the ordinance, or if there be no such newspaper, posted in three public places in the city. There shall be posted or published with the ordinance a notice stating when property owners may be heard by the council. A public hearing on the question of the adoption of such ordinance shall be held prior to the passage of the ordinance.

“§ 7.6.1. *Registration of ordinance.* Subsequent to the adoption of any ordinance pursuant to this Article, the city council shall have recorded in the office of the Register of Deeds for Cumberland County said ordinance showing the owners of said property as grantors and the city as grantee. The city shall also have recorded in the register of deeds a plat showing the proposed right-of-way incorporated by reference in the ordinance.

“§ 7.7. *Notice to city required before improvement.* After the passage of such ordinance, it shall be unlawful for any land within the proposed street lines established by such ordinance to be built upon or improved or for any part of any existing building within said lines to be repaired or otherwise improved until the city shall have first been given an opportunity to purchase or otherwise acquire said property for street purposes as provided in this Charter. To that end, any person proposing to build upon such land or to make repairs or improvements to that part of any existing building situated thereon shall, in writing, notify the city council of the nature and estimated cost of such building, repairs or improvements. The council shall then determine whether it will take the necessary steps to acquire said land prior to the construction of said building or the making of such repairs or improvements, and if it fails within 60 days from date of receipt of said notice to acquire, or to institute condemnation proceedings to acquire said property, the owner or other person giving such notice may proceed to erect the building in accordance with the ordinances and regulations of the city or to make the repairs or improvements described in said notice.

“§ 7.8. *Failure to give notice bars recovery.* If any person, firm or corporation builds upon any land included within proposed street lines or repairs or otherwise improves that part of any existing building within proposed street lines without giving the city an opportunity to acquire said land free from said improvements, as provided in the preceding section, the city shall not be required to pay for the value of the building, repairs or improvements in any proceeding subsequently brought to acquire said land for the purpose set out in said section.

“§ 7.9. *Acquisition of land.* If, upon receiving any notice in compliance with Section 7.7 the city council determines to acquire said land immediately, it may acquire the same by grant, purchase or condemnation. If the council determines to proceed by condemnation, the condemnation shall be as set forth in the Charter.

“§ 7.10. *Cost of land acquired for street widening to be assessed as part of improvement.* After any land has been purchased or condemned for the purpose of widening, extending or opening any street, and the land purchased or condemned lies within the limits of an improvement directed in said proceedings, then the amount paid by the city for the land purchased or condemned, together with the cost of the condemnation proceeding and interest on said amount paid and costs at the rate of eight percent (8%) per annum from the date of payment, may be included in the cost of said improvement and may be assessed as provided by law against the property to be assessed for the improvements.

“§ 7.11. *Exercise of condemnation power after failure to condemn following notice.* The failure of the city to acquire any land within 60 days after receiving notice that the same is to be built upon or that a building thereon is to be repaired or otherwise improved, or its failure within said time to institute proceedings to condemn the same, shall not limit the right of the city at any subsequent time to condemn the same; but in such case, the owner shall be entitled to compensation as now provided by law for the building, repairs or improvements made after the giving of the required notice and the failure of the city to acquire said land free of said improvements.

“Article 4. Drainage.

“§ 7.12. *Standing water - power to abate nuisance.* When there is any lot, lots, or alleys, owned by one or more persons, upon which water shall collect, either by falling upon the said lot, lots or alleys, or collected thereon by drainage or otherwise from adjacent lots, no adequate drainage from which is provided by natural means, the city council of the city, on their own motion, or any of them, when in their opinion said conditions are or are liable to become a nuisance or menace to health, or upon being advised by the health officer of the city or county that the conditions so existing are or are liable to become, a nuisance or menace to health, the city council is authorized to abate the nuisance, and to that end may proceed to abate it in the following manner.

“§ 7.13. *Same - survey; notice to lot or alley owners.* The city shall cause a survey to be made by a competent engineer to ascertain the means and methods and costs of providing an adequate drainage from such lot, lots or alleys and such engineer shall prepare plans and specifications to provide such drainage with the estimated cost thereof. The city is authorized to pave said lot, lots or alleys in order to secure proper drainage of said lot, lots or alleys. In making such survey, the engineer shall include therein the area of adjoining and adjacent lots or alleys which will be drained by such systems of drainage. He shall also include in such survey the area of all adjoining and adjacent lots or alleys from which water flows and is gathered upon the lot, lots or alleys which are to be drained. The city council shall thereupon cause written notice to be served upon the owner of the lot, lots or alleys drained and the owners of such adjacent lots or alleys as shall be affected, as herein set forth, which notice shall state in general and briefly the fact that a nuisance has been or is liable to be created and so declared; that it is the purpose of the city to abate the same by causing a system of drainage and paving to be put in, and the assessed cost against every such owner as hereinafter provided; that the report of the engineer is on file and subject to inspection, and that on a date to be named in the notice a hearing will be had before the council as to whether the plan shall be adopted and the assessment shall be made, at which hearing the persons



affected may be present and present such objections as they may have to the adoption of the report of the engineer and the doing of the work.

"§ 7.14. *Hearing, contract for drainage.* At the hearing provided for, if the city council of the city shall determine that the work shall be done, and that the plans and specifications of the engineer are proper, it may adopt the said plans and specifications, and have the work done, either by letting a contract therefor or otherwise, and in the event a contract is let, it shall be advertised as is provided for in other cases of municipal construction.

"§ 7.15. *Assessment and payment of costs.* The city shall bear one-third of the total cost involved in the paving and drainage of said lot, lots or alleys. The remaining two-thirds of said total cost of paving and drainage shall be assessed against each and every owner of a lot, lots or alleys affected by the plan or system, upon the following basis, that is to say, he or she shall pay such proportion of two-thirds of the total cost as the area of his lot, lots or alley may bear to the total area, as shown by the plans and engineer when adopted by the city council, which sum shall be due in such annual installments as the city council may determine which shall not exceed five in number and such installments shall bear interest not to exceed eight percent (8%) per annum.

"§ 7.16. *Areas declared 'special improvement district'.* The area which shall be included within and drained and/or paved by the plans and specifications as herein provided for is hereby declared to be a 'special improvement district'.

"§ 7.17. *Collection of assessments.* The assessments, when made, shall be a lien upon the property benefited, and shall be collectible by the same means and methods as are other assessments for local or special improvements as is provided for in this Charter and the general laws of North Carolina.

"§ 7.18. *Notes of city to pay for improvements.* For the purpose of enabling the city council of the city to obtain money with which to pay for the improvements herein authorized to be made, such city council is hereby authorized and empowered to execute the notes of the city, payable in such installments as are the assessments, and the assessments made shall be pledged for the payment of the said notes; such notes shall bear a rate of interest not exceeding six percent (6%) and may be sold publicly or privately at not less than par and accrued interest, and shall be due in not more than five years, and each time and in such installments as the assessments made shall be due; provided, the due date of the notes may be made 60 days after the date of any of the assessments.

"§ 7.19. *City's full faith and credit pledged.* The full faith and credit of the city shall be pledged for the payment of the said notes and interest when due.

#### "CHAPTER VIII. Miscellaneous.

##### "Article 1. Supplemental Retirement Fund for Firemen.

"§ 8.1. *Supplemental retirement fund continued.* The board of trustees of the Local Firemen's Relief Fund of the City of Fayetteville, as established in accordance with G.S. 118-6, hereinafter called the board of trustees, shall continue to maintain a separate fund to be called the Fayetteville 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 Fayetteville, hereinafter called the Local Relief Fund. The board of trustees shall pay into the Supplemental Retirement Fund the funds prescribed in this act.

“§ 8.2. *Transfers of funds and disbursements.* Notwithstanding the provision of G.S. 118-7, the board of trustees of the Local Firemen's Relief Fund of the City of Fayetteville shall:

(a) continue to 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);

(b) in each 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 such fund;

(c) at any time 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);

(d) 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 Section 8.3.

“§ 8.3. *Supplemental retirement benefits.* (a) Each retired fireman of the city who has retired with 20 years service or more as a city fireman shall be entitled to and shall receive in each calendar year following the calendar year in which he retires an annual supplemental retirement benefit equal to one share for each full year of service as a fireman of the city; 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).

(b) Any former fireman of the city who is not otherwise entitled to supplemental retirement benefits under subsection (a) 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:

- (1) 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
- (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 such 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 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 (1), (2),

and (3) of this subsection, need not specify such finding in subsequent calendar years.

“§8.4. *Intention.* It is the intention of Section 8.3 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 to the Local Relief Fund. It is the intention of Section 8.2 to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (b) thereof shall be held in trust, and that no funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (b) thereof or as a gift, grant, bequest, or donation to such Fund shall ever be disbursed except as and when required by subsection (c) thereof.

“§8.5. *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. 159-28.1, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

“§8.6. *Acceptance of gifts.* The board of trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for use of the Supplemental Retirement Fund.

“§8.7. *Bond of treasurer.* The bond given by the City Finance Director as required by G.S. 159-29 shall indemnify the Firemen's Relief Fund and the Firemen's Supplemental Retirement Fund of the City of Fayetteville.

“§8.8. *Appointment of finance director to board of trustees.* The governing body of the City of Fayetteville shall appoint the Finance Director of the City of Fayetteville to the Board of Trustees of the Local Firemen's Relief Fund of the City of Fayetteville as one of the two members which said governing body elects to serve on said board of trustees.

“§8.9. *Election of treasurer.* The Board of Trustees of the Local Firemen's Relief Fund of the City of Fayetteville shall elect the Finance Director of the City of Fayetteville as Treasurer of the Board of Trustees of the Firemen's Relief Fund.

“§8.10. *Deposit of funds.* The Finance Director, upon receipt of funds from the Insurance Commission, shall deposit same in the Firemen's Relief Fund and/or the Supplemental Firemen's Retirement Fund.

“Article 2.

“Withdrawal of Street Dedication.

“§8.11. *Notice of withdrawal of dedicated streets.* No street or road located within the corporate limits of the City of Fayetteville shall be withdrawn from dedication after 15 years from the date of such dedication until the dedicater or one claiming under him notifies the city in writing of his intent to withdraw the dedication and affords the city reasonable opportunity to accept the dedication before its withdrawal.

“Article 3.

“Boxing and Wrestling Commission.

“§8.12. *Appointment; composition; term; compensation.* The County Commissioners of Cumberland County and the City Council of the City of Fayetteville are hereby empowered and authorized to appoint two members of a boxing and wrestling commission, which members shall choose a third member of such boxing and wrestling commission, to serve for terms of two years each, and until their successors are appointed and qualified. Such members of the boxing and wrestling commission shall serve without compensation.

“§ 8.13. *Boxing and wrestling regulated.* It shall be lawful to engage in, manage or promote boxing and wrestling exhibitions in Cumberland County, North Carolina, provided that the boxing exhibitions shall not be more than 12 rounds in length. The boxing and wrestling commission shall have full power and authority to make such rules and regulations as in its judgment and discretion may be necessary for the proper regulation of such boxing and wrestling exhibitions, even after consent has been given for the holding of such exhibitions.

“§ 8.14. *Penalty.* Any person or persons guilty of engaging in or promoting, aiding or abetting any professional sparring or wrestling matches without first having the written consent of said boxing and wrestling commission, and any person or persons violating the rules and regulations of said commission, or refusing to obey the orders of said commission controlling a sparring or wrestling match shall be guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00) or imprisoned not less than 10 days nor more than one month in the discretion of the court.

Article 4. Open Air Markets.

“§ 8.15. *Authority to establish open air market.* The City Council shall have the power to provide for the establishment, maintenance and regulation of open air or enclosed markets, may prescribe the time and place of sale of fresh meats, fish, and other marketable products therein; may rent the stalls in such manner and at such prices as it may deem best; may appoint a keeper of the market or other persons, who may summarily condemn all unsound products offered for sale in the city for food, and cause the same to be removed at the expense of the person offering it for sale, and may from time to time adopt such ordinances, rules and regulations as it shall deem best governing and controlling in every detail the building, renting, use and operation of any market or market house, or any room or building, used as such in which fresh meat or fish of any description are kept or offered for sale. The City Council shall have and is hereby given the right to acquire under its eminent domain authority title to any property needed for the purposes described herein.

“Article 5. Authority to Offer and Pay Rewards.

“§ 8.16. *Authority to offer and pay rewards.* The governing body of the City of Fayetteville is authorized to offer and pay rewards in an amount not exceeding five hundred dollars (\$500.00) for information leading to the arrest and conviction of any person or persons who willfully deface, damage or destroy property, either personal or real, or take personal property belonging to or under the control of the City of Fayetteville, and to further offer and pay like rewards for information leading to the arrest and conviction of any person or persons who willfully injure or take the life of any employee or officer of the City of Fayetteville while such employee or officer is engaged in the performance of his official duties. The governing body shall fix the terms, conditions and amounts of such rewards and shall be the sole judge as to those persons entitled to receive any reward offered. Such rewards shall be paid only by order of the governing body out of nontax revenues.”

**Sec. 2.** The purpose of this act is to revise the Charter of the City of Fayetteville 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, nor in any manner to 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 Fayetteville; and (b) any acts validating, confirming, approving, or legalizing official meetings, actions, contracts, or obligations, of any kind.

**Sec. 4.** The following acts or portions of acts, having served the purposes for which enacted, or having been consolidated into this act, are hereby repealed:

<u>PRIVATE LAWS</u>		<u>SESSION LAWS</u>		<u>SESSION LAWS</u>	
<u>YEAR</u>	<u>CHAPTER</u>	<u>YEAR</u>	<u>CHAPTER</u>	<u>YEAR</u>	<u>CHAPTER</u>
1925	28	1947	41	1967	838
1927	137	1947	456	1969	351
1927	145	1947	498	1969	560
1927	224	1949	93	1969	582
1929	133	1949	427	1969	699
1929	172	1949	744	1969	715
1929	190	1949	753	1969	1058
		1949	761	1971	554
		1949	853	1971	660
		1951	131	1971	620
		1951	213	1971	493
		1953	312	1975	869
		1953	318		
		1953	588		
		1953	589		
		1953	902		
		1953	1235		
		1955	346		
		1955	446		
		1955	516		
		1955	602		
		1955	826		
		1955	1104		
		1957	1090		
		1957	1383		
		1959	541		
		1959	542		
		1959	676		
		1959	949		
		1959	1090		
		1961	8		
		1961	224		
		1961	1211		
		1963	150		
		1965	20		
		1965	25		
		1965	384		
		1968	1162		
		1967	91		

<u>PUBLIC-LOCAL LAWS</u>	
<u>YEAR</u>	<u>CHAPTER</u>
1929	62
1931	289
1933	206
1937	554
1939	74
1939	609
1941	18
1941	77
1941	80
1941	92
1941	108

<u>SESSION LAWS</u>	
<u>YEAR</u>	<u>CHAPTER</u>
1943	49
1943	300
1945	4
1945	108
1945	120
1945	164
1945	166
1945	184

**Sec. 5.** No provision of this act is intended, nor shall be construed, to affect in any way, any rights or interest (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 (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision 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 Fayetteville and all existing rules or regulations of departments or agencies of the City of Fayetteville, 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 Fayetteville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**Sec. 8.** 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.

**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 16th day of May, 1979.

H. B. 799

## CHAPTER 558

### AN ACT REWRITING THE UNIFORM STANDARDS CODE FOR MOBILE HOMES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-151 is rewritten to read:

“§ 143-151. *Penalties.*—(a) Whoever violates (i) the provisions of this Article; or (ii) any rules promulgated under this Article, shall be liable for civil penalty not to exceed one thousand dollars (\$1,000) for each violation. Each such violation shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars (\$1,000,000) for any related series of violations occurring within one year from the date of the first violation.

(b) Any individual, corporation, or a director, officer or agent of a corporation who knowingly and willfully violates this Article or any rules promulgated under this Article in a manner which threatens the health or safety of any purchaser is guilty of a misdemeanor, and upon conviction shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both."

**Sec. 2.** G.S. 143-151.1 is amended by adding the following language at the end:

"The Commissioner, or any of his deputies or employees, upon showing proper credentials and in the discharge of their duties pursuant to this Article, or the National Mobile Home Construction and Safety Standards Act of 1974, is authorized at reasonable hours and without advance notice to enter and inspect all factories, warehouses, or establishments in the State of North Carolina in which mobile homes are manufactured."

**Sec. 3.** G.S. 143-148 is rewritten to read as follows:

"The Commissioner shall exclude from coverage of this Article any structure which the manufacturer certifies to be excluded under G.S. 143-145(7)."

**Sec. 4.** Article 9A of Chapter 143 of the General Statutes is amended by adding the following new sections:

"§ 143-151.2. *Fees.*—(a) The Commissioner may establish a monitoring inspection fee in an amount established by the Secretary of Housing and Urban Development. This monitoring inspection fee shall be an amount paid by each mobile home manufacturer in the State for each mobile home produced by the manufacturer in that State.

(b) The monitoring inspection fee shall be paid by the manufacturer to the Secretary of Housing and Urban Development or such Secretary's agent, who shall distribute the fees collected from all mobile home manufacturers among the approved and conditionally-approved states based on the number of mobile homes whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer, or purchaser in that state, and the extent of participation of the State in the joint monitoring team program established under the National Mobile Home Construction and Safety Standards Act of 1974.

"§ 143-151.3. *Reports.*—Each manufacturer, distributor, and dealer of mobile homes shall establish and maintain such records, make such reports, and provide such information as the Commissioner or the Secretary of Housing and Urban Development may reasonably require to be able to determine whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this Article, or the National Mobile Home Construction and Safety Standards Act of 1974 and shall, upon request of a person duly designated by the Commissioner or the Secretary of Housing and Urban Development, permit such person to inspect appropriate books, papers, records and documents relevant to determining whether such manufacturer, distributor, or dealer has acted or is acting in compliance with this Article or the National Mobile Home Construction and Safety Standards Act of 1974.

"§ 143-151.4. *Notification of defects.*—Every manufacturer of mobile homes shall furnish notification of any defect in any mobile home produced by such manufacturer in accordance with procedures specified by the Commissioner.

“§ 143-151.5. *Prohibited acts.*—(a) No person shall:

- (1) manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any mobile home which is manufactured on or after the effective date of any applicable mobile home construction and safety standard under this Article and which does not comply with such standard, except as provided in subsection (b);
  - (2) fail or refuse to permit access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Article;
  - (3) fail to furnish notification of any defect as required by G.S. 143-151.4;
  - (4) fail to issue a certificate of compliance, or issue a certification to the effect that a mobile home conforms to all applicable mobile home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;
  - (5) fail to comply with a rule issued by the Commissioner under this Article; or
  - (6) issue a certification pursuant to G.S. 143-148(c) if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.
- (b) (1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery of any mobile home after the first purchase of it in good faith for purposes other than resale.
- (2) Paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such mobile home was not in conformity with applicable mobile home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate of compliance issued by the manufacturer or importer of such mobile home to the effect that such mobile home conforms to all applicable mobile home construction and safety standards, unless such person knows that such mobile home does not so conform.”

**Sec. 5.** G.S. 143-146(b) is rewritten to read as follows:

“The Commissioner shall make and promulgate rules embodying the standards for construction or manufacture of mobile homes set by the Department of Housing and Urban Development under the provisions of the National Mobile Home Construction and Safety Standards Act of 1974, as these standards may be amended.”

**Sec. 6.** G.S. 143-146 is amended by adding a new subsection (e) to read as follows:

“(e) The Commissioner is authorized to promulgate such rules as are necessary to carry out the provisions of this Article and such rules as are necessary to enable the State of North Carolina to assume responsibility for the enforcement of the Mobile Home Construction and Safety Standards Act of 1974.”

**Sec. 7.** 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 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. 8.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

## H. B. 1087

## CHAPTER 559

AN ACT TO REQUIRE SPECIFIC STATUTORY AUTHORITY FOR AGENCIES TO ESTABLISH FEES OR CHARGES FOR THE GENERAL PUBLIC BY RULE.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Chapter 12 of the General Statutes to read:

“§ 12-3.1. *Fees and charges by agencies.*—(a) In the construction of a statute, unless that construction would be inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute, the legislative grant of authority to an agency to make and promulgate rules shall not be construed as a grant of authority to the agency to establish by rule a fee or a charge for the rendering of any service or fulfilling of any duty to the public, unless the statute expressly provides for the grant of authority to establish a fee or charge for that specific service.

(b) For purposes of this section:

‘Agency’ means every agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the legislative, executive or judicial branches of State government. ‘Agency’ does not include counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivisions, The University of North Carolina, community colleges, technical institutes, industrial education centers, hospitals, county or city boards of education, other local public districts, units, or bodies of any kind, or private corporations created by act of the General Assembly.

‘Rule’ means every rule, regulation, ordinance, standard, and amendment thereto adopted by any agency and includes rules and regulations regarding substantive matters, standards for products, procedural rules for complying with statutory or regulatory authority or requirements and executive orders of the Governor.

(c) This section does not apply to rules establishing fees or charges to State, federal or local governmental units, nor to any reasonable fee or charge for copying, transcripts of public hearings, or State publications.”

**Sec. 2.** This act shall become effective May 1, 1981, and shall apply to all rules then in existence or adopted thereafter.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

S. B. 53

## CHAPTER 560

AN ACT TO AUTHORIZE THE GOVERNOR TO CEDE JURISDICTION TO THE UNITED STATES IN NATIONAL PARKS TO ACHIEVE CONCURRENT JURISDICTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 104 of the General Statutes is hereby amended by adding thereto a new Article 3 to read as follows:

“Article 3.

“Jurisdiction Over National Park System Lands.

“§ 104-30. *Governor authorized to cede jurisdiction.*—(a) Whenever the United States shall desire to acquire legislative jurisdiction over any lands of the National Park System within this State and shall make application for that purpose, the Governor is authorized to cede to the United States such measure of jurisdiction, not exceeding that requested by the United States, as he may deem proper over all or any part of such lands as to which a cession of legislative jurisdiction is requested, reserving to the State such concurrent or partial jurisdiction as he may deem proper.

(b) Said application on behalf of the United States shall state in particular the measure of jurisdiction desired and shall be accompanied by an accurate description of the lands of the National Park System over which such jurisdiction is desired and information as to which of such lands are then owned or leased by the United States.

(c) Said cession of jurisdiction shall become effective when it is accepted on behalf of the United States, which acceptance shall be indicated, in writing upon the instrument of cession, by an authorized official of the United States and admitting it to record in the appropriate land records of the county in which lands are situated.

“§ 104-31. *Jurisdiction reserved.*—Notwithstanding any other provision of law, there are reserved over any lands as to which any legislative jurisdiction may be ceded to the United States pursuant to this Article, the State's entire legislative jurisdiction with respect to taxation and that of each State agency, county, city, political subdivision, and public district of the State; the State's entire legislative jurisdiction with respect to marriage, divorce, annulment, adoption, commitment of the mentally incompetent, and descent and distribution of property; concurrent power to enforce the criminal law; and the power to execute any process, civil or criminal, issued under the authority of the State; nor shall any persons residing on such lands be deprived of any civil or political rights, including the right of suffrage, by reason of the cession of such jurisdiction to the United States.”

**Sec. 2.** The provisions of this act shall not apply to any lands owned by the United States and held in trust for the Eastern Band of Cherokee Indians, located in Jackson, Swain, Graham, or Cherokee Counties.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

## S. B. 171

## CHAPTER 561

## AN ACT TO PROVIDE REMEDIES FOR DOMESTIC VIOLENCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Chapter 50A is added to the General Statutes to read as follows:

**“CHAPTER 50A.**

**“Domestic Violence.**

“§ 50A-1. *Domestic violence, definition.*—Domestic violence means the occurrence of one or more of the following acts between past or present spouses or between persons of the opposite sex who are living together or have lived together as if married:

(1) attempting to cause bodily injury, or intentionally causing bodily injury; or

(2) placing another person in fear of imminent serious bodily injury by the threat of force.

“§ 50A-2. *Procedure.*—(a) A party residing in this State may seek relief under this Chapter by filing a civil action alleging acts of domestic violence. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter.

(b) A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself. A hearing shall be held within 10 days of the filing of the motion.

(c) Prior to the hearing and upon a finding of good cause, the court shall enter such temporary orders as it deems necessary to protect the victim or minor children from acts of domestic violence. Immediate and present danger of such acts against the victim or minor children shall constitute good cause.

“§ 50A-3. *Relief.*—(a) The court may grant any protective order or approve any consent agreement to bring about a cessation of acts of domestic violence. The orders or agreements may:

(1) direct a party to refrain from such acts;

(2) grant to a spouse possession of the residence or household of the parties and exclude the other spouse from the residence or household;

(3) require a party to provide a spouse and his or her children suitable alternate housing;

(4) award temporary custody of minor children and establish temporary visitation rights;

(5) order the eviction of a party from the residence or household and assistance to the victim in returning to it;

(6) order either party to make payments for the support of a minor child as required by law;

(7) order either party to make payments for the support of a spouse as required by law;

(8) provide for possession of personal property of the parties;

(9) order a party to refrain from harassing or interfering with the other; and

(10) award costs and attorney's fees to either party.

(b) Protective orders entered or consent orders approved pursuant to this Chapter shall be for a fixed period of time not to exceed one year.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city, or resides in a city with no police department, the copy shall be issued to and retained by the sheriff of the county in which the victim resides.

“§ 50A-4. *Enforcement.*—(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter.

(b) A law enforcement officer shall arrest and take a person into custody if the officer has probable cause to believe that the person has violated a court order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from harassing or interfering with the victim, and if the victim presents the law enforcement officer with a copy of the order or the officer determines that such an order exists through phone, radio or other communication with appropriate authorities. The person arrested shall be brought before the appropriate district court judge at the earliest time possible to show cause why he or she should not be held in civil contempt for violation of the order. The person arrested shall be entitled to be released under the provisions of Article 26, Bail, of Chapter 15A of the General Statutes.

“§ 50A-5. *Emergency assistance.*—(a) A person who alleges that he or she has been the victim of domestic violence may request the assistance of a local law enforcement agency. The local law enforcement agency shall respond to the request for assistance as soon as practicable; provided, however, a local law enforcement agency shall not be required to respond in instances of multiple complaints from the same complainant if the multiple complaints are made within a 48-hour period and the local law enforcement agency has reasonable cause to believe that immediate assistance is not needed. The local law enforcement officer responding to the request for assistance is authorized to take whatever steps are reasonably necessary to protect the complainant from harm and is authorized to advise the complainant of sources of shelter, medical care, counseling and other services. Upon request by the complainant and where feasible, the law enforcement officer is authorized to transport the complainant to appropriate facilities such as hospitals, magistrates' offices, or public or private facilities for shelter and accompany the complainant to his or her residence, within the jurisdiction in which the request for assistance was made, so that the complainant may remove food, clothing, medication and such other personal property as is reasonably necessary to enable the complainant and any minor children who are presently in the care of the complainant to remain elsewhere pending further proceedings.

(b) In providing the assistance authorized by subsection (a), no officer may be held criminally or civilly liable on account of reasonable measures taken under authority of subsection (a).

“§ 50A-6. This act shall not be construed as granting a status to any person for any purpose other than those expressly stated herein.

“§ 50A-7. The remedies provided by this Chapter are not exclusive but are additional to remedies provided under Chapter 50 and elsewhere in the General Statutes.”



**Sec. 2.** A new section is added to Chapter 14 of the General Statutes as follows:

“§ 14-134.3. *Domestic criminal trespass.*—Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

- (1) a judicial order of separation;
  - (2) a court order directing the person charged to stay away from the premises occupied by the complainant;
  - (3) an agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or
  - (4) separate places of residence for the complainant and the person charged.
- On conviction, said person may be punished by a fine not to exceed five hundred dollars (\$500.00), imprisonment for not more than six months, or both.”

**Sec. 3.** A new subdivision is added to G.S. 15A-401(b) as follows:

“(3) Subdivisions (1) and (2) shall apply to arrest for assault, for communicating a threat, or for domestic criminal trespass, already committed or being committed by a person who is the spouse or former spouse of the alleged victim or by a person with whom the alleged victim is living or has lived as if married.”

**Sec. 4.** A new section is added to Chapter 15A as follows:

“§ 15A-534.1. *Crimes of domestic violence, bail and pretrial release.*—In all cases in which the defendant is charged with assault on or communicating a threat to a spouse or former spouse or a person with whom the defendant lives or has lived as if married, with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50A, Domestic Violence, of the General Statutes, the following provisions shall apply in addition to the provisions of G.S. 15A-534:

(1) Upon a determination by the judicial official that the immediate release of the defendant will pose a danger of injury to the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury or intimidation will not occur, a judicial official may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.

- (2) A judicial official may impose the following conditions on pretrial release:
- (a) that the defendant stay away from the home, school, business or place of employment of the alleged victim;
  - (b) that the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;
  - (c) that the defendant refrain from removing, damaging or injuring specifically identified property;

(d) that the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge. The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

(3) Should the defendant be an inebriate, mentally ill or imminently dangerous to himself or others the provisions of Article 5A of Chapter 122 'Involuntary Commitment' shall apply."

**Sec. 5.** Subdivision (3) of G.S. 50-7 is rewritten as follows:

"(3) By cruel or barbarous treatment endangers the life of the other. In addition, the court may grant the victim of such treatment the remedies available under G.S. 50A-1, *et seq.*"

**Sec. 6.** Nothing herein contained shall be construed to obligate the General Assembly to appropriate any additional funds.

**Sec. 7.** The granting of a protective order, approval of a consent agreement, prosecution for violation of this act, or the granting of any other relief or the institution of any other enforcement proceedings under this act shall not be construed to afford a defense to any person or persons charged with fornication and adultery under G.S. 14-184 or charged with any other offense against the public morals; and prosecution, conviction, or prosecution and conviction for violation of any provision of this act shall not be a bar to prosecution for violation of G.S. 14-184 or of any other statute defining an offense or offenses against the public morals.

**Sec. 8.** This act shall become effective October 1, 1979, and shall apply to all occurrences involving the acts enumerated above occurring on or after that date.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

## S. B. 244

## CHAPTER 562

AN ACT TO MAKE THE SECRETARY OF THE DEPARTMENT OF CULTURAL RESOURCES AS WELL AS THE DIRECTOR OF THE NORTH CAROLINA SYMPHONY MEMBERS OF THE BOARD OF TRUSTEES OF THE SCHOOL OF THE ARTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 116-65 is amended to read:

"§ 116-65. *To be part of University of North Carolina; membership of Board of Trustees.*—The North Carolina School of Arts is a part of The University of North Carolina and subject to the provisions of Article 1, Chapter 116, of the General Statutes; provided, however, that notwithstanding the provisions of G.S. 116-31, the Board of Trustees of said school shall consist of 15 persons, 13 of whom are selected in accordance with provisions of G.S. 116-31, and the conductor of the North Carolina Symphony and the Secretary of the Department of Cultural Resources, both serving *ex officio* and nonvoting."

**Sec. 2.** This act shall become effective on May 1, 1979.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

S. B. 547

**CHAPTER 563****AN ACT TO GIVE GRANDPARENTS CUSTODY AND VISITATION RIGHTS IN CERTAIN CASES.***The General Assembly of North Carolina enacts:***Section 1.** A new subsection is added to G.S. 50-13.5 to read:

“(j) *Custody and visitation rights of grandparents.*—In any action in which the custody of a minor child has been awarded to a parent and subsequently that parent dies, the grandparents of the child on the side of the deceased parent may intervene in the action and shall be entitled to such custody or visitation rights as the court, in its discretion, deems appropriate.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

S. B. 574

**CHAPTER 564****AN ACT TO AMEND THE SEDIMENTATION POLLUTION CONTROL ACT TO AMEND THE REQUIREMENT FOR THE PROVISION OF GROUND COVER AND REQUIRE THAT SUFFICIENT CONTROL DEVICES BE INSTALLED TO INSURE THAT ALL SEDIMENT SHALL BE CONFINED WITHIN THE BOUNDARIES OF THE CONSTRUCTION SITE DURING ACTIVE CONSTRUCTION.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113A-57(3) as the same appears in 1978 Replacement Volume 3A of the General Statutes is rewritten to read as follows:

“(3) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development within a time period to be adopted by regulation by the Commission.”

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

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

S. B. 653

**CHAPTER 565****AN ACT TO ADD AN AGGRAVATING CIRCUMSTANCE FOR CONSIDERATION IN CAPITAL CASES.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-2000(e) is amended by adding a new subdivision to read:

“(11) The murder for which the defendant stands convicted was part of a course of conduct in which the defendant engaged and which included the commission by the defendant of other crimes of violence against another person or persons.”

**Sec. 2.** This act is effective upon ratification and shall apply to all offenses committed after the date of its ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

S. B. 666

## CHAPTER 566

### AN ACT TO GIVE THE ENVIRONMENTAL MANAGEMENT COMMISSION AUTHORITY TO ALLOW ADDITIONAL DISCHARGES TO MUNICIPAL WASTE TREATMENT SYSTEMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.67 as the same appears in the 1978 Replacement Volume 3C of the General Statutes is amended by denominating the existing paragraph as subsection (a) and by adding a new subsection (b) to read as follows:

“(b) The Environmental Management Commission may authorize a unit of government subject to the provisions of G.S. 143-215.67(a) to accept additional wastes to its waste-disposal system upon a finding by the Environmental Management Commission (i) that the unit of government has secured a grant or has otherwise secured financing for planning, design, or construction of a new or improved waste disposal system which will adequately treat the additional waste, and (ii) the additional waste will not result in any significant degradation in the quality of the waters ultimately receiving such discharge. The Environmental Management Commission may impose such conditions on permits issued under G.S. 143-215.1 as it deems necessary to implement the provisions of this subsection, including conditions on the size, character, and number of additional dischargers. Nothing in this subsection shall be deemed to authorize a unit of government to violate water quality standards, effluent limitations or the terms of any order or permit issued under Part 1 of this Article nor does anything herein preclude the commission from enforcing by appropriate means the provisions of Part 1 of this Article.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

H. B. 297

## CHAPTER 567

### AN ACT TO PROHIBIT THE OPERATION OF VEHICLES RESEMBLING LAW ENFORCEMENT VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Part 9 of General Statutes Chapter 20 is amended by adding a new section to read:

“§ 20-137.2. *Operation of vehicles resembling law enforcement vehicles unlawful; punishment.*—(a) It is unlawful for any person other than a law enforcement officer of the State or of any county, municipality, or other political subdivision thereof, with the intent to impersonate a law enforcement officer, to operate any vehicle, which by its coloration, insignia, lettering, and blue or red light resembles a vehicle owned, possessed, or operated by any law enforcement agency.

(b) Violation of subsection (a) of this section is a misdemeanor punishable under G.S. 14-3.”



**Sec. 2.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 15th day of May, 1979.

## H. B. 603

## CHAPTER 568

## AN ACT TO PROHIBIT THE TAKING OF FEMALE DEER IN CERTAIN TOWNSHIPS IN MARTIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The taking of female deer (doe) is expressly forbidden at any time.

**Sec. 2.** This act applies to only the Townships of Jamesville, Williams and Griffins in Martin County only.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 15th day of May, 1979.

## S. B. 430

## CHAPTER 569

## AN ACT RELATING TO PROFESSIONAL BONDSMEN IN ROBESON COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 316, Session Laws of 1947, as amended by Chapter 995, Session Laws of 1947, Chapter 85, Session Laws of 1961, and Section 1(c) of Chapter 217, Session Laws of 1969, is further amended by deleting the last paragraph and inserting in lieu thereof the following new language:

"In the event a person, firm, association or corporation engaging in such business or activity shall have made either one or more bonds, or pledges or deposits in lieu thereof, or both, for appearances in any courts in Robeson County, and the amount is not greater than twenty-five thousand dollars (\$25,000), then he or it shall deposit an amount sufficient to make ten thousand dollars (\$10,000) of total deposits; and if the amounts thereof shall be greater than twenty-five thousand dollars (\$25,000) but not greater than fifty thousand dollars (\$50,000) then he or it shall deposit an amount sufficient to make fifteen thousand dollars (\$15,000) of total deposits; and if the amounts thereof shall be greater than fifty thousand dollars (\$50,000) but not greater than seventy-five thousand dollars (\$75,000), then he or it shall deposit an amount sufficient to make twenty thousand dollars (\$20,000) of total deposits; and if the amounts thereof shall be greater than seventy-five thousand dollars (\$75,000) but not greater than one hundred thousand dollars (\$100,000), then he or it shall deposit an amount sufficient to make twenty-five thousand dollars (\$25,000) of total deposits; and if the amounts thereof shall be greater than one hundred thousand dollars (\$100,000), but not greater than one hundred fifty thousand dollars (\$150,000), then he or it shall deposit an amount sufficient to make thirty thousand dollars (\$30,000) of total deposits; and if the amounts thereof shall be greater than one hundred fifty thousand dollars (\$150,000), then he or it shall deposit an amount sufficient to make thirty-five thousand dollars (\$35,000) of total deposits.

The limit of any bail bond executed by a professional bondsman or his agent shall not exceed the amount of one-fourth of the deposit held for such bondsman in the office of the Clerk of Superior Court.”

**Sec. 2.** Section 5 of Chapter 136, Session Laws of 1947 as rewritten by Chapter 995, Session Laws of 1947, is amended by deleting the words “shall be fined or imprisoned”, and inserting in lieu thereof the words “shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both”.

**Sec. 3.** This act applies to Robeson County only.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1979.

S. B. 609

## CHAPTER 570

AN ACT TO AMEND CHAPTER 84 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE GOVERNMENT OF THE NORTH CAROLINA STATE BAR.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first sentence of G.S. 84-17 is rewritten to read as follows:

“The government of the North Carolina State Bar is vested in a Council of the North Carolina State Bar hereinafter referred to as the ‘Council’, which shall be composed of 50 councilors exclusive of officers, except as hereinafter provided, to be appointed or elected as hereinafter set forth, the officers of the North Carolina State Bar, who shall be councilors during their respective terms of office, and each retiring president of the North Carolina State Bar who shall be a councilor for one year from the date of expiration of his term as president, whose term of office expires at the 1973 annual meeting or after.”

**Sec. 2.** The fifth and sixth sentences of G.S. 84-17 are deleted and the following are substituted:

“There shall be one councilor from each judicial district and additional councilors as are necessary to make the total number of councilors 50. The additional councilors shall be allocated and reallocated by the North Carolina State Bar every six years on the basis of the number of the active members of each judicial district bar according to the records of the North Carolina State Bar and in accordance with a formula to be adopted by the North Carolina State Bar, to insure an allocation based on lawyer population of each judicial district bar as it relates to the total number of active members of the State Bar.

In the event a judicial district is divided after any allocation as hereinafter provided, then the total number of councilors shall be increased until the next allocation, so as to provide one councilor for each such district, unless the district has one or more councilors who are members of such judicial district.”

**Sec. 3.** G.S. 84-18 is rewritten to read as follows:

“§ 84-18. *Terms, election and appointment of councilors.*—(a) The terms of councilors are fixed at three years. No councilor may serve more than three successive three-year terms but a councilor may serve an unlimited number of three successive three-year terms provided a three-year period of nonservice intervenes in each instance. This paragraph shall not apply to officers of the State Bar.

All councilors serving at the effective date of these changes shall remain in office and continue to represent their district for the remainder of their term. Those who have already served for 18 months or more shall be eligible for election to two additional three-year terms and be ineligible for election thereafter until a period of three years has expired. Those who have served less than 18 months shall be eligible for election to three consecutive three-year terms and be ineligible for election thereafter until an intervening three-year period has expired.

When a judicial district loses a councilor or is entitled to an additional councilor by virtue of reallocation of councilors as provided in G.S. 84-17 above, or is entitled to a councilor by virtue of the creation of a new district, then the affected judicial districts shall certify to the State Bar Council the identity of that judicial district's authorized councilor or councilors. This certification shall be made within 90 days of the date the reallocation is made and reported to the judicial districts affected. Until this certification is received, the district shall have no representation on the State Bar Council. In the case of reallocation, the certification shall be made within 90 days.

Any North Carolina State Bar member, other than an inactive member, is eligible to serve as a councilor from the judicial district in which he or she is eligible to vote.

(b) The election and appointment of councilors shall be as follows:

Each judicial district bar, under rules established by the district, shall elect one eligible North Carolina State Bar member for each State Bar Council vacancy in the district. Any vacancy occurring after the election, whether caused by resignation, death or otherwise shall be filled by the judicial district bar in which the vacancy occurs, under rules established by the district. The appointment shall be for the unexpired portion of the term and shall be certified to the State Bar Council by the judicial district bar. Any appointed councilor shall be subject to the terms set forth in paragraph (a) of G.S. 84-18."

**Sec. 4.** G.S. 84-19 is amended by deleting the punctuation mark ":" after the word "earlier" in the first paragraph, and by substituting the punctuation mark "."; and is further amended by deleting the remainder of the first paragraph, and all of the second.

**Sec. 5.** G.S. 84-22 is rewritten to read as follows:

"§ 84-22. *Officers and committees of the North Carolina State Bar.*—The officers of the North Carolina State Bar and the Council shall consist of a president, president-elect, vice-president and an immediate past president, who shall be deemed members of the council in all respects. The president, president-elect and vice-president need not be members of the State Bar Council at the time of their election. There shall be a secretary-treasurer who shall also have the title of executive director, but who shall not be a member of the State Bar Council. All officers shall be elected annually by the State Bar Council at an election to take place at the annual meeting of the North Carolina State Bar.

In addition to the committees and commissions as may be specifically established or authorized by law, the North Carolina State Bar may have committees, standing or special, as from time to time the Council of the North Carolina State Bar deems appropriate for the proper discharge of the duties and functions of the North Carolina State Bar. The Council of the North Carolina State Bar shall determine the number of members, composition, method of appointment or election, functions, powers and duties, structure, authority to

act, and other matters relating to each committee. Any committee may, at the discretion of the appointing or electing authority, be composed of Council members or members of the North Carolina State Bar who are not members of the Council, or of lay persons, or of any combination."

**Sec. 6.** G.S. 84-28(b)(1) is rewritten to read as follows:

"(1) Conviction of, or a tender and acceptance of a plea of no contest to, a criminal offense showing professional unfitness."

**Sec. 7.** G.S. 84-28(d) is rewritten to read as follows:

"(d) Any attorney admitted to practice law in this State, who is convicted of or has tendered and has had accepted, a plea of no contest to, a criminal offense showing professional unfitness, may be suspended from the practice of law, but this suspension shall not take place pending appeal of the conviction."

**Sec. 8.** The next to the last sentence of G.S. 84-28.1(1) is rewritten to read as follows:

"No member may serve more than a total of seven years or a one-year term and two consecutive three-year terms: Provided, that any member or former member who is designated chairman may serve one additional three-year term in that capacity."

**Sec. 9.** The first sentence of G.S. 84-37(a) is rewritten to read as follows:

"(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints of unauthorized or unlawful practice of law."

**Sec. 10.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 11.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 15th day of May, 1979.

## H. B. 462

## CHAPTER 571

AN ACT TO ENFORCE THE REQUIREMENT THAT ADMINISTRATIVE RULES BE FILED WITH THE ADMINISTRATIVE RULES REVIEW COMMITTEE OF THE LEGISLATIVE RESEARCH COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 915 of the 1977 Session Laws is amended by inserting two new sections to read as follows:

"Sec. 8.1. G.S. 150A-60, as it appears in the 1978 Replacement to Volume 3C of the General Statutes, is amended by:

(a) deleting the word 'and' following the semicolon in subsection (3);

(b) deleting the period following the words 'Attorney General' and inserting in lieu thereof the following: '; and'; and

(c) adding a new subsection to read as follows: '(5) bear a notation by the Director of Research of the General Assembly that the rule has been filed in accordance with Article 6C of Chapter 120 of the General Statutes. This subsection shall not apply to rules adopted by the Industrial Commission or the Utilities Commission.'

Sec. 8.2. Subsection (c) of G.S. 150A-59, as it appears in the 1978 Replacement to Volume 3C of the General Statutes, is amended by adding a new sentence to read as follows:



"The effectiveness of rules adopted prior to June 29, 1979, shall not be affected by the imposition of the filing requirement with the Director of Research under G.S. 150A-60(5)."

**Sec. 2.** G.S. 120-30.20(b), as contained in Section 1 of Chapter 915 of the 1977 Session Laws, is amended by deleting the words "at the same time filing is" and inserting in lieu thereof the following "prior to the filing".

**Sec. 3.** This act is effective on June 29, 1979.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

## H. B. 965

## CHAPTER 572

## AN ACT TO AMEND G.S. 31A-5 TO TREAT SLAYING SPOUSES EQUALLY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 31A-5 as it appears in 1976 Replacement Volume 2A is rewritten to read as follows:

"§ 31A-5. *Entirety property.*—Where the slayer and decedent hold property as tenants by the entirety, one half of the property shall pass upon the death of the decedent to the decedent's estate, and the other one half shall be held by the slayer during his or her life, subject to pass upon the slayer's death to the slain decedent's heirs or devisees as defined in G.S. 28A-1-1."

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

## H. B. 1004

## CHAPTER 573

## AN ACT TO PROHIBIT THE USE OF AUTOMATIC DIALING AND RECORDED MESSAGE PLAYERS FOR MAKING UNSOLICITED TELEPHONE CALLS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 1 of Chapter 75 of the North Carolina General Statutes is amended by adding G.S. 75-30 as follows:

"§ 75-30. *Automatic dialing and recorded message players, restriction on use of.*—(a) No person may make an unsolicited telephone call by the use of an automatic dialing and recorded message player unless:

(1) such calling person is a charitable, civic, political or opinion polling organization or a radio station, television station or broadcast rating service conducting a public opinion poll required by law; and

(2) such calling person clearly identifies the nature of the call and the name and address of the calling organization.

(b) As an exception to subsection (a) an unsolicited telephone call may be made by the use of an automatic dialing and recorded message player if the recorded message is preceded by an announcement made by a human operator who:

(1) states the nature and length in minutes of the recorded message; and

(2) identifies the individual, business, group, or organization calling; and

(3) asks the called party whether he is willing to listen to the recorded message; and

(4) disconnects from the called party's line if the called party is unwilling to listen to the recorded message.

(c) For the purpose of this section an automatic dialing and recorded message player shall be defined as any automatic equipment which incorporates a storage capability of telephone numbers to be called or a random or sequential number generator capable of producing numbers to be called and the capability, working alone or in conjunction with other equipment, of disseminating prerecorded message to the telephone number called.

(d) For the purpose of this section, a telephone call shall be deemed to be unsolicited unless pursuant to a prior agreement between the parties the person called has agreed to accept such calls from the person calling.

(e) Violation of this section shall be a misdemeanor, punishable by a fine of one hundred dollars (\$100.00), for each occurrence."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

## H. B. 1086

## CHAPTER 574

### AN ACT TO AMEND CHAPTER 20 OF THE GENERAL STATUTES RELATIVE TO MO-PEDS OR BICYCLES WITH HELPER MOTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-4.01 is hereby amended by adding a new definition to be designated number (22a), said new definition to read as follows:

"(22a) Mo-ped. A type of passenger vehicle as defined in G.S. 20-4.01(27)."

**Sec. 2.** G.S. 20-4.01(27) is hereby amended by inserting a definition of mo-ped to be designated as subdivision "e" and by redesignating the remaining subdivisions as "f", "g" and "h" respectively, said new subdivision "e" to read as follows:

"e. Mo-ped. Vehicles having two or three wheels and operable pedals and equipped with a motor which does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface."

**Sec. 3.** G.S. 20-4.01(27)d is hereby amended by striking the words "bicycles with helper motors rated less than one brake horsepower which produce only ordinary pedaling speeds up to a maximum of 20 miles per hour" and inserting in lieu thereof the words "mo-peds as defined in subdivision 'e' of this subsection".

**Sec. 4.** G.S. 20-4.01(23) is hereby amended by striking the last sentence thereof and inserting in lieu thereof: "This shall not include mo-peds as defined in G.S. 20-4.01(27)e."

**Sec. 5.** G.S. 20-50.1 is hereby repealed.

**Sec. 6.** G.S. 20-51 is hereby amended by adding a new subdivision to be designated subdivision "(9)" and to read as follows:

"(9) Mo-peds as defined in G.S. 20-4.01(27)e."

**Sec. 7.** G.S. 20-8(7) is rewritten to read as follows: "Any person who is at least 16 years of age while operating a Mo-ped".

**Sec. 8.** Chapter 20 of the General Statutes is amended by adding a new section to read:

“§ 20-10.1. *Mo-peds.* It shall be unlawful for any person who is under the age of 16 years to operate a mo-ped as defined in G.S. 20-4.01(27)e upon any highway or public vehicular area of this State.”

**Sec. 9.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

## H. B. 1030

## CHAPTER 575

AN ACT TO ABOLISH THE ADVOCACY COUNCIL FOR THE MENTALLY ILL AND DEVELOPMENTALLY DISABLED AND THE GOVERNOR'S COUNCIL ON EMPLOYMENT OF THE HANDICAPPED AND TO TRANSFER THEIR FUNCTIONS TO A NEW COUNCIL TO BE KNOWN AS THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 9, Chapter 143B of the General Statutes is hereby amended by repealing Parts 14 and 16 thereof as the same appear in 1978 Replacement Volume 3C and by adding a new Part 14 thereto to read as follows:

“Part 14.

“Governor's Advocacy Council for Persons with Disabilities.

“§ 143B-402. *Governor's Advocacy Council for Persons with Disabilities - creation; powers and duties.*—There is hereby created the Governor's Advocacy Council for Persons with Disabilities of the Department of Administration. The Council shall have the following functions and duties:

- (1) to provide for a statewide program of protection and advocacy in accordance with Section 113 of Public Law 94-103, Developmental Disabilities Services and Facilities Construction Act, as amended;
- (2) to pursue legal, administrative, or other appropriate remedies to insure the protection of the rights of all developmentally, mentally, physically, emotionally and otherwise disabled persons who are receiving treatment, services, or habilitation from any State, local, or area program;
- (3) to review and recommend changes in all laws, rules, regulations, programs and policies of this State or any agency or subdivision thereof to insure the rights of the developmentally, mentally, physically, emotionally and otherwise disabled persons are safeguarded;
- (4) to investigate complaints concerning the violation of the rights of the developmentally, mentally, physically, emotionally and otherwise disabled persons and to take appropriate action;
- (5) to contract with public agencies or private nonprofit corporations to fulfill any of the functions and duties provided for in Sections 2 and 6 and government funded programs;
- (6) to aid and assist local advocacy program and the advocacy programs in mental retardation centers, psychiatric hospitals, and training schools;
- (7) to perform such other functions as are necessary to protect the rights of the developmentally, mentally, physically, emotionally and otherwise disabled or as may be assigned by the Secretary of Administration;

- (8) to advise and assist the Department of Administration on the continuing program to promote the employment of the physically, mentally, emotionally, and otherwise handicapped citizens of North Carolina by creating statewide interest in the rehabilitation and employment of the handicapped, and by obtaining and maintaining cooperation with all public and private groups and individuals in this field;
- (9) to work in close cooperation with the President's Committee on the Employment of the Handicapped to carry out more effectively the purpose of Article 29A of Chapter 143 of the General Statutes, and with State and federal agencies having responsibilities for employment and rehabilitation of the handicapped;
- (10) to promote and encourage the holding of appropriate ceremonies throughout the State during the 'National Employ the Handicapped Week', the purpose of which ceremony shall be to enlist public support for interest in the employment of the developmentally, mentally, physically, emotionally and otherwise disabled; and
- (11) the Council shall advise the Secretary of Administration upon any matter the Secretary may refer to it.

"§ 143B-403. *Governor's Advocacy Council for Persons with Disabilities - members, selection; quorum; compensation.*—The Governor's Advocacy Council for Persons with Disabilities of the Department of Administration shall consist of 22 members. The composition of the Council shall be as follows: four 'ex-officio' members from State government agencies as follows: the Commissioner of Labor, the Commissioner of Insurance, the Secretary of the Department of Human Resources and the Chairman of the Employment Security Commission. The Governor shall appoint the remaining 18 members as follows: two of the remaining 18 members shall be legislators (one being a representative from the House and one being a representative of the Senate); of the remaining 16 members, at least eight shall be disabled persons or parents of disabled persons.

The initial term for one half of the members appointed by the Governor shall be two years. The initial term for the remaining members appointed by the Governor shall be four years. At the end of the respective terms of office of the initial members of the Council, the appointment of all members with the exception of those from State agencies, shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor may remove any member of the Council appointed by the Governor.

The Governor shall designate one member of the Council to serve as chairman and one member to serve as vice-chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

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

All clerical and other services required by the Council shall be supplied by the Secretary of Administration."

**Sec. 2.** This act is effective July 1, 1979.



In the General Assembly read three times and ratified, this the 16th day of May, 1979.

S. B. 230

## CHAPTER 576

AN ACT REGARDING THE COMPETENCY OF BLOOD TESTS AS EVIDENCE IN CRIMINAL OR CIVIL ACTIONS OR PROCEEDINGS IN WHICH THE QUESTION OF PARENTAGE ARISES AND TO SPECIFY PAYMENT OF COSTS.

Whereas, the percentage of illegitimate births in North Carolina has in recent years steadily increased to at least 16.8 percent of all births for the calendar year 1977 (14,208 illegitimate births); and

Whereas, the medical state of the art was formerly such that blood tests made in paternity cases could only be used to exclude a putative parent from the class of persons potentially capable of being the biological parent; however, a recent breakthrough in medical science now enables extended factor blood tests to show the inclusionary probability that a putative parent is the biological parent of a child; and

Whereas, a great many of the children born out of wedlock join the public welfare rolls and thereby increase the burden on State taxpayers; and

Whereas, the availability of inclusionary in addition to exclusionary results of extended factor blood tests promotes the use of objective medical evidence in parentage matters by plaintiffs as well as defendants and thereby facilitates the plaintiffs' ability to fairly and accurately meet their burden of proof; and

Whereas, the facilitation of the plaintiffs' ability to fairly and accurately meet their burden of proof in parentage matters has the effect of placing the burden of supporting illegitimate children on the persons who should be responsible, the biological parents; and

Whereas, a statute is needed which will allow the adjudication of maternity as well as paternity; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 8-50.1, as the same appears in the 1977 Supplement to the 1969 Replacement to Volume 1B of the General Statutes, is hereby rewritten to read as follows:

"§ 8-50.1. *Competency of blood tests, jury charge, taxing of expenses as costs.*—(a) In the trial of any criminal action or proceeding in any court in which the question of parentage arises, regardless of any presumptions with respect to parentage, the court before whom the matter may be brought, upon motion of the State or the defendant, shall order that the alleged-parent defendant, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged-parent defendant, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under the provisions of this subsection, the court shall proceed as follows:

- (1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent-defendant cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results, and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent; whereupon, the court shall enter the special verdict of not guilty; and
  - (2) By requiring the State or defendant, as the case may be, requesting the blood tests and comparisons pursuant to this subsection to initially be responsible for any of the expenses thereof and upon the entry of a special verdict incorporating a finding of parentage or non-parentage, by taxing the expenses for blood tests and comparisons, in addition to any fees for expert witnesses allowed per G.S. 7A-314 whose testimonies supported the admissibility thereof, as costs in accordance with G.S. 7A-304; G.S. Chapter 6, Article 7; or G.S. 7A-315, as applicable.
- (b) In the trial of any civil action in which the question of parentage arises, the court before whom the matter may be brought, upon motion of the plaintiff, alleged-parent defendant, or other interested party, shall order that the alleged-parent defendant, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged-parent defendant, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged-parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other qualified person. Upon receipt of a motion and the entry of an order under the provisions of this subsection, the court shall proceed as follows:
- (1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged-parent defendant cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results, and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged-parent defendant is not the natural parent; and
  - (2) By requiring the plaintiff, alleged-parent defendant or other interested party requesting blood tests and comparisons pursuant to this subsection to initially be responsible for any of the expenses thereof and upon the entry of a verdict of parentage or non-parentage, by taxing the expenses for blood tests and comparisons, in addition to any fees for expert witnesses allowed per G.S. 7A-314 whose testimonies supported the admissibility thereof, as costs in accordance with the provisions of G.S. 6-21."

**Sec. 2.** G.S. 49-7, as the same appears in the 1977 Supplement to the 1976 Replacement to Volume 2A of the General Statutes, is hereby amended by rewriting the second paragraph to read as follows:

"The court before whom the matter may be brought, on motion of the State or the defendant, shall order that the alleged-parent defendant, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged-parent defendant, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist or other duly qualified person. The evidentiary effect of those blood tests and comparisons and the manner in which the expenses therefor are to be taxed as costs shall be as prescribed in G.S. 8-50.1. In addition, if a jury tries the issue of parentage, they shall be instructed as set out in G.S. 8-50.1. From a finding on the issue of parentage against the alleged-parent defendant, the alleged-parent defendant has the same right of appeal as though he or she had been found guilty of the crime of willful failure to support an illegitimate child."

**Sec. 3.** G.S. 7A-304(c), as the same appears in the 1977 Supplement to the 1969 Replacement to Volume 1B of the General Statutes, is hereby amended by inserting the phrase "expenses for blood tests and comparisons incurred per G.S. 8-50.1(a)," between the words "witness fees," and "jail fees" on line 2 of that subsection.

**Sec. 4.** G.S. 7A-315, as the same appears in the 1969 Replacement to Volume 1B of the General Statutes, is hereby amended by deleting the period at the end thereof and substituting therefor the following phrase:

"allowed per G.S. 7A-314 and any expenses for blood tests and comparisons incurred per G.S. 8-50.1(a)."

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

## S. B. 340

## CHAPTER 577

### AN ACT TO PREVENT THE USE OF ARTIFICIAL LIGHT IN AREAS INHABITED BY GAME IN IREDELL COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 6 of Chapter 436 of the 1977 Session Laws is amended to add Iredell to the list of counties to which the 1977 act applies.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

## H. B. 78

## CHAPTER 578

AN ACT TO AMEND G.S. 125-7(c) TO ALLOW MUNICIPAL AND REGIONAL LIBRARIES TO SHARE IN LIBRARY EQUALIZATION FUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 125-7(c) as the same appears in the 1974 Replacement Volume 3B of the General Statutes of North Carolina is hereby amended by deleting the word "counties" on the sixth line thereof and inserting in lieu thereof the words:

"legally established municipal, county or regional libraries".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 365

## CHAPTER 579

AN ACT TO CLARIFY THE COMPUTATION OF TIME FOR PUBLIC SALE NOTICES AND OTHER LEGAL NOTICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 25-9-603 is amended by adding at the end thereof the following new subsection:

"(4) The time for the posting of the notice of sale and the mailing of the notice required by this section shall be computed so as to exclude the first day of posting and mailing and to include the day on which the sale is to occur. Rule 6 of the North Carolina Rules of Civil Procedure shall not apply."

**Sec. 2.** G.S. 1-594 is amended to read as follows:

"§ 1-594. *Computation in publication.*—Except as otherwise expressly provided, the time for publication of legal notices shall be computed in the manner prescribed by Rule 6 of the North Carolina Rules of Civil Procedure."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 405

## CHAPTER 580

AN ACT TO UPDATE G.S. 45-18, VALIDATION OF CERTAIN ACTS OF SUBSTITUTED TRUSTEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 45-18 is amended to read as follows:

"§ 45-18. *Validation of certain acts of substituted trustees.*—Whenever before January 1, 1979, a trustee has been substituted in a deed of trust in the manner provided by G.S. 45-10 to 45-17, but the instrument executed by the holder and/or owners of all or a majority in amount of the indebtedness, notes, bonds, or other instruments secured by said deed of trust, has not been registered as provided by said sections until after the substitute trustee has exercised some or all of the powers conferred by said deed of trust upon the trustee therein, including the advertising of the property conveyed by said deed of trust for sale, the sale thereof, and the execution of a deed by such substituted trustee to the purchaser at such sale, all such acts of said substituted trustee shall be deemed



valid and effective in the same manner and to the same extent as if said instrument substituting said trustee, had been registered prior to the performance by said substituted trustee of any one or more of said acts, or other acts authorized by such deed of trust."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 454

## CHAPTER 581

AN ACT TO EXTEND THE TIME FOR NOTICE OF APPEAL IN STATE TORT CLAIMS, SO AS TO CONFORM TO NOTICE OF APPEAL UNDER THE WORKMEN'S COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-292 is amended by striking from line 2 the word "seven" and inserting in lieu thereof the number "15".

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 645

## CHAPTER 582

AN ACT TO PROHIBIT THE HUNTING OR TAKING OF BEAR.

*The General Assembly of North Carolina enacts:*

**Section 1.** It is unlawful for any person to take or hunt bear.

**Sec. 2.** Violation of this act is a misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00) or by imprisonment for not more than 30 days, or both, in the discretion of the court.

**Sec. 3.** This act applies only to the counties of Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans, Tyrrell and Washington.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 963

## CHAPTER 583

AN ACT TO ALLOW CITIES AND COUNTIES TO CONVEY PROPERTY TO VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 12 of General Statutes Chapter 160A is amended by adding a new section to read:

"§ 160A-277. *Sale of land to volunteer fire departments and rescue squads.*—

(a) A city, upon such terms and conditions as it deems wise, with or without monetary consideration may lease, sell or convey to a volunteer fire department or to a volunteer rescue squad any land or interest in land, for the purpose of constructing or expanding fire department or rescue squad facilities, if the volunteer fire department or volunteer rescue squad provides fire protection or rescue services to the city.

(b) Any lease, sale or conveyance under this section must be approved by the city council by resolution adopted at a regular meeting of the council upon 10 days' public notice. Notice shall be given by publication describing the property

to be leased or sold, stating the value of the properties, the proposed monetary consideration or lack thereof, and the council's intent to authorize the lease, sale or conveyance."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 1011

## CHAPTER 584

### AN ACT TO PROVIDE FOR APPEALS FROM THE PROPERTY TAX COMMISSION TO THE COURT OF APPEALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-29 is amended by rewriting the same in its entirety, to read as follows:

"§ 7A-29. *Appeals of right from certain administrative agencies.*—From any final order or decision of 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. 105-290 and G.S. 105-342, or an appeal from the Commissioner of Insurance pursuant to G.S. 58-9.4, appeal as of right lies directly to the Court of Appeals."

**Sec. 2.** G.S. 105-342(d) is amended by deleting the last sentence thereof in its entirety.

**Sec. 3.** Subchapter II of Chapter 105 of the General Statutes of North Carolina is amended by adding at the end of Article 23 thereof, a new Article 24, to read as follows:

#### "ARTICLE 24.

##### "Review and Enforcement of Orders.

"§ 105-345. *Right of appeal; filing of exceptions.*—(a) No party to a proceeding before the Property Tax Commission may appeal from any final order or decision of the commission unless within 30 days after the entry of such final order or decision, or within such time thereafter as may be fixed by the commission, by order made within 30 days, the party aggrieved by such decision or order shall file with the commission notice of appeal and exceptions which shall set forth specifically the ground or grounds on which the aggrieved party considers said decision or order to be unlawful, unjust, unreasonable or unwarranted, and including errors alleged to have been committed by the commission.

(b) Any party may appeal from all or any portion of any final order or decision of the commission in the manner herein provided. Copy of the notice of appeal shall be mailed by the appealing party at the time of filing with the commission, to each party to the proceeding to the addresses as they appear in the files of the commission in the proceeding. The failure of any party, other than the commission, to be served with or to receive a copy of the notice of appeal shall not affect the validity or regularity of the appeal.

(c) The commission may on motion of any party to the proceeding or on its own motion set the exceptions to the final order upon which such appeal is based for further hearing before the commission.

(d) The appeal shall lie to the Court of Appeals as provided in G.S. 7A-29. The procedure for the appeal shall be as provided by the rules of appellate procedure.

(e) The Court of Appeals shall hear and determine all matters arising on such appeal, as in this Article provided, and may in the exercise of its discretion assign the hearing of said appeal to any panel of the Court of Appeals.

“§ 105-345.1. *No evidence admitted on appeal; remission for further evidence.*—No evidence shall be received at the hearing on appeal to the Court of Appeals but if any party shall satisfy the court that evidence has been discovered since the hearing before the Property Tax Commission that could not have been obtained for use at that hearing by the exercise of reasonable diligence, and will materially affect the merits of the case, the court may, in its discretion, remand the record and proceedings to the commission with directions to take such subsequently discovered evidence, and after consideration thereof, to make such order as the commission may deem proper, from which order an appeal shall lie as in the case of any other final order from which an appeal may be taken as provided in G.S. 105-345.

“§ 105-345.2. *Record on appeal; extent of review.*—(a) On appeal the court shall review the record and the exceptions and assignments of error in accordance with the rules of appellate procedure, and any alleged irregularities in procedures before the Property Tax Commission, not shown in the record, shall be considered under the rules of appellate procedure.

(b) So far as necessary to the decision and where presented, the court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning and applicability of the terms of any commission action. The court may affirm or reverse the decision of the commission, declare the same null and void, or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the appellants have been prejudiced because the commission's findings, inferences, conclusions or decisions are:

- (1) in violation of constitutional provisions; or
- (2) in excess of statutory authority or jurisdiction of the commission; or
- (3) made upon unlawful proceedings; or
- (4) affected by other errors of law; or
- (5) unsupported by competent, material and substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

(c) In making the foregoing determinations, the court shall review the whole record or such portions thereof as may be cited by any party and due account shall be taken of the rule of prejudicial error. The appellant shall not be permitted to rely upon any grounds for relief on appeal which were not set forth specifically in his notice of appeal filed with the commission.

“§ 105-345.3. *Relief pending review on appeal.*—Pending judicial review, the Property Tax Commission is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, a judge of the Court of Appeals is authorized to issue all necessary and appropriate process to postpone the effective date of any action by the commission or take such action as may be necessary to preserve status or rights of any of the parties pending conclusion of the proceedings on appeal. The court may require the applicant for such stay to post adequate bond as required by the court.

“§ 105-345.4. *Appeal to Supreme Court.*—In all appeals heard in the Court of Appeals, any party may file a motion for review in the Supreme Court of the decision of the Court of Appeals under G.S. 7A-31, and in cases entitled to be appealed as a matter of right under G.S. 7A-30(3) any party may appeal to the Supreme Court from the decision of the Court of Appeals under the same rules and regulations as are prescribed by law for appeals, and such court may advance the cause on its docket.

“§ 105-345.5. *Judgment on appeal enforced by mandamus.*—In all cases in which, upon appeal, an order or decision of the Property Tax Commission is affirmed, in whole or in part, the appellate court may include in its decree a mandamus to the appropriate party to put said order in force, or so much thereof as shall be affirmed, or the appellate court may make such other order as it deems appropriate.

“§ 105-346. *Peremptory mandamus to enforce order when no appeal.*—(a) If no appeal is taken from an order or decision of the Property Tax Commission within the time prescribed by law and the person to which the order or decision is directed fails to put the same in operation, as therein required, the commission may apply to the judge regularly assigned to the superior court district which includes Wake County, or to the resident judge of said district at chambers upon 10 days' notice, for a peremptory mandamus upon said person for the putting in force of said order or decision; and if said judge shall find that the order of said commission was valid and within the scope of its powers, he shall issue such peremptory mandamus.

(b) An appeal shall lie to the Court of Appeals in behalf of the commission, or the defendant, from the refusal or the granting of such peremptory mandamus. The remedy prescribed in this section for enforcement of orders of the commission is in addition to other remedies prescribed by law.”

**Sec. 4.** This act shall become effective on September 1, 1979, and shall only apply to final orders and decisions of the Property Tax Commission entered on and after that date.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 355

## CHAPTER 585

AN ACT TO AMEND ARTICLE 2, PART 6 OF CHAPTER 108 OF THE GENERAL STATUTES TO PROVIDE FOR PERIODS OF INELIGIBILITY FOR STATE-COUNTY SPECIAL ASSISTANCE FOR ADULTS IN CASES WHERE REAL PROPERTY IS TRANSFERRED FOR THE PURPOSE OF QUALIFYING FOR SUCH ASSISTANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is hereby added at the end of Article 2, Part 6 of Chapter 108 of the General Statutes, as follows:

“§ 108-65.1. *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. 108-44, the decision denying or terminating such assistance."

**Sec. 2.** This act shall become effective July 1, 1979, and shall only apply to those transfers, conveyances or dispositions made on or after July 1, 1979.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

## H. B. 534

## CHAPTER 586

### AN ACT TO PROVIDE BROADBAND COMMUNICATION SERVICES TO THE CITIZENS OF RURAL NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4 of Chapter 117 of the General Statutes is hereby amended by deleting the present G.S. 117-30 in its entirety and adding a new G.S. 117-30 to read as follows:

"§ 117-30. *Telephone membership corporations.*—(a) In the event it is ascertained by the Rural Electrification Authority that the community or communities referred to in the foregoing section (G.S. 117-29) are in need of telephone service and that there is a sufficient number of persons to be served to justify such services, and the telephone company serving in the area in which the community or communities are located is unwilling to provide such service, a telephone membership corporation may be organized by such community or communities in the same manner that electric membership corporations may be formed under Article 2 of this Chapter, and all of the provisions of said Article shall be applicable to the formation of telephone membership corporations and such corporations shall have all the authority, powers and duties of such a corporation when formed under the provisions of said Article; except that the provisions of G.S. 117-8, G.S. 117-9, G.S. 117-10.1, G.S. 117-10.2, G.S. 117-16.1, G.S. 117-19 and G.S. 117-24 shall not be applicable to the organization of a telephone membership corporation, and except that such corporations so formed for the express purpose of providing telephone service necessary to serve the community or communities prescribed in the application may also provide

the community or communities prescribed in the application with any communication service for the transmission of voice, sounds, signals, pictures, writing or signs of all kinds through the use of electricity or the electromagnetic spectrum between the transmitting and receiving apparatus, together with any telecommunications service requiring band-width capacity, including, but not limited to community antenna and cable television services, and including all lines, wires, cables, radio, light, electromagnetic impulse and all facilities, systems or other means used in the rendition of such services, but not including message telegram service or radio broadcasting services or facilities within the meaning of Section 3(o) of the Federal Communications Act of 1934, as amended (47 USC § 153(o)) and except that such corporation so formed shall have no authority to engage in any other business. Provided, that the references in Article 2 of this Chapter to 'power lines' or 'energy' as to such telephone membership corporations shall be construed to mean telephone lines, broadband cables and lines, telephone service and broadband communications services. Provided further, that nothing herein shall be construed to authorize any telephone membership corporation organized hereunder to duplicate any line or lines, systems or other means by which adequate telephone service is being furnished; or to build or to construct a telephone line, or telephone lines, or telephone systems, or otherwise to provide facilities or means of furnishing telephone service to any person, community, town or city then being adequately served by a telephone company, corporation or system; or to provide telephone service in an unserved area while any telephone company, corporation or system is acting in good faith and with reasonable diligence in arranging to provide adequate telephone service to such person, community, town or city.

(b) Any telephone membership corporation formed under this Article which now provides or has imminent plans to provide any service which is subject to the requirement of a state or local franchise shall make reasonable efforts to secure any such state or local franchise required for the operation of such service within its service area. Unless otherwise prohibited, any such franchise granted to a telephone membership corporation may be transferred or assigned by that corporation, in its discretion, if such transfer or assignment is reasonably calculated to contribute to the development of any such service within the franchised area. Provided, however, that no telephone membership corporation shall be required to obtain a state or local franchise to provide the types of telephone services being provided on July 1, 1979 by a telephone membership corporation, or the types of telephone services offered by existing telephone membership corporations on July 1, 1979 and proposed to be offered by any telephone membership corporation formed thereafter, without respect to the facilities or methods which are used to provide such services."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1979.

## H. B. 675

## CHAPTER 587

## AN ACT REGULATING USE OF FIREARMS AND THE HUNTING OF DEER IN CLEVELAND COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful for any person to possess any centerfire rifle upon or on the lands of another or to hunt with such centerfire rifle upon the lands of another without first having secured the express written permission of the owner or lessee of the land upon which such rifle is possessed or hunted with or over or across which such centerfire rifle is discharged. Such written permission must be in the possession of the person who has possession of such centerfire rifle and said permission shall be dated and good for not more than 10 days from the issuance thereof.

**Sec. 2.** It shall be unlawful for any person to discharge any centerfire rifle from, to or across any State-maintained road or highway. This act shall not be interpreted to make unlawful the mere possession of a centerfire rifle on any State-maintained road or highway when such rifle is being transported within or on any motor vehicle.

**Sec. 3.** It shall be unlawful for any person to hunt, take, or kill deer at any time without first having secured the express written permission of the owner or lessee of the land upon which he is hunting, taking or killing deer. Such written permission must be in the possession of the person who is hunting, taking or killing deer and said permission shall be dated and good for not more than 10 days from the issuance thereof.

**Sec. 4.** Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction, shall be fined not less than one hundred dollars (\$100.00) or more than two hundred fifty dollars (\$250.00) or imprisoned not more than 30 days, or both fined and imprisoned, in the discretion of the court.

**Sec. 5.** All law enforcement officers, including wildlife protectors, shall have the authority, upon request of a landowner or lessee of land, to enforce the provisions of this act.

**Sec. 6.** This act shall be effective only as to those lands in Cleveland County lying north of U. S. Highway 74 and south of secondary road 1361 and N. C. Highway 182.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1979.

## H. B. 797

## CHAPTER 588

## AN ACT TO AMEND CHAPTER 435 OF THE 1977 SESSION LAWS AUTHORIZING THE BOARD OF COMMISSIONERS OF DARE COUNTY TO CREATE A DARE COUNTY GAME AND WILDLIFE COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 435 of the 1977 Session Laws is amended to read:

“Section 1. The Dare County Board of Commissioners is hereby authorized, subject to the provisions of this act, to create, in its discretion, a commission

composed of 11 residents of Dare County to be known as the 'Dare County Game and Wildlife Commission'.

"Sec. 2. All members of the initial commission, as well as vacancies occurring thereon by reason of death, resignation or otherwise, shall be filled by a majority vote of the county commissioners. To the initial commission, the county commissioners shall appoint 3 members for a one-year term, 4 members for a two-year term, and 4 members for a three-year term. Thereafter, all members of the commission shall serve three-year terms.

"The initial chairman of the commission shall be chosen by the county commissioners from among those persons appointed for a three-year term and shall be chairman for three years. Thereafter the chairman of the commission shall be chosen by a majority vote of the commission members to serve for a three-year term. In the event the initial chairman or a subsequent chairman resigns as chairman or ceases to be a member of the commission for any reason, the commission shall choose a member of the commission to serve out the remaining term as chairman.

"The commission shall elect from its membership a vice-chairman and a secretary-treasurer, each of whom shall serve a one-year term. Vacancies in the office of vice-chairman and secretary-treasurer shall be filled in the same manner as that of chairman.

"No officer of the commission shall succeed himself for more than three successive terms.

"A quorum of the commission shall be six and a simple majority of those present shall be necessary to take official action.

"The commission shall meet at least twice in each calendar year in Dare County and it shall meet upon call of the chairman or upon written request of any four members.

"It shall not be a conflict of interest for a commission member to discuss or vote upon his own license application.

"Sec. 3. The commission shall have full authority in the licensing of devices for concealing a person or persons hunting migratory waterfowl and licensing of exclusive geographic locations in Dare County for the purpose of hunting migratory waterfowl from a blind, box or other permanent or semipermanent structure or device located thereon. No such exclusive geographic location shall be located on the shoreline of any game land owned or managed by the Wildlife Resources Commission, nor shall the periphery of any such location extend to any point within five yards of the shoreline of any such game land.

"The commission shall maintain a map and record system defining site locations and licensees.

"The commission shall collect a fee of twenty-five dollars (\$25.00) per new license issued and ten dollars (\$10.00) per renewal license issued. Within 30 days of the close of each fiscal year the secretary-treasurer of the commission shall pay one-half of the total license fees collected during the previous fiscal year to the Wildlife Resources Commission as reimbursement for the cost of enforcement as required by Section 6 of this act. The other one-half of the license fees so collected shall be used to defray expenses in the printing of licenses and any other necessary or proper expenses of the commission. All funds retained by the commission shall be held, accounted for, and audited annually as required by the General Statutes for units of local government and public authority.



"Licenses shall be issued for the period July 1 through June 30 each year and the balance in the account of the commission on June 30 shall be paid to the general fund of Dare County.

"The commission shall, after a public hearing to discuss proposed rules and regulations, establish, adopt and publish written rules and regulations, which shall be available to the public for a reasonable fee, governing the issuance and reissuance of licenses.

"The commission shall adopt an official seal, a facsimile of which shall be exhibited on all licenses.

"Sec. 4. It shall be unlawful to use said blind, box, or other structure for hunting unless the license or renewal thereof is posted in a conspicuous place on said blind, box, or other structure. Violations of this posting requirement shall be punishable according to the provisions of Section 6 by a fine not to exceed two hundred dollars (\$200.00) or imprisonment not to exceed 30 days or both.

"Sec. 5. The commission shall have authority to hear and review all licensing disputes, shall have authority to subpoena witnesses, and shall notify all direct parties in interest by certified mail at least 10 days prior to the hearing. The commission shall have power to grant, alter, revise or revoke licenses in accord with its rules and regulations.

"Appeals from decisions of the commission shall be to the district court, where they shall be heard de novo.

"The granting of a license is a privilege and not a vested property right.

"Sec. 6. It shall be a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00) or imprisonment not to exceed 30 days or both for any person to hunt migratory waterfowl in Dare County within an exclusive geographic location licensed by the Dare County Game and Wildlife Commission except from a location licensed in the name of one of the hunters using such location or when in possession of written permission of the licensee of such location; provided that this section shall not apply to the shoreline of or within five yards of the shoreline of any game land owned or managed by the Wildlife Resources Commission.

"Sec. 7. The Wildlife Resources Commission shall enforce the provisions of Section 6 of this act.

"Sec. 8. 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 18th day of May, 1979.

H. B. 1273

## CHAPTER 589

AN ACT TO AMEND CHAPTER 106, ARTICLE 53 RELATING TO GRAIN DEALERS' BONDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-605 is amended to read as follows:

"(a) Such bond shall be signed by the grain dealer and by a company authorized to execute surety bonds in North Carolina and shall be made payable to the State of North Carolina. The bond shall be conditioned on the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this Article, and shall be for the use and benefit of any person from whom the grain dealer has purchased grain and who has not been paid by the grain

dealer. The bond shall be given for the period for which the grain dealer's license is issued.

(b) Any person claiming to be injured by nonpayment, fraud, deceit, negligence or other misconduct of a grain dealer may institute a suit or suits against said grain dealer and his sureties upon the bond in the name of the State, without any assignment thereof."

**Sec. 2.** G.S. 106-610 is amended by adding the following subdivision:

"(7) The dealer has failed either to file the required bond or to keep such bond in force."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1979.

## S. B. 625

## CHAPTER 590

### AN ACT TO REWRITE NORTH CAROLINA LAWS RELATING TO LIMING MATERIALS AND LANDPLASTER.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 106 of the General Statutes is hereby amended by inserting a new Article 8A as follows:

#### "ARTICLE 8A.

##### "Sale of Agricultural Liming Materials and Landplaster.

"§ 106-93. *Title of Article.*—This Article shall be known as the 'North Carolina Agricultural Liming Materials and Landplaster Act.'

"§ 106-93.1. *Purpose of Article.*—The purpose of this Article shall be to assure the manufacturer, distributor, and consumer of the correct quality and quantity of all agricultural liming materials and landplaster sold in this State.

"§ 106-93.2. *Definitions of terms.*—For the purpose of this Article:

(1) 'Agricultural Liming Materials' means oxides, hydroxides, silicates or carbonates of calcium and/or magnesium compounds capable of neutralizing soil acidity.

(2) 'Limestone' means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

(3) 'Burnt Lime' means a material, made from limestone which consists essentially of calcium oxide or combination of calcium oxide with magnesium oxide.

(4) 'Hydrated Lime' means a material, made from Burnt Lime, which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide.

(5) 'Marl' means a granular or loosely consolidated earth like material composed largely of sea shell fragments and calcium carbonate.

(6) 'Calclitic Limestone' means limestone which contains less than six percent (6%) magnesium from magnesium carbonate.

(7) 'Dolomitic Limestone' means limestone having a minimum of six percent (6%) magnesium from magnesium carbonate.

(8) 'Industrial By-Product Liming Material' means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.

(9) 'Suspension Lime' means a product made by mixing Agricultural Liming Materials with water and a suspending agent.

(10) 'Landplaster' means a material containing calcium sulfate.

(11) 'Brand' means the term, designation, trademark, product name or other specific designation truly descriptive of the product under which individual agricultural liming material is offered for sale.

(12) 'Bulk' means in nonpackaged form.

(13) 'Calcium Carbonate Equivalent' means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.

(14) 'Fineness' means the percentage by weight of the material which will pass U. S. Standard sieves of specified sizes.

(15) 'Label' means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.

(16) 'Percent' or 'Percentage' which means by weight.

(17) 'Person' means individual, partnership, association, firm or corporation.

(18) 'Sale' means any transfer of title or possession, or both, exchange or barter of tangible personal property, conditional or otherwise for a consideration paid or to be paid, and this shall include any of said transactions whereby title or ownership is to pass and shall further mean and include any bailment, loan, lease, rental or license to use or consume tangible personal property for a consideration paid in which possession of said property passes to bailee, borrower, lessee, or licensee.

(19) 'Sell' means the alienation, exchange, transfer or contract for such transfer of property for a fixed price in money or its equivalent.

(20) 'Ton' means a net weight of 2,000 pounds avoirdupois.

(21) 'Weight' means the weight of undried material as offered for sale.

"§ 106-93.3. *Enforcing official*.—This Article shall be administered by the Commissioner of Agriculture of the State of North Carolina, or his authorized agent, hereinafter referred to as the 'Commissioner'.

"§ 106-93.4. *Labeling*.—(a) Agricultural liming materials sold, offered for sale or distributed in the State shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement, or in the case of bulk sales, a delivery slip, setting forth at least the following information:

(1) The name and principal office address of the manufacturer or distributor.

(2) The brand or trade name truly descriptive of the material.

(3) The identification of the product as to the type of the agricultural liming material.

(4) The net weight of the agricultural liming material.

(5) The minimum percentages of calcium and magnesium.

(6) Calcium carbonate equivalent as determined by methods prescribed by the Association of Official Analytical Chemists. Minimum calcium carbonate equivalent shall be prescribed by regulation.

(7) The minimum percent by weight passing through U. S. Standard sieves as prescribed by regulations.

(b) Landplaster sold, offered for sale or distributed in this State shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement, or in the

case of bulk sales, a delivery slip, setting forth at least the following information:

(1) The name and address of the manufacturer or distributor guaranteeing the registration.

(2) The brand or trade name of the material.

(3) The net weight.

(4) The guaranteed analysis showing the minimum percentage of calcium sulfate.

“§ 106-93.5. *Prohibited acts.*—(1) Agricultural liming material or landplaster shall not be sold or offered for sale or distributed in this State unless it complies with provisions of this law or regulations.

(2) Agricultural liming material or landplaster shall not be sold or offered for sale in this State which contains toxic materials in quantities injurious to plants or animals.

“§ 106-93.6. *Registration of brands.*—(1) Each separately identified product shall be registered before being sold, offered for sale, or distributed in this State. Registration fee shall be twenty-five dollars (\$25.00) for each separately identified product in packages of 10 pounds or less. For each other separately identified product registration fee shall be five dollars (\$5.00). The application for registration shall be submitted to the Commissioner on forms furnished by the Commissioner and shall be accompanied by the appropriate registration fee. Upon approval by the Commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30 of each year.

(2) A distributor shall not be required to register any brand of agricultural liming material or landplaster which is already registered under this act by another person, providing the label does not differ in any respect.

“§ 106-93.7. *Tonnage fees: reporting system.*—For the purpose of defraying expenses connected with the registration, inspection and analysis of the materials coming under this Article, each manufacturer or registrant shall pay to the Department of Agriculture tonnage fees in addition to registration fees as follows: For agricultural liming material, ten cents (10¢) per ton; for landplaster, ten cents (10¢) per ton; excepting that these fees shall not apply to materials which are sold to fertilizer manufacturers for the sole purpose for use in the manufacture of fertilizer or to materials when sold in packages of 10 pounds or less.

Any manufacturer, importer, jobber, firm, corporation or person who distributes materials coming under this Article in this State shall make application for a permit to report the materials sold and pay the tonnage fees as set forth in this section.

The Commissioner of Agriculture shall grant such permits on the following conditions: The applicant's agreement that he will keep such records as may be necessary to indicate accurately the tonnage of liming materials, etc., sold in the State and his agreement for the Commissioner or this authorized representative to examine such records to verify the tonnage statement. The registrant shall report quarterly and pay the applicable tonnage fees quarterly, on or before the tenth day of October, January, April, and July of each year. The report and payment shall cover the tonnage of liming materials, etc., sold during the preceding quarter. The report shall be on forms furnished by the Commissioner. If the report is not filed and the tonnage fees paid by the last day of the month in which it is due, or if the report be false, the amount due shall bear a penalty



of ten percent (10%) which shall be added to the tonnage fees due. If the report is not filed and the tonnage fees paid within 60 days of the date due, or if the report or tonnage be false, the Commissioner may revoke the permit and cancel the registration.

“§ 106-93.8. *Report of tonnage.*—(1) Within 30 days following the expiration of registration each registrant shall submit on a form furnished or approved by the Commissioner an annual statement, setting forth by counties, the number of net tons of each agricultural liming material and landplaster sold by him for use in the State during the previous 12 month period.

(2) The Commissioner shall publish and distribute annually, to each agricultural liming material and landplaster registrant and other interested persons a composite report showing the tons of agricultural liming material and landplaster sold in each county of the State. This report shall in no way divulge the operation of any registrant.

“§ 106-93.9. *Inspection, sampling, analysis.*—(1) It shall be the duty of the Commissioner to sample, inspect, make analysis of, and test agricultural liming materials and landplaster distributed within this State as he may deem necessary to determine if such materials are in compliance with the provisions of this act. The Commissioner is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material and landplaster subject to the provisions of this act, and regulations pertaining thereto, and to the records relating to their distribution.

(2) The methods of analysis and sampling shall be those approved by the State Chemist, and shall be guided by the Association of Official Analytical Chemists procedures.

(3) The results of official analysis of agricultural liming materials and portions of official samples may be distributed to the registrant by the Commissioner at least annually if requested.

“§ 106-93.10. *Deficiencies: refunds to consumer.*—Should any of the agricultural liming and landplaster materials defined in this Article be found to be deficient in the components claimed by the manufacturer or registrant thereof, said manufacturer or registrant, upon official notification to such deficiency by the Commissioner of Agriculture, shall, within 90 days, make refunds to the consumers of the deficient materials as follows:

In case of ‘agricultural liming material’ if the deficiency is five percent (5%) of the guarantee or more, there shall be refunded an amount equal to three times the value of such deficiency and in case of ‘landplaster’, for deficiencies in excess of one percent (1%) of the guarantee, there shall be refunded an amount equal to three times the value of the deficiency. Values shall be based on the selling price of said materials. When said consumers cannot be found within the above specified time, refunds shall be forwarded to the Commissioner of Agriculture, where said refund shall be held for payment to the proper consumer upon order of the Commissioner. If the consumer to whom the refund is due cannot be found within a period of one year, such refund shall revert to the Department of Agriculture for expenditure by the Commissioner in promoting the agricultural programs of the State.

“§ 106-93.11. *‘Stop sale’ orders.*—The Commissioner may issue and enforce a written or printed ‘stop sale, use, or removal’ order to the owner or custodian of any lot of agricultural liming material or landplaster at a designated place when

the Commissioner finds said material is being offered or exposed for sale in violation of any of the provisions of this act until the law has been complied with and said violation has been otherwise legally disposed of by written authority. The Commissioner shall release the agricultural liming materials or landplaster so withdrawn, when the requirements of the provisions of this act have been complied with and all costs and expense incurred in connection with the withdrawal have been paid.

“§ 106-93.12. *Appeals from assessments and orders of Commissioner.*—Nothing in this Article shall prevent any person from appealing to a court of competent jurisdiction from any assessment of penalty or other final order or ruling of the Commissioner or Board of Agriculture.

“§ 106-93.13. *Penalties for violations of this act.*—Any person convicted of violating any provision of this Article or the rules and regulations promulgated thereunder shall be guilty of a misdemeanor and fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000) in the discretion of the court. Nothing in this act shall be construed as requiring the Commissioner or his authorized agent to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the act when he believes that the public interest will best be served by a suitable written warning.

“§ 106-93.14. *Declaration of policy.*—The General Assembly hereby finds and declares that it is in the public interest that the State regulate the activities of those persons engaged in the business of preparing, or manufacturing agricultural liming material and landplaster in order to insure the manufacturer, distributor, and consumer of the correct quantity and quality of all said materials sold or offered for sale in this State. It shall therefore be the policy of this State to regulate the activities of those persons engaged in the business of preparing or manufacturing agricultural liming material and landplaster.

“§ 106-93.15. *Authority of Board of Agriculture to make rules and regulations.*—Because legislation with regard to agricultural liming material and landplaster sold or offered for sale in this State must be adopted (adapted) to complex conditions and standards involving numerous details with which the General Assembly cannot deal directly and in order to effectuate the purposes and policies of the Article, and in order to insure the manufacturer, distributor, and consumer of the correct quality and quantity of all agricultural liming material and landplaster sold or offered for sale in this State, the Board of Agriculture shall have the authority to make rules and regulations with respect to:

- (1) Defining a standard agricultural liming material in terms of neutralizing equivalents.
- (2) Fineness of agricultural liming material.
- (3) Form and order of labeling.
- (4) Monetary penalties for deficiencies from guarantee.
- (5) Monetary penalties for materials that do not meet screen guarantee.”

**Sec. 2.** This act shall become effective July 1, 1980.

In the General Assembly read three times and ratified, this the 18th day of May, 1979.

## H. B. 241

## CHAPTER 591

AN ACT TO AMEND G.S. 147-50 BY CHANGING THE METHOD BY WHICH STATE GOVERNMENT PUBLICATIONS ARE FILED WITH THE STATE LIBRARY AND THE LIBRARY OF CONGRESS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 147-50, as it appears in the 1977 Replacement Volume 3C of the General Statutes, is amended in the table by deleting the following lines:

“Library of Congress . . . . . 2 copies;  
Department of Cultural Resources . . . . . 5 copies;”.

**Sec. 2.** There is enacted a new section, G.S. 147-50.1, to read as follows:

“§ 147-50.1. *Publications of State officials and department heads deposited with Division of State Library.*—Every State official and every head of a State department, institution, or agency issuing any document, report, directory, statistical compendium, bibliography, map, rule, regulation, newsletter, pamphlet, brochure, periodical, or other publications shall deposit five copies with the Division of State Library of the Department of Cultural Resources. ‘Printed materials’ are publications produced by any means, including publications issued by private bodies, such as consultant or research firms, under contract with or under the supervision of a State agency. The Division of State Library shall publish a checklist of publications received from State agencies and shall distribute the checklist without charge to all requesting libraries. The Division of State Library shall forward two of the five copies of all publications received from State agencies to the Library of Congress. The provisions of this section do not apply to the appellate division reports and advance sheets distributed by the Administrative Office of the Courts, the S.B.I. Investigative ‘Bulletin’, or administrative materials intended only for the internal use of a State agency.”

**Sec. 3.** Passage of this bill shall not obligate the General Assembly for an additional appropriation.

**Sec. 4.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 406

## CHAPTER 592

AN ACT TO REQUIRE FORFEITURE OF VEHICLES, WATERCRAFT, AND AIRCRAFT USED TO TRANSPORT OR CONCEAL STOLEN GOODS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 16 of Chapter 14 of the General Statutes, as the same is found in Volume 1B of the General Statutes, 1969 Replacement, is amended by adding a new section as follows:

“§ 14-86.1. *Seizure and forfeiture of conveyances.*—(a) All conveyances, including vehicles, watercraft or aircraft, used to unlawfully conceal, convey or transport property in violation of G.S. 14-71, G.S. 14-71.1, or G.S. 20-106 or used by any person in the commission of any larceny when the value of the property taken is more than four hundred dollars (\$400.00) shall be subject to forfeiture as provided herein, except that:

- (1) no conveyance used by any person as a common carrier in the transaction of the business of the common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in custody or control of such conveyance was a consenting party or privy to a violation that may subject the conveyance to forfeiture under this section;
  - (2) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or any state;
  - (3) no conveyance shall be forfeited pursuant to this section unless the violation involved is a felony;
  - (4) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission;
  - (5) no conveyance shall be forfeited under the provisions of this section unless the owner knew or had reason to believe the vehicle was being used in the commission of any violation that may subject the conveyance to forfeiture under this section.
  - (6) The trial judge in the criminal proceeding which may subject the conveyance to forfeiture may order the seized conveyance returned to the owner if he finds forfeiture inappropriate. If the conveyance is not returned to the owner the procedures provided in subsection (e) shall apply.
- (b) Any conveyance subject to forfeiture under this section may be seized by any law enforcement officer upon process issued by any district or superior court having original jurisdiction over the offense except that seizure without such process may be made when:
- (1) the seizure is incident to an arrest or subject to a search under a search warrant; or
  - (2) the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this section.
- (c) The conveyance shall be deemed to be in custody of the law enforcement agency seizing it. The law enforcement agency may remove the property to a place designated by it or request that the North Carolina Department of Justice or Department of Crime Control and Public Safety take custody of the property and remove it to an appropriate location for disposition in accordance with law; provided, the conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties, in a sum double the value of the property, which said bond shall be approved by an officer of the agency seizing the conveyance and shall be conditioned upon the return of said property to the custody of said officer on the day of trial to abide the judgment of the court.
- (d) Whenever a conveyance is forfeited under this section, the law enforcement agency having custody of it may:
- (1) retain the conveyance for official use; or
  - (2) transfer the conveyance which was forfeited under the provisions of this section to the North Carolina Department of Justice or to the



North Carolina Department of Crime Control and Public Safety when, in the discretion of the presiding judge and upon application of the North Carolina Department of Justice or the North Carolina Department of Crime Control and Public Safety, said conveyance may be of official use to the North Carolina Department of Justice or the North Carolina Department of Crime Control and Public Safety; or

- (3) upon determination by the director of any law enforcement agency that a conveyance transferred pursuant to the provisions of this section is of no further use to said agency, such conveyance may be sold as surplus property in the same manner as other conveyances owned by the law enforcement agency. The proceeds from such sale, after deducting the cost thereof, shall be paid to the school fund of the county in which said conveyance was seized. Any conveyance transferred to any law enforcement agency under the provisions of this section which has been modified or especially equipped from its original manufactured condition so as to increase its speed shall be used in the performance of official duties only. Such conveyance shall not be resold, transferred or disposed of other than as junk unless the special equipment or modification has been removed and destroyed, and the vehicle restored to its original manufactured condition.

(e) All conveyances subject to forfeiture under the provisions of this section shall be forfeited pursuant to the procedures for forfeiture of conveyances used to conceal, convey, or transport intoxicating beverages found in G.S. 18A-21. Provided, nothing in this section or G.S. 18A-21 shall be construed to require a conveyance to be sold when it can be used in the performance of official duties of the law enforcement agency."

**Sec. 2.** This act shall become effective October 1, 1979, and shall apply to any vehicle seized on or after this effective date.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 414

## CHAPTER 593

AN ACT TO CLARIFY THE AUTHORITY OF THE DISTRICT ATTORNEY TO RELEASE PROPERTY SEIZED AS EVIDENCE PRIOR TO TRIAL AND TO DESIGNATE WHO SHALL BE RESPONSIBLE FOR STORAGE FEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15-11.1(a), as the same is found in Volume 1C of the General Statutes, 1978 Replacement, is amended by deleting on line five the second sentence beginning with the words "Upon application" and ending on line nine with the words "entitled to possession" and substituting in lieu thereof the following:

"Upon application by the lawful owner or a person, firm or corporation entitled to possession or upon his own determination, the district attorney may release any property seized pursuant to his lawful authority if he determines that such property is no longer useful or necessary as evidence in a criminal trial and he is presented with satisfactory evidence of ownership. If the district attorney refuses to release such property, the lawful owner or a person, firm or corporation entitled to possession may make application to the court for return

of the property. The court, after notice to all parties, including the defendant, and after hearing, may in its discretion order any or all of the property returned to the lawful owner or a person, firm or corporation entitled to possession.”

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 456

### CHAPTER 594

#### AN ACT TO DEFINE OBLIGATORY FUTURE ADVANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 45-70(a) is amended to read as follows:

“§ 45-70. *Priority of security instrument.*—(a) Any security instrument which conforms to the requirements of this Article and which on its face shows that the making of future advances is obligatory, shall, from the time and date of registration thereof, have the same priority to the extent of all obligatory future advances secured by it, as if all the advances had been made at the time of the execution of the instrument. An advance shall be deemed obligatory if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 581

### CHAPTER 595

#### AN ACT TO AMEND THE COUNTY AND MUNICIPAL SERVICE DISTRICT ACTS TO INCLUDE WATERSHED IMPROVEMENT, DRAINAGE, AND WATER RESOURCES DEVELOPMENT PROJECTS AS AUTHORIZED DISTRICT PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-301, as found in the 1978 Replacement Volume 2D, is amended by adding the following subdivision at the end, to be numbered appropriately, and to read as follows:

“Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.”

**Sec. 2.** G.S. 160A-536, as found in the 1977 Supplement to Volume 3D, is amended after line 9 by adding the following subdivision after subdivision (4), to be numbered appropriately, and to read as follows:

“Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.”

**Sec. 3.** This act applies to existing projects and programs as well as new projects and programs. The financing or operation, or both, of a project or program authorized by General Statutes Chapter 139, Article 21 of General Statutes Chapter 143, General Statutes Chapter 156, or any other law, may be discontinued under the law by which it was initiated and may be undertaken by a service district as defined in General Statutes Chapter 153A or 160A.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

H. B. 733

## CHAPTER 596

### AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF STOVALL AND TO REPEAL PRIOR LOCAL ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Stovall is hereby revised and consolidated to read as follows:

#### "THE CHARTER OF THE TOWN OF STOVALL.

#### "ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. Incorporation. The Town of Stovall, North Carolina in the County of Granville, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Stovall', (hereinafter at times referred to as the 'Town').

"Section 1.2. Powers. The Town of Stovall 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 Stovall specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Section 1.3. Corporate Limits. The corporate limits of the Town of Stovall 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.

"Section 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.

"Section 2.2. Board of Commissioners; Composition; 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, they shall serve until their successors are elected and qualified.

"Section 2.3. Election of the Mayor; Term of Office; Duties. The Mayor shall be elected directly by voters of the Town in the manner provided by Article III

of this Charter for a term of two years; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. He shall have the right to vote only if there are equal numbers of votes in the affirmative and the negative on any matter before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

“Section 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. In the event of a vacancy in the office of the Mayor, the Mayor pro tempore shall perform the duties of the Mayor until the vacancy is filled. 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.

#### “ARTICLE III. ELECTIONS.

“Section 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 Board of Commissioners shall be elected according to the nonpartisan plurality method of election, as provided in G.S. 163-292.

“Section 3.2. Election of the Board of Commissioners; Election of Mayor. At the regular municipal election in 1979 and every two years thereafter, there shall be elected a Mayor and five Commissioners to fill the seats of the Mayor and Commissioners whose terms are then expiring.

#### “ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

“Section 4.1. Form of Government. The Town shall operate under the Mayor-Board of Commissioners form of government, in accordance with Part 3 of Article 7, of Chapter 160A of the General Statutes.

“Section 4.2. 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. It shall be the duty of the Town Attorney to prosecute and 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 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; and to perform other duties required by law or as the Board of Commissioners may direct. The Board of Commissioners may employ other legal counsel from time to time, in addition to the Town Attorney, as may be necessary to handle adequately the legal affairs of the Town.

“Section 4.3. Town Clerk. The Board of Commissioners 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.

“Section 4.4. Town Tax Collector. The Board of Commissioners shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other moneys belonging 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 by municipalities.

“Section 4.5. Town Treasurer. The Board of Commissioners shall appoint a Town Treasurer, or 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 may be required by the Board.

“Section 4.6. Consolidation of Functions. The Board of Commissioners may consolidate any two or more positions of Town Clerk, Town Tax Collector and Town Treasurer, 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.

“Section 4.7. 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.”

**Sec. 2.** The purpose of this act is to revise the Charter of the Town of Stovall 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 Stovall;

(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 436, Private Laws of 1907

Chapter 257, Private Laws of 1909

Chapter 264, Private Laws of 1909

Chapter 125, Private Laws of 1925

Chapter 958, Session Laws of 1951

Chapter 872, Session Laws of 1975

**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 Town of Stovall and all existing rules or regulations of departments or agencies of the Town of Stovall, 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 Stovall 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 nearly 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 21st day of May, 1979.

## H. B. 846

## CHAPTER 597

AN ACT TO DECLARE VOID AND UNENFORCEABLE AS AGAINST PUBLIC POLICY AGREEMENTS TO HOLD A PROMISEE IN A CONSTRUCTION CONTRACT HARMLESS FOR HIS OWN NEGLIGENCE.

*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 22B.

“Contracts Against Public Policy.

“Article 1.

“Construction Indemnity Agreements Invalid.

“§ 22B-1. *Construction indemnity agreements invalid.*—Any promise or agreement in, or in connection with, a contract or agreement relative to the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, purporting to indemnify or hold harmless the promisee, the promisee's independent contractors, agents, employees, or indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of the promisee, its independent contractors, agents, employees, or indemnitees, is against public policy and is void and unenforceable. Nothing contained in this section shall prevent or prohibit a

contract, promise or agreement whereby a promisor shall indemnify or hold harmless any promisee or the promisee's independent contractors, agents, employees or indemnitees against liability for damages resulting from the sole negligence of the promisor, its agents or employees. This section shall not affect an insurance contract, workmen's compensation, or any other agreement issued by an insurer, nor shall this section apply to promises or agreements under which a public utility as defined in G.S. 62-3(23) including a railroad corporation as an indemnitee. This section shall not apply to contracts entered into by the Department of Transportation pursuant to G.S. 136-28.1."

**Sec. 2.** This act shall become effective July 1, 1979, and shall apply to contracts signed on or after the effective date.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1016

## CHAPTER 598

AN ACT TO REQUIRE MUNICIPAL GOVERNMENTS TO PAINT  
STREETS IN CONFORMITY WITH THE MANUAL ON UNIFORM  
TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-296 is amended by designating the present section as subsection (a) and adding a new subsection to read:

"(b) Whenever a municipal street or bridge, or part thereof, is painted or repainted with center lines or edge lines or both, such center lines or edge lines shall be installed and maintained in conformance with the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the United States Department of Transportation, Federal Highway Administration, 1971, or any subsequent revisions thereof approved by the State Department of Transportation. Nothing in this section shall be deemed to require the painting of center lines or edge lines upon any municipal street nor to prohibit the painting of center or edge lines with colors clearly distinguishable from any of the colors specified for use by said Manual and any duly approved subsequent revisions."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1059

## CHAPTER 599

AN ACT TO REQUIRE PROMPT PAYMENT OF MEDICAL BILLS  
UNDER THE WORKMEN'S COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-18 is amended by adding a new subsection to read:

"(g) If any bill for services rendered under G.S. 97-25 by any provider of health care is not paid within 60 days after it has been approved by the Commission and returned to the responsible party, there shall be added to such unpaid bill an amount equal to ten per centum (10%) thereof, which shall be paid at the same time as, but in addition to, such medical bill, unless such late payment is excused by the Commission."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

H. B. 1108

**CHAPTER 600****AN ACT TO ALLOW SPECIFIED SCHOOL EMPLOYEES TO ACCUMULATE ANNUAL VACATION LEAVE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-157(3) is amended by placing a period after the word "above" in line 6 and deleting the remainder of the subsection.

**Sec. 2.** G.S. 115-157(3a) is amended by placing a period after the word "above" in line 5 and deleting the remainder of the subsection.

**Sec. 3.** G.S. 115-157(4) is amended by placing a period after the word "above" in line 6 and deleting the remainder of the subsection.

**Sec. 4.** G.S. 115-157(6) is amended by deleting the first sentence and replacing it with:

"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. G.S. 115-157(6) is further amended by deleting the word 'above' at the end of the subdivision and inserting in lieu thereof the phrase 'in subdivision (8) of this section'."

**Sec. 5.** G.S. 115-157(8) shall become subsection (9) and a new subsection (8) shall read as follows:

"Supervisors, classified principals, superintendents and other 12-month school employees 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."

**Sec. 6.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.



## H. B. 1112

## CHAPTER 601

AN ACT TO AMEND ARTICLE 18A OF CHAPTER 58 OF THE NORTH CAROLINA GENERAL STATUTES TO PROVIDE THAT ESSENTIAL PROPERTY INSURANCE SHALL INCLUDE VANDALISM AND MALICIOUS MISCHIEF INSURANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-173.1 is rewritten to read as follows:

“§ 58-173.1. *Declarations and purpose of Article.*—It is hereby declared by the General Assembly of North Carolina that an adequate market for essential property insurance is necessary to the economic welfare of the beach area of the State of North Carolina and that without such insurance the orderly growth and development of the beach area of the State of North Carolina would be severely impeded; that furthermore, adequate insurance upon property in the beach area is necessary to enable homeowners and commercial owners to obtain financing for the purchase and improvement of their property; and that while the need for such insurance is increasing, the market for such insurance is not adequate and is likely to become less adequate in the future; and that the present plans to provide adequate insurance on property in the beach area, while deserving praise, have not been sufficient to meet the needs of this area. It is further declared that the State has an obligation to provide an equitable method whereby every licensed insurer writing essential property insurance in North Carolina is required to meet its public responsibility instead of shifting the burden to a few willing and public-spirited insurers. It is the purpose of this Article to accept this obligation and to provide a mandatory program to assure an adequate market for essential property insurance in the beach area of North Carolina.”

**Sec. 2.** G.S. 58-173.2(4) is rewritten to read as follows:

“(4) ‘Essential property insurance’ means insurance against direct loss to property as defined in the standard statutory fire policy and extended coverage, vandalism and malicious mischief endorsements thereon, as approved by the commissioner;”.

**Sec. 3.** G.S. 58-173.2(6) is amended by striking the words “fire and extended coverage insurance” and substituting therein the words “essential property insurance”;.

**Sec. 4.** G.S. 58-173.10 is amended by striking the words “fire or extended coverage” and substituting therein the words “essential property insurance”;.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1215

## CHAPTER 602

AN ACT TO AMEND G.S. 7A-211.1 PERTAINING TO ACTIONS TO ENFORCE MOTOR VEHICLE MECHANIC AND STORAGE LIENS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-211.1, as same appears in the 1977 Cumulative Supplement to 1969 Replacement Volume 1B of the General Statutes, is hereby amended by inserting the citation "or G.S. 20-77(d)" immediately after the citation "G.S. 44A-2(d)" and immediately before the word "when" appearing in line 4 thereof.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1216

## CHAPTER 603

AN ACT TO PROHIBIT THE FRAUDULENT USE OF SPECIAL IDENTIFICATION CARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 2B of Chapter 20 is hereby amended by adding a new G.S. 20-37.8 thereto to read as follows:

"§ 20-37.8. *Fraudulent use prohibited.*—(a) It shall be unlawful for any person to use a false or fictitious name or give a false or fictitious address in any application for a special identification card or knowingly to make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application or to obtain or possess more than one such card for a fraudulent purpose or knowingly to permit or allow another to commit any of the foregoing acts.

(b) A violation of this section shall constitute a misdemeanor."

**Sec. 2.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1217

## CHAPTER 604

AN ACT TO ALLOW THE REGISTRATION PLATE FOR CERTAIN MOTOR VEHICLES TO BE PLACED UPON THE FRONT OF THE MOTOR VEHICLE IF THE PLATE COULD BECOME COVERED BY THE MATERIAL THAT THE MOTOR VEHICLE IS TRANSPORTING OR IF THE LOADING DEVICE ON THE MOTOR VEHICLE COULD DAMAGE THE PLATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-63(d), as the same is found in Volume 1C of the General Statutes, 1978 Replacement, is amended at the end by adding a new sentence to read as follows:

"Provided further, that when only one registration plate is issued for a motor vehicle and this motor vehicle is transporting a substance that may adhere to the plate so as to cover or discolor the plate or if the motor vehicle has a mechanical loading device that may damage the plate, the registration plate may be attached to the front of the motor vehicle."

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1242

## CHAPTER 605

## AN ACT TO CLARIFY THE AD VALOREM TAXATION OF CONTRIBUTED PLANT OF PRIVATE WATER COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-277 is amended by adding a new subdivision (h) at the end thereof to read as follows:

“(h) Private Water Companies. Contributions in aid of construction and acquisition adjustments. In assessing the property of any private water company, there shall be excluded that portion of the investment of the company represented by contributions in aid of construction and by acquisition adjustments which is designated a special class of property under Article V, Section 2(2) of the Constitution. ‘Investment’, ‘contributions in aid of construction’ and ‘acquisition adjustment’ shall have the meanings as those terms are defined in the Uniform System of Accounts specified by the North Carolina Utilities Commission for use by such private water company.”

**Sec. 2.** This act shall become effective on January 1, 1980, and it shall apply to tax years beginning on or after that date.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1282

## CHAPTER 606

## AN ACT ADDING A SUBSECTION TO G.S. 54-30 TO MAKE CONFIDENTIAL CERTAIN RECORDS OF THE ADMINISTRATOR OF THE SAVINGS AND LOAN DIVISION RELATING TO EXAMINATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-30 is hereby repealed and replaced by a new section to read as follows:

“§ 54-30. *Failing to exhibit books or making false statement a misdemeanor; disclosing records or information obtained upon examination prohibited.*—(a) If any person, having in his possession or control any books, accounts, or papers of any building and loan association licensed by law, shall refuse to exhibit the same to the Administrator of the Savings and Loan Division, or his agents on demand, or shall knowingly or willingly make any false statement in regard to the same, he shall be guilty of a misdemeanor, and fined and imprisoned, at the discretion of the court.

(b) Notwithstanding any laws to the contrary, the following records or information of the Savings and Loan Commission, the Administrator of the Savings and Loan Division or the agent of either, shall be confidential and shall not be disclosed or made public:

- (1) records or information obtained or compiled pursuant to G.S. 54-30(a) or obtained or compiled during or in connection with an examination, audit or investigation of any savings and loan association;

- (2) records or information obtained or compiled in preparation or anticipation of litigation, examination, audit or investigation;
- (3) records or information that contain or include the name(s) of any member(s) of a savings and loan association or reveal the collateral given, shares owned, or deposits made by any such member;
- (4) records or information obtained, prepared or compiled during or as a result of an examination, audit or investigation of any savings and loan association or savings and loan practice by an agency of the United States, or jointly by such agency and the Administrator of the Savings and Loan Division or his agents, if such records or information would be confidential under federal law or regulation;
- (5) information and records of information and reports submitted by savings and loan associations to federal regulatory agencies, if such records or information would be confidential under federal law or regulation;
- (6) records of or information regarding complaints from the public received by the Savings and Loan Division and concerning savings and loan associations under its supervision if such complaints would or could result in an investigation;
- (7) any other letters, reports, memoranda, recordings, charts, or other documents or records which would disclose any information set forth in any of the confidential records referred to in subdivisions (1) through (6)."

**Sec. 2.** This act shall apply equally to matters concerning stock-owned and mutual savings and loan associations.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1284

## CHAPTER 607

### AN ACT REGARDING THE PENALTY FOR TRANSPORTATION OF UNSEALED LIQUOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-26(a) is amended by adding a new sentence at the end of the first paragraph thereof to read:

"Transportation in the passenger area of such a container or containers whose cap or seal has been opened or broken, so long as the quantity of alcoholic beverages does not exceed four liters, shall be a misdemeanor punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), imprisonment for not more than 30 days, or both."

**Sec. 2.** This act shall become effective October 1, 1979, and shall apply to all cases tried on or after that date.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.



## H. B. 1292

## CHAPTER 608

## AN ACT TO AMEND G.S. 146-30 SO AS TO PERMIT THE DISPOSITION OF STATE LANDS BY EXCHANGE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 146-30 is amended by adding a new sentence at the end of the first paragraph thereof to read as follows:

“Provided, however, nothing herein shall be construed as prohibiting the disposition of any State lands by exchange for other lands.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1298

## CHAPTER 609

## AN ACT TO PERMIT ANY TOWNSHIP WHICH HAS ESTABLISHED ABC STORES TO HOLD AN ELECTION FOR THE SALE OF MIXED BEVERAGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-51 is amended by adding a new subsection (c) thereto to read as follows:

“(c) In any township where ABC stores have heretofore been established by petition pursuant to law, an election may be called on the question of whether the on-premises sale of mixed beverages should be allowed in social establishments and restaurants. The election shall be held by the county board of elections upon request of the county board of commissioners or upon petition of twenty percent (20%) of the registered voters of the township. Except as otherwise provided, the provisions of this section with regard to ABC store elections shall apply to the mixed beverage election, and the question shall be as provided in subsection (b).

If the sale of mixed beverages is authorized in a township, the State Board of Alcoholic Control may issue the appropriate permits to qualified social establishments and restaurants located within the township. For purposes of this subsection, ‘township’ includes any municipality in its entirety whose boundaries are totally or partially within the boundaries of the township.”

**Sec. 2.** G.S. 18A-30(7) is amended by deleting from the first sentence the phrase “city or county” and substituting in lieu thereof “city, county, or township as that term is defined in G.S. 18A-51(c).”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

H. B. 1306

**CHAPTER 610****AN ACT TO REQUIRE REPORTING OF FOREIGN OWNERSHIP OF REAL PROPERTY INTEREST IN NORTH CAROLINA.***The General Assembly of North Carolina enacts:*

**Section 1.** The General Statutes of North Carolina are hereby amended by adding a new section to be designated as G.S. 64-1.1 to read as follows:

“The Secretary of State is authorized and directed to collect all information obtainable from reports by aliens made to agencies of the federal government on ownership of real property interests in North Carolina, to be updated every three months, and to maintain a file on such information which shall be available to the members of the General Assembly and the public.”

**Sec. 2.** This act shall be in full force and effect after ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

H. B. 1329

**CHAPTER 611****AN ACT TO AMEND PROVISIONS OF CHAPTER 153A OF THE GENERAL STATUTES TO ELIMINATE INCONSISTENCIES, CLARIFY PROVISIONS, AND IMPROVE ADMINISTRATIVE PROCEDURES.***The General Assembly of North Carolina enacts:*

**Section 1.** Unless otherwise provided herein, all references in this act to sections included in Chapter 153A of the General Statutes refer to those sections as they appear in 1978 Replacement Volume 3C of the General Statutes.

**Sec. 2.** Subdivision (1) of G.S. 153A-335 is amended on line 1 by deleting the word “platted” and substituting therefor the words “subdivided and recorded”.

**Sec. 3.** The first paragraph of G.S. 153A-344 is rewritten to read as follows:

“To exercise the powers conferred by this Part, a county shall create or designate a planning agency under the provisions of this Article or of a local act. The planning agency shall prepare a proposed zoning ordinance, including both the full text of such ordinance and maps showing proposed district boundaries. The planning agency may hold public hearings in the course of preparing the ordinance. Upon completion, the planning agency shall certify the ordinance to the board of commissioners. The board of commissioners shall not hold the public hearing required by G.S. 153A-323 or take action until it has received a certified ordinance from the planning agency. Following its required public hearing, the board of commissioners may refer the ordinance back to the planning agency for any further recommendations that the agency may wish to make prior to final action by the board in adopting, modifying and adopting, or rejecting the ordinance.”

**Sec. 4.** G.S. 153A-345(b) is amended by deleting the period at the end of the fifth sentence and adding the following: “or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance.”

**Sec. 5.** G.S. 153A-369 is amended by deleting the period at the end thereof and adding the following words and punctuation: “; provided, that

where the inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible."

**Sec. 6.** G.S. 153A-321 is amended on line 16 between the words "include" and "one" by inserting the following: "but shall not be limited to".

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 1380

**CHAPTER 612****AN ACT TO AMEND G.S. 20-79 CONCERNING DEALERS' DEMONSTRATION PLATES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-79(b) is hereby amended by adding a sentence at the end thereof to read as follows:

"This certificate may be renewed for one additional 96-hour period, pursuant to rules and regulations promulgated by the Commissioner."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## S. B. 410

**CHAPTER 613****AN ACT TO AMEND G.S. 20-141.1 RELATING TO SIGNS SETTING SPEED LIMITS IN SCHOOL ZONES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-141.1 is hereby amended by deleting the period at the end of the second sentence and by the addition of the following provisions at the end of the second sentence:

" , or by erecting signs giving notice of the school zone, the authorized speed limit and which indicate the days and hours the lower limit is effective by an electronic flasher operated with a time clock."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## S. B. 417

**CHAPTER 614****AN ACT TO ESTABLISH A REAL ESTATE RECOVERY FUND AND TO INCREASE THE EDUCATIONAL REQUIREMENTS TO QUALIFY FOR LICENSURE AS A REAL ESTATE BROKER.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 93A of the General Statutes is hereby amended by adding a new Article as follows:

**"ARTICLE 2.**

**"Real Estate Recovery Fund.**

"§ 93A-11. *Real estate recovery fund created; payment to fund; management.*—(a) There is hereby created a special fund to be known as the 'Real Estate Recovery Fund' which shall be set aside and maintained by the

North Carolina Real Estate Licensing Board. Said fund shall be used in the manner provided under this Article for the payment of unsatisfied judgments where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) On September 1, 1979, the board shall transfer the sum of one hundred thousand dollars (\$100,000) from its expense reserve fund to the real estate recovery fund. Thereafter, if on December 31 of any year the amount remaining in the real estate recovery fund is less than fifty thousand dollars (\$50,000) the board may at its option replenish the fund from whatever funds it has or may determine that each licensee under this Chapter, when renewing his license, shall pay in addition to his license renewal fee, a fee not to exceed ten dollars (\$10.00) per broker and five dollars (\$5.00) per salesman as shall be determined by the board for the purpose of replenishing the fund.

(c) The board shall invest and reinvest the monies in the real estate recovery fund in the same manner as provided by law for the investment of funds by the clerk of superior court. The proceeds from such investments shall be deposited to the credit of the fund.

“§93A-12. *Application for payment out of fund; grounds.*—(a) When any aggrieved person obtains final judgment in any court of competent jurisdiction against any real estate broker or salesman licensed under this Chapter on grounds of conversion of trust funds arising directly out of any transaction which occurred when such broker or salesman was licensed and acted in a capacity for which a license is required under this Chapter and which transaction occurred on or after September 1, 1979, such person may, upon termination of all proceedings including appeals, file a verified application in the court in which judgment was entered for an order directing payment out of the real estate recovery fund of the amount remaining unpaid upon the judgment which represents an actual and direct loss sustained by reason of said conversion of trust funds.

In case of a judgment rendered by a magistrate in a small claims action, the aggrieved person shall file such verified application in the district court. The district court judge may then make a determination as to whether such judgment rendered by a magistrate was based on facts constituting grounds for recovery under this Article and may enter an order directing payment of such judgment out of the real estate recovery fund.

A copy of the verified application shall be served upon the board and the judgment debtor and a certificate or affidavit of such service filed with the court. Jurisdiction of the court against the fund or the board shall not attach under this Article until after judgment is obtained against a licensee and execution is returned unsatisfied.

(b) For purposes of this Chapter, the term ‘trust funds’ shall include all down payments, earnest money deposits, advance listing fees and other monies received on behalf of his principal or any other person by a real estate broker or salesman licensed under this Chapter, under the terms of an express or implied agreement that the broker or salesman is not entitled to retain all or a portion of such monies until the occurrence of some future event.

“§93A-13. *Hearing; required showing.*—Upon such application by an aggrieved person, the court shall conduct a hearing and the aggrieved person shall be required to show:



- (1) he is not a spouse of the judgment debtor or a person representing such spouse; and
- (2) he is making application not more than one year after termination of all proceedings, including appeals, in connection with the judgment;
- (3) he has complied with all requirements of this Article;
- (4) he has obtained a judgment as described in G.S. 93A-12, stating the amount owing thereon at the date of application;
- (5) he has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment;
- (6) that by such search he has discovered no real or personal property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, but that the amount so realized was insufficient to satisfy the judgment, stating the amount realized and the balance remaining due on the judgment after application of the amount realized; and
- (7) he has diligently pursued his remedies including attempted execution on the judgment against all the judgment debtors which execution has been returned unsatisfied. In addition to that, he knows of no assets of the judgment debtor and that he has attempted collection from all other persons who may be liable to him in the transaction for which he seeks payment from the real estate recovery fund if there be any such other persons.

“§ 93A-14. *Answer and defense by board; proof of conversion.*—(a) Whenever the court proceeds upon an application as set forth in this Article the board may defend such action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses. The judgment debtor may defend such action on his own behalf and shall have recourse to all appropriate means of defense and review, including examination of witnesses. At any time it appears there are no triable issues of fact and the application for an order directing payment from the fund is without merit, the court shall dismiss the application. Motion to dismiss may be supported by affidavit of any person or persons having knowledge of the facts and may be made on the basis that the application and the judgment referred to therein do not form the basis for a meritorious recovery within the purview of G.S. 93A-12 or that the applicant has not complied with the provisions of G.S. 93A-13; provided, however, notice of such motion shall be given at least 10 days prior to the time fixed for hearing.

(b) Whenever the judgment obtained by an applicant is by default, stipulation, or consent, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant, for purposes of this Article, shall have the burden of proving his cause of action for conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the conversion of trust funds. This presumption is a presumption affecting the burden of producing evidence.

“§ 93A-15. *Order directing payment out of fund; compromise of claims.*—If the court finds after said hearing that the claim should be levied against the fund, the court shall enter an order directed to the board requiring payment from the fund of whatever sum the court shall find to be payable upon the claim in accordance with the limitations contained in this Article. The board may,

subject to court approval, compromise a claim based upon the application of an aggrieved party; however, the board shall not be bound in any way by any prior compromise or stipulation of the judgment debtor.

“§ 93A-16. *Maximum liability; pro rata distribution; attorney fees.*—(a) Payments from the real estate recovery fund shall be subject to the following limitations:

- (1) the right to recovery under this Article shall be forever barred unless application is made within one year after termination of all proceedings including appeals, in connection with the judgment;
- (2) the fund shall not be liable for more than five thousand dollars (\$5,000) per transaction regardless of the number of persons aggrieved or parcels of real estate involved in such transaction; and
- (3) the liability of the fund shall not exceed in the aggregate ten thousand dollars (\$10,000) for any one licensee within a single calendar year, and in no event shall it exceed in the aggregate twenty thousand dollars (\$20,000) for any one licensee.

(b) If the maximum liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons whose claims relate to the same transaction or to the same licensee, the amount for which the fund is liable shall be distributed among the claimants in a ratio that their respective claims bear to the total of such valid claims or in such manner as the court deems equitable. Upon petition of the board, the court may require all claimants and prospective claimants to be joined in one action to the end that the respective rights of all such claimants to the real estate recovery fund may be equitably adjudicated and settled.

(c) In the event an aggrieved person is entitled to payment from the fund in an amount of one thousand dollars (\$1,000) or less, the court may allow such person to recover from the fund reasonable attorney's fees incurred in effecting such recovery. Reimbursement for attorney's fees shall be limited to those fees incurred in effecting recovery from the fund and shall not include any fee incurred in obtaining judgment against the licensee.

“§ 93A-17. *Repayment to fund; automatic suspension of license.*—Should the board pay from the real estate recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker or salesman, the license of the broker or salesman shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No such broker or salesman shall be granted a reinstatement until he has repaid in full, plus interest at the legal rate as provided for in G.S. 24-1, the amount paid from the real estate recovery fund.

“§ 93A-18. *Subrogation of rights.*—When, upon order of the court, the board has paid from the real estate recovery fund any sum to the judgment creditor, the board shall be subrogated to all of the rights of the judgment creditor to the extent of the amount so paid and the judgment creditor shall assign all his right, title, and interest in the judgment to the extent of the amount so paid to the board and any amount and interest so recovered by the board on the judgment shall be deposited in the real estate recovery fund.

“§ 93A-19. *Waiver of rights.*—The failure of an aggrieved person to comply with this Article shall constitute a waiver of any rights hereunder.

“§ 93A-20. *Persons ineligible to recover from fund.*—No real estate broker or real estate salesman who suffers the loss of any commission from any transaction in which he was acting in the capacity of a real estate broker or real

estate salesman shall be entitled to make application for payment from the real estate recovery fund for such loss.

“§ 93A-21. *Disciplinary action against licensee.*—Nothing contained in this Article shall limit the authority of the board to take disciplinary action against any licensee under this Chapter, nor shall the repayment in full of all obligations to the fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.”

**Sec. 2.** The first four sentences of G.S. 93A-4(a) hereby rewritten to read as follows:

“Any person, partnership, association, or corporation hereafter desiring to enter into business of and obtain a license as a real estate broker or real estate salesman shall make written application for such license to the board on such forms as are prescribed by the board. Each applicant for a license as a real estate broker or real estate salesman shall be at least 18 years of age. Each applicant for a license as a real estate broker shall have been actively engaged as a licensed real estate salesman in this State for at least 24 months on a full-time basis prior to making application for a license as a real estate broker, or shall furnish evidence satisfactory to the board of experience in real estate transactions which the board shall find equivalent to such 24 months’ experience as a licensed real estate salesman, or shall furnish evidence satisfactory to the board of completion of at least 60 hours of classroom instruction which shall include the study of: real estate broker responsibilities, mortgages, easements, leases, liens, taxation, zoning, real property insurance, real estate appraising, agency contracts, land contracts, government regulation of land transfers and such other topics as the board determines, at a school approved by the board. Each applicant for a license as a real estate salesman shall furnish evidence satisfactory to the board of completion of 30 classroom hours of such courses of education in real estate subjects at a school approved by the board as the board shall by regulation prescribe or shall furnish evidence satisfactory to the board of experience in real estate transactions which the board shall find equivalent to such real estate education.”

**Sec. 3.** G.S. 93A-4(d) is hereby amended by adding the following sentence at the end thereof:

“The board is further authorized to adopt rules and regulations necessary for the approval of real estate schools and such rules and regulations may, in accordance with G.S. 93A-4(a), prescribe specific requirements pertaining to the teaching of mechanics and law governing real estate transactions at such schools.”

**Sec. 4.** The title of Chapter 93A of the General Statutes, “Real Estate Brokers and Salesmen”, is hereby changed to read “Real Estate License Law”.

**Sec. 5.** G.S. 93A-1 through G.S. 93A-10 are hereby designated as Article 1 of Chapter 93A of the General Statutes to be entitled “Real Estate Brokers and Salesmen”.

**Sec. 6.** G.S. 93A-4(a) is amended by deleting the number “60” in the third sentence and substituting in lieu thereof the number “90”.

**Sec. 7.** Sections 1-5 of this act shall become effective September 1, 1979. Section 6 of this act shall become effective January 1, 1981.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## S. B. 508

## CHAPTER 615

AN ACT TO PROVIDE PRIMA FACIE EVIDENCE IN WORTHLESS CHECK CASES IF PRECAUTIONS HAVE BEEN TAKEN AS TO IDENTITY OF CHECK PASSER AND NOTICE GIVEN TO ALLOW ANY ERROR AS TO IDENTITY OR BANK ERROR TO BE CORRECTED.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 14 of the General Statutes of North Carolina is amended to add a new section as follows:

“§ 14-107.1. *Prima facie evidence in worthless check cases.*—(a) Unless the context otherwise requires, the following definitions apply in this section:

- (1) Check passer. A natural person who draws, makes, utters, or issues and delivers, or causes to be delivered to another any check or draft on any bank or depository for the payment of money or its equivalent.
- (2) Acceptor. A person, firm, corporation or any authorized employee thereof accepting a check or draft from a check passer.
- (3) Check taker. A natural person who is an acceptor, or an employee or agent of an acceptor, of a check or draft in a face-to-face transaction.

(b) In prosecutions under G.S. 14-107 the *prima facie* evidence provisions of subsections (d) and (e) apply if all the conditions of subdivisions (1) through (7) below are met. The *prima facie* evidence provisions of subsection (e) apply if only conditions (5) through (7) are met. The conditions are:

- (1) The check or draft is delivered to a check taker.
- (2) The name and mailing address of the check passer are written or printed on the check or draft.
- (3) The check taker identifies the check passer at the time of accepting the check by means of a North Carolina driver's license, a special identification card issued pursuant to G.S. 20-37.7, or other reliable serially numbered identification card containing a photograph and mailing address of the person in question.
- (4) The license or identification card number of the check passer appears on the check or draft.
- (5) After dishonor of the check or draft by the bank or depository, the acceptor sends the check passer a letter by certified mail, to the address recorded on the check, identifying the check or draft, setting forth the circumstances of dishonor, and requesting rectification of any bank error or other error in connection with the transaction within 10 days.
- (6) The acceptor files the affidavit described in subdivision (7) with a judicial official, as defined in G.S. 15A-101(5), before issuance of the first process or pleading in the prosecution under G.S. 14-107. The affidavit must be kept in the case file (attached to the criminal pleading in the case).
- (7) The affidavit of the acceptor, sworn to before a person authorized to administer oaths, must:
  - a. State the facts surrounding acceptance of the check or draft. If the conditions set forth in subdivisions (1) through (5) have been met, the specific facts demonstrating observance of those conditions must be stated.
  - b. Indicate that at least 15 days have elapsed since the mailing of the letter required under subdivision (5) and that the check passer has



failed to rectify any error that may have occurred with respect to the dishonored check or draft.

- c. Have attached a copy of the letter sent to the check passer pursuant to subdivision (5).
- d. Have attached the receipt, or a copy of it, from the United States Postal Service certifying the mailing of the letter described in subdivision (5).
- e. Have attached the check or draft or a copy thereof, including any stamp, marking or attachment indicating the reason for dishonor.

(c) In prosecutions under G.S. 14-107, where the check or draft is delivered to the acceptor by mail, or delivered other than in person, the *prima facie* evidence rule in subsections (d) and (e) shall apply if all the conditions below are met. The *prima facie* evidence rule in subsection (e) shall apply if conditions (5) through (7) below are met. The conditions are:

- (1) The check or draft is delivered to the acceptor by United States mail, or by some person or instrumentality other than a check passer.
- (2) The name and mailing address of the check passer are recorded on the check or draft.
- (3) The acceptor has previously identified the check passer, at the time of opening the account, establishing the course of dealing, or initiating the lease or contract, by means of a North Carolina driver's license, a special identification card issued pursuant to G.S. 20-37.7, or other reliable serially numbered identification card containing a photograph and mailing address of the person in question, and obtained the signature of the person or persons who will be making payments on the account, course of dealing, lease or contract, and such signature is retained in the account file.
- (4) The acceptor compares the name, address, and signature on the check with the name, address, and signature on file in the account, course of dealing, lease, or contract, and notes that the information contained on the check corresponds with the information contained in the file, and the signature on the check appears genuine when compared to the signature in the file.
- (5) After dishonor of the check or draft by the bank or depository, the acceptor sends the check passer a letter by certified mail to the address recorded on the check or draft identifying the check or draft, setting forth the circumstances of dishonor and requesting rectification of any bank error or other error in connection with the transaction within 10 days.
- (6) The acceptor files the affidavits described in subdivision (7) of this subsection with a judicial official, as defined in G.S. 15A-101(5), before issuance of the first process or pleading in the prosecution under G.S. 14-107. The affidavit must be kept in the case file (attached to the criminal pleading in the case).
- (7) The affidavit of the acceptor, sworn to before a person authorized to administer oaths, must:
  - a. State the facts surrounding acceptance of the check or draft. If the conditions set forth in subdivisions (1) through (5) have been met, the specific facts demonstrating observance of those conditions must be stated.

- b. Indicate that at least 15 days have elapsed since the mailing of the letter required under subdivision (5) and that the check passer has failed to rectify any error that may have occurred with respect to the dishonored check or draft.
- c. Have attached a copy of the letter sent to the check passer pursuant to subdivision (5).
- d. Have attached the receipt, or a copy of it, from the United States Postal Service certifying the mailing of the letter described in subdivision (5).
- e. Have attached the check or draft or a copy thereof, including any stamp, marking or attachment indicating the reason for dishonor.

(d) If the conditions of subsection (b) or (c) have been met, proof of meeting them is *prima facie* evidence that the person charged was in fact the identified check passer.

(e) If the bank or depository dishonoring a check or draft has returned it in the regular course of business stamped or marked or with an attachment indicating the reason for dishonor ('insufficient funds', 'no account', 'account closed' or words of like meaning), the check or draft and any attachment may be introduced in evidence and constitute *prima facie* evidence of the facts of dishonor if the conditions of subdivisions (5) through (7) of subsection (b) or subdivisions (5) through (7) of subsection (c) have been met. The fact that the check or draft was returned dishonored may be received as evidence that the check passer had no credit with the bank or depository for payment of the check or draft."

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## S. B. 509

## CHAPTER 616

### AN ACT TO AMEND CHAPTER 93A OF THE GENERAL STATUTES RELATING TO REAL ESTATE BROKERS AND SALESMEN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of G.S. 93A-3 is hereby rewritten as follows:

"(a) There is hereby created the North Carolina Real Estate Licensing Board for issuing licenses to real estate brokers and real estate salesmen, hereinafter called the Board. The Board shall consist of seven members to be appointed by the Governor; provided, that at least two members of the Board shall be licensed real estate brokers, real estate salesmen, or otherwise directly engaged in the real estate business; and at least two members of the Board must be persons who are not involved directly or indirectly in the real estate business. Members of the Board shall serve three-year terms, so staggered that the terms of two members expire in one year, the terms of two members expire in the next year, and the terms of three members expire in the third year of each three-year period. The members of the Board shall elect one of their members to serve as Chairman of the Board for a term of one year. The Governor may remove any member of the Board for misconduct, incompetency, or willful neglect of duty. The Governor shall have the power to fill all vacancies occurring on the Board."

**Sec. 2.** Subsection (c) of G.S. 93A-3 is hereby rewritten as follows:

“(c) The Board shall have power to make such reasonable bylaws, rules and regulations that are not inconsistent with the provisions of this Chapter and the General Statutes of North Carolina, and such rules and regulations may relate to the activity of licensees with regard to supervision of salesmen by brokers, advertising, delivery of instruments, handling and accounting of funds in real estate transactions, records relative to real estate transactions and their retention, and inactive licensee status; provided, however, the Board shall not make rules or regulations regulating commissions, salaries, or fees to be charged by licensees under this Chapter. The Board shall adopt a seal for its use, which shall bear thereon the words ‘North Carolina Real Estate Licensing Board’. Copies of all records and papers in the office of the Board duly certified and authenticated by the seal of the Board shall be received in evidence in all courts and with like effect as the originals.”

**Sec. 3.** Subsection (a) of G.S. 93A-4 is amended by deleting at the end of the subsection the sentences: “Each application for a license as real estate broker shall be accompanied by twenty-five dollars (\$25.00). Each application for license as a real estate salesman shall be accompanied by fifteen dollars (\$15.00), and shall state the name and address of the real estate broker with whom the applicant is to be associated.”, and by inserting in lieu thereof the following:

“Each application for license as a real estate broker shall be accompanied by a fee, fixed by the Board but not to exceed thirty dollars (\$30.00). Each application for license as a real estate salesman shall be accompanied by a fee, fixed by the Board but not to exceed twenty dollars (\$20.00), and shall state the name and address of the real estate broker with whom the applicant is to be associated.”

**Sec. 4.** Subsection (b) of G.S. 93A-4 is hereby rewritten as follows:

“(b) Any person who files such application to the Board in proper manner for a license as real estate broker or a license as real estate salesman shall be required to take an oral or written examination to determine his qualifications with due regard to the paramount interests of the public as to the honesty, truthfulness, integrity and competency of the applicant.

The Board may make such investigation as it deems necessary into the ethical background of the applicant. If the results of the examination and investigation shall be satisfactory to the Board, then the Board shall issue to such a person a license, authorizing such person to act as a real estate broker or real estate salesman in the State of North Carolina, upon the payment of privilege taxes now required by law or that may hereafter be required by law. Anyone failing to pass an examination may be re-examined without payment of additional fee, under such rules as the Board may adopt in such cases.

Provided, however, that any person who, at the time of the passage or at the effective date of this Chapter, has a license to engage in, and is engaged in business as a real estate broker or real estate salesman and who shall file a sworn application with the Board setting forth his qualifications, including a statement that such applicant has not within five years preceding the filing of the application been convicted of any felony or any misdemeanor involving moral turpitude, shall not be required to take or pass such examination, but all such persons shall be entitled to receive such license from the Board under the

provisions of this Chapter on proper application therefor and payment of a fee of ten dollars (\$10.00).”

**Sec. 5.** Subsection (c) of G.S. 93A-4 is amended by deleting from lines 6 and 9 the phrase “of ten dollars (\$10.00)” and inserting in lieu thereof in each line the phrase “fixed by the Board but not to exceed fifteen dollars (\$15.00)”.

**Sec. 6.** G.S. 93A-6 is hereby amended by redesignating subsections (b) and (c) as subsection (d) and (e) respectively, and by inserting two new subsections as follows:

“(b) Anything in this Chapter to the contrary notwithstanding, the Board shall have the power to suspend or revoke the license of a real estate broker or real estate salesman:

- (1) who violates any of the provisions of G.S. 93A-6(a) when selling or leasing his own property; or
- (2) who is convicted or who enters a plea of no contest upon which a finding of guilty and final judgment is entered by a court of competent jurisdiction, or an offense involving moral turpitude which is outside the scope of the real estate business, but would reasonably affect the licensee’s performance in such business.

“(c) The Board may appear in its own name in the superior courts in actions for injunctive relief to prevent violation by any person of the provisions of this Chapter or regulations promulgated hereunder, 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, or regardless of whether the person is a licensee of the Board.”

**Sec. 7.** Subsection (d) of G.S. 93A-6 is renumbered pursuant to Section 6 of this act is rewritten as follows:

“(d) Each broker shall maintain complete records showing the deposit, maintenance, and withdrawal of money or other property owned by his principals or held in escrow or trust for his principals. The Board may inspect these records of each broker periodically without prior notice and may also inspect the records whenever the Board determines that the records are pertinent to the conduct of the investigation of any specific complaint against a licensee.”

**Sec. 8.** Members of the North Carolina Real Estate Licensing Board who are serving in that capacity on the effective date of this act shall continue to serve until their terms expire. The two additional members authorized by this act shall be appointed for initial terms expiring on July 31, 1982; thereafter all appointments shall be for terms of three years.

**Sec. 9.** Chapter 712 of the Session Laws of 1977 is amended by deleting from Section 2 the following:

“G.S. 93A, entitled ‘Real Estate Brokers and Salesmen’.”

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.



S. B. 532

## CHAPTER 617

AN ACT TO ALLOW THE SALE OF UNFORTIFIED WINE IN ABC STORES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-17 is amended by adding a new subsection (18) to read as follows:

“(18) If the sale of unfortified wine has been approved in a local election in the city or county in which the ABC store is located, to sell unfortified wine derived principally from fruits and berries grown in North Carolina.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

S. B. 571

## CHAPTER 618

AN ACT TO CLARIFY THE BOUNDARY BETWEEN PRIVATE LAND AND TIDE WATERS OWNED BY THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The title of Chapter 77 of the General Statutes is rewritten to read “Rivers, Creeks, and Coastal Waters.”

**Sec. 2.** A new Article is added at the end of Chapter 77 to be numbered and to read as follows:

“Article 3.

“Lands Adjoining Coastal Waters.

“§ 77-15. *Seaward boundary of coastal lands.*—(a) The seaward boundary of all property within the State of North Carolina, not owned by the State, which adjoins the ocean, is the mean high water mark. Provided, that this section shall not apply where title below the mean high water mark is or has been specifically granted by the State.

(b) Notwithstanding any other provision of law, no agency shall issue any rule or regulation which adopts as the seaward boundary of privately owned property any line other than the mean high water mark. The mean high water mark also shall be used as the seaward boundary for determining the area of any property when such determination is necessary to the application of any rule or regulation issued by any agency.

(c) For purposes of this Article, ‘agency’ means any part, branch, division, or instrumentality of the State; any county, municipality, or special district; or any commission, committee, council, or board established by the State, or by any county or municipality.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## S. B. 627

## CHAPTER 619

AN ACT TO AUTHORIZE COUNTIES, CITIES, SANITARY DISTRICTS, WATER AND SEWER AUTHORITIES, METROPOLITAN WATER DISTRICTS, AND METROPOLITAN SEWERAGE DISTRICTS TO PROVIDE FOR WASTEWATER COLLECTION AND DISPOSAL BY MEANS OF SEPTIC TANK SYSTEMS AND OTHER ON-SITE DISPOSAL FACILITIES OR SYSTEMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-274(2) is rewritten to read as follows:

“(2) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.”

**Sec. 2.** G.S. 160A-311(3) is rewritten to read as follows:

“(3) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.”

**Sec. 3.** G.S. 159-48(b)(17) is rewritten to read as follows:

“(17) Providing sanitary sewer systems, including without limitation community sewerage facilities for the collection, treatment, and disposal of sewage or septic tank systems and other on-site collection and disposal facilities or systems.”

**Sec. 4.** G.S. 153A-149(c)(29) is rewritten to read as follows:

“(29) Sewage. To provide sewage collection and treatment services as defined in G.S. 153A-274(2).”

**Sec. 5.** G.S. 160A-209(c)(28) is rewritten to read as follows:

“(28) Sewage. To provide sewage collection and treatment services as defined in G.S. 160A-311(3).”

**Sec. 6.** G.S. 153A-301(4) is rewritten to read as follows:

“(4) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.”

**Sec. 7.** G.S. 130-128(1) is rewritten to read as follows:

“(1) 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 as may be necessary for the preservation and promotion of the public health and sanitary welfare within the district, such utilities to be constructed, operated, and maintained in accordance with rules and regulations promulgated by the Commission for Health Services.”

**Sec. 8.** G.S. 162A-2(9) is rewritten to read as follows:

“(9) The term ‘sewage disposal system’ shall mean and shall include any plant, system, facility, or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage (including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources), or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or systems, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof.”

**Sec. 9.** G.S. 162A-32(12) is rewritten to read as follows:

“(12) ‘Sewerage system’ shall embrace sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems and any part or parts thereof, either within or without the limits of a district, all property, rights, easements and franchises relating thereto, and any and all buildings and other structures deemed necessary or useful by a district board in connection with the operation or maintenance thereof.”

**Sec. 10.** G.S. 162A-65(11) is rewritten to read as follows:

“(11) The term ‘sewage disposal system’ shall mean any plant, system, facility or property, either within or without the limits of the district, used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or systems, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the district board for the operation thereof.”

**Sec. 11.** G.S. 153A-185(2) is rewritten to read as follows:

“(2) Constructing, reconstructing, extending, or otherwise building or improving sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems;”

**Sec. 12.** G.S. 160A-216(4) is rewritten to read as follows:

“(4) Constructing, reconstructing, extending, or otherwise building or improving sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.”

**Sec. 13.** G.S. 153A-284 is hereby amended by deleting the word “system” at line 4 and by inserting in lieu thereof the word “line”.

**Sec. 14.** G.S. 160A-317 is hereby amended by deleting the word “system” at line 4 and by inserting in lieu thereof the word “line”.

**Sec. 15.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## S. B. 665

## CHAPTER 620

### AN ACT CONCERNING CONTRIBUTION AMONG JOINT TORT- FEASORS AS TO RAIL COMMON CARRIER EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 1B-1 is amended by adding a new subsection to read:

“(i) The provisions of this Article shall apply to the injury or death of an employee of any common carrier by rail which is subject to the provisions of Chapter 2 of Title 45 of the United States Code (45 U.S.C. § § 51, *et seq.*) or G.S. 62-242 where such injury or death is caused by the joint or concurring negligence of such common carrier by rail and any other person or persons. In any such instance, the following will apply:

(1) where liability is imposed or sought to be imposed only on such common carrier by rail, the railroad is entitled to contribution from any other such person or persons;

- (2) where liability is imposed or sought to be imposed only on a person or persons other than a common carrier by rail, such other person or persons are entitled to contribution from the railroad;
- (3) where liability is imposed or sought to be imposed on both a common carrier by rail and any other person or persons, damages shall be determined as provided in Chapter 2 of Title 45 of the United States Code (45 U.S.C. §§ 51, *et seq.*) or G.S. 62-242 whichever controls the claim.”

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

## H. B. 444

## CHAPTER 621

AN ACT TO ALLOW BOARDS OF COUNTY COMMISSIONERS TO PROVIDE STAGGERED TERMS FOR THE COUNTY BOARD OF HEALTH.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-13(e) is amended by adding the following new language at the end of the subsection:

“In order to establish a uniform staggered-term structure for a county board of health whereby three members’ terms will expire each year, the board of county commissioners of any county without such uniform structure is authorized, upon expiration of the term of any board of health member, to reappoint the member or appoint his successor to a one-year or a two-year term as appropriate to achieve the uniform staggered-term structure. Any subsequent appointments for such member or his successor shall be for three-year terms.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

## H. B. 478

## CHAPTER 622

AN ACT TO MANDATE A PLAN FOR THE TRAINING OF DISTRICT COURT JUDGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The second paragraph of G.S. 7A-147(c) is rewritten to read as follows: The Administrative Office of the Courts shall develop a plan whereby a district court judge may be better qualified to hear juvenile cases by reason of training, experience, and demonstrated ability. Any district court judge who completes the training under this plan shall receive a certificate to this effect from the Administrative Office of the Courts. In districts where there is a district court judge who has completed this training as herein provided, the chief district judge shall give due consideration in the assignment of such cases where practical and feasible.

**Sec. 2.** Nothing herein shall be construed to obligate the legislature to furnish additional funds to implement this plan of training by the Administrative Office of the Courts.

**Sec. 3.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. B. 998

## CHAPTER 623

AN ACT TO PROVIDE FOR INTERSTATE EXCHANGE OF INMATES  
AMONG COMPACT STATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 148 of the General Statutes is amended by adding a new Article 12 as follows:

“Article 12.

“Interstate Corrections Compact.

“§ 148-115. *Short title.*—This Article shall be known and may be cited as the Interstate Corrections Compact.

“§ 148-116. *Governor to execute, form of compact.*—The Governor of North Carolina is hereby authorized and requested to execute, on behalf of the State of North Carolina, with any other state or states legally joining therein a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

(a) The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, and with the federal government, thereby serving the best interest of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

(b) As used in this compact, unless the context clearly requires otherwise:

- (1) ‘State’ means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.
  - (2) ‘Sending state’ means a state party to this compact in which conviction or court commitment was had.
  - (3) ‘Receiving state’ means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.
  - (4) ‘Inmate’ means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.
  - (5) ‘Institution’ means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates as defined in 4. above may lawfully be confined.
- (c) (1) Each party state may make one or more contracts with any one or more of the other party states, or with the federal government, for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

- a. its duration;
  - b. payments to be made to the receiving state or to the federal government, by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment nor reasonably included as part of normal maintenance;
  - c. participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;
  - d. delivery and retaking of inmates;
  - e. such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.
- (2) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto and nothing in any such contract shall be inconsistent therewith.
- (d) (1) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, Subsection (c)(1), shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.
- (2) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.
- (3) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state, provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III, Subsection (c)(1).
- (4) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

- (5) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.
- (6) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record, together with any recommendations of the hearing officials, shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.
- (7) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.
- (8) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.
- (9) The parents, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.
- (e) (1) Any decision of the sending state in respect to any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharge from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(2) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

(f) Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto; and any inmate in a receiving state pursuant to this compact may participate in any such federally-aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

(g) This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

(h) This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

(i) Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

(j) The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability 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 remaining states and in full force and effect as to the state affected as to all severable matters."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.



## H. B. 1084

## CHAPTER 624

AN ACT TO AMEND THE LOCAL GOVERNMENT BOND ACT TO PROVIDE THAT A COUNTY WATER AND SEWER DISTRICT IS AUTHORIZED TO ISSUE ITS BONDS THEREUNDER AND TO AMEND ARTICLE 6 OF CHAPTER 162A OF THE GENERAL STATUTES OF NORTH CAROLINA TO DELETE THE REQUIREMENT OF A PETITION IN CONNECTION WITH THE CREATION OF A COUNTY WATER AND SEWER DISTRICT THEREUNDER AND TO PROVIDE THAT THE INHABITANTS OF ANY SUCH DISTRICT MAY ESTABLISH, REVISE AND COLLECT RATES, FEES OR OTHER CHARGES AND PENALTIES FOR THE USE OF OR THE SERVICES FURNISHED OR TO BE FURNISHED BY ANY SYSTEM OF SUCH DISTRICT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-48(e) is amended by deleting therefrom the word “and” before the words “metropolitan water district” and by inserting therein the words “, and county water and sewer district” after the words “metropolitan water district”.

**Sec. 2.** The heading and subsection (a) of G.S. 162A-86 are amended to read:

“§ 162A-86. *Formation of district; hearing.*—(a) The board of commissioners of any county may create a county water and sewer district.”

**Sec. 3.** The second sentence of G.S. 162A-86(b) is amended to read:

“Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall set forth a description of the territory to be included within the proposed district.”

**Sec. 4.** The last sentence of G.S. 162A-87(a) is amended to read:

“Otherwise, the board of commissioners may define as the district all or any portion of the territory described in the notice of the public hearing.”

**Sec. 5.** The last sentence of G.S. 162A-88 is amended by inserting therein the words “may establish, revise and collect rates, fees or other charges and penalties for the use of or the services furnished or to be furnished by any sanitary sewer system, water system or sanitary sewer and water system of the district;” before the words “and may exercise those powers conferred on them by this Article.”

**Sec. 6.** Nothing in this act is intended to affect in any way any public or private rights or interests (i) 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 amended by this act or (ii) derived from or which might be sustained or preserved in reliance upon action heretofore taken, including the adoption of orders, ordinances, or resolutions, pursuant to or within the scope of any provision of law amended by this act.

**Sec. 7.** Nothing in this act shall be construed to impair the obligation of any bond, note or coupon outstanding on the effective date of this act.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. B. 1090

**CHAPTER 625**

AN ACT TO REWRITE G.S. 105-164.13(32) PERTAINING TO THE EXEMPTION FROM SALES TAX OF PERSONAL PROPERTY DESTINED FOR USE IN A FOREIGN COUNTRY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 201 of the 1979 Session Laws is hereby repealed.

**Sec. 2.** A new subdivision (32) in G.S. 105-164.13 is inserted in lieu thereof as follows:

“(32) Tangible personal property purchased exclusively for the purpose of export to a foreign country for exclusive use and consumption in that foreign country and which purpose is consummated.

In order to qualify for this exemption an affidavit of export as prescribed by the Secretary of Revenue must be submitted at the point of sale.

If the export is not consummated, the vendee shall be liable for the applicable tax.

The purpose of this exemption is to encourage the flow of commerce through North Carolina ports that is now moving through out-of-state ports.”

**Sec. 3.** This act shall be effective July 1, 1979.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. B. 1248

**CHAPTER 626**

AN ACT TO REQUIRE THAT PHARMACISTS PLACE WARNING LABELS ON ANY TRANQUILIZERS DISPENSED IF DIRECTED BY THE PRESCRIBER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-134.1(b) is amended by adding a second paragraph to read as follows:

“Any tranquilizer or sedative dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug shall be labelled by the pharmacist, if the prescriber so directs on the prescription, with a warning that: ‘The consumption of alcoholic beverages while on this medication can be harmful to your health.’”

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. B. 1260

**CHAPTER 627**

AN ACT TO AMEND G.S. 20-79.2 PERTAINING TO TRANSPORTER REGISTRATION PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 473 of the 1979 Session Laws is hereby amended by striking the word “or” appearing after the word “manufacture” on line 5 of Section 1 and inserting in lieu thereof a comma and by inserting the words “or rebuilding” after the word “construction” at the end of line 5 of Section 1.

**Sec. 2.** Chapter 473 of the 1979 Session Laws is further amended by striking the word “or” appearing after the word “manufacture” on line 6 of

Section 2 and inserting in lieu thereof a comma and by inserting the words “or rebuilding” after the word “construction” on line 6 of Section 2.

**Sec. 3.** Chapter 473, Session Laws of 1979 is further amended in line 6 of Section 1 and in line 6 of Section 2 by in each place inserting immediately before the word “cabs” the word “truck”.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

## H. B. 1301

## CHAPTER 628

AN ACT TO PROVIDE FOR THE EXPENDITURE OF INSURANCE  
COMPANY DEPOSITS FOR THE BENEFIT AND PROTECTION OF  
POLICYHOLDERS OF CERTAIN INSOLVENT CASUALTY  
INSURANCE COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 17B of Chapter 58 of the General Statutes is hereby amended by adding after G.S. 58-155.59 a new section to be enumerated G.S. 58-155.60 and to read as follows:

“§ 58-155.60. *Use of deposits made by insolvent insurer.*—Notwithstanding any other provision of Chapter 58 of the General Statutes pertaining to the use of deposits made by insurance companies for the protection of policyholders, the Commissioner shall deliver to the Association, and the Association is hereby authorized to expend, any deposit or deposits previously or hereinafter made, whether or not required by statute, by an insolvent insurer to the extent those deposits are needed by the Association first to pay the covered claims in excess of one hundred dollars (\$100.00) as required by this Article and then to the extent those deposits are needed to pay all expenses of the Association relating to the insurer.

However, in the case of a deposit made by an insolvent domestic insurer, only the portions of the deposit made for the protection of policyholders having covered claims shall be delivered by the Commissioner to the Association. Said portions shall be in the proportions that the insolvent domestic insurer's domestic net direct written premiums for the preceding calendar year on the kinds of insurance in the account bears to its total net direct written premiums for the preceding calendar year on the kinds of insurance in the account.

The Association shall account to the Commissioner and the insolvent insurer for all deposits received from the Commissioner hereunder, and shall repay to the Commissioner a portion of the deposits received which shall be equal to an amount computed by adding the lesser of the amount of the covered claim or one hundred dollars (\$100.00) for each covered claim. Said repayment shall in no way prejudice the rights of the Association with regard to the portion of the deposit repaid to the Commissioner. After all of the deposits of the insolvent insurer have been expended by the Association for the purposes set out in this section, the member insurers shall be assessed as provided by this Article to pay any remaining liabilities of the Association arising under this Article.”

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

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. B. 1315

**CHAPTER 629**

AN ACT TO CONTINUE THE LIFE OF THE PUBLIC LIBRARIAN  
CERTIFICATION COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-34.11 is amended by deleting from the section the following language:

“Chapter 143B, Article 2, Part 6, entitled ‘Public Librarian Certification Commission’, G.S. 125-9, entitled ‘Librarian Certification’ and G.S. 125-10, entitled ‘Temporary Certificates for Public Librarians’.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. B. 958

**CHAPTER 630**

AN ACT TO AUTHORIZE THE DETERMINATION AND COLLECTION  
OF CERTAIN FEES BY THE SAVINGS AND LOAN DIVISION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4 of Chapter 54 is amended to add a new section G.S. 54-25.1 to read as follows:

“§ 54-25.1. *Other fees.*—The Administrator, subject to the advice and consent of the Savings and Loan Commission, shall on or before June 1 of each year, determine and fix the fee schedule for the fees to be collected from applicants to defray the costs of processing charter, branch, merger, conversion, location change and name change applications, and for the fees to be collected from State-chartered associations for supervision by the Savings and Loan Division.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. B. 1032

**CHAPTER 631**

AN ACT TO AMEND G.S. 20-88(b) PERTAINING TO FARMER PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-88(b) is hereby amended by redesignating subsection (b)(6) as subsection (b)(7) and adding a new subsection (b)(6) to read as follows:

“(6) Notwithstanding any other provision of this Chapter, license plates issued pursuant to this subsection at the farmer rate may be purchased for any three-month period at one-fourth of the annual fee.”

**Sec. 2.** This act shall become effective April 1, 1980.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.



S. B. 210

## CHAPTER 632

## AN ACT TO CLARIFY THE LAW PERTAINING TO PARKING PRIVILEGES FOR THE HANDICAPPED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-37.6 is rewritten to read as follows:

“§ 20-37.6. *Handicapped; drivers and passengers, parking privileges.*—(a) Any vehicle driven by or transporting a person who is handicapped as defined by G.S. 20-37.5 or transporting a person who is visually impaired as defined by G.S. 111-11, as certified by a licensed ophthalmologist, optometrist, or Division of Services for the Blind, may be parked for unlimited periods in parking zones restricted as to length of time parking is permitted. This provision has no application to those zones or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. Any qualifying vehicle may park in spaces designated by aboveground markings as restricted to vehicles distinguished as being driven by or as transporting the handicapped or as transporting the visually impaired.

(b) Handicapped car owners; distinguishing license plates. If the handicapped or visually impaired person is a registered owner of a vehicle, this vehicle may display a distinguishing license plate. This license plate shall be issued for the normal fee applicable to standard license plates. Any vehicle owner who qualifies for a distinguishing license plate may also receive up to two distinguishing placards as provided for in G.S. 20-37.6(c).

(c) Handicapped drivers and passengers; distinguishing placards. A person who is either handicapped or visually impaired may apply for issuance of a distinguishing placard to be designed by the Division of Motor Vehicles of the Department of Transportation, in cooperation with the Office for the Handicapped of the Department of Insurance. Any organization which, as determined and certified by the State Vocational Rehabilitation Agency, regularly transports handicapped or visually impaired people, may also apply. The placard shall be at least 6 inches by 12 inches in size and shall contain all the information the Division of Motor Vehicles deems necessary for purpose of designation and enforcement. The placard shall be displayed on the driver's side of the dashboard of a vehicle only when the vehicle is being driven by a duly licensed handicapped driver or is being used to transport handicapped or visually impaired passengers. When the placard is properly displayed, all parking rights and privileges extended to vehicles displaying a distinguishing license plate issued pursuant to G.S. 20-37.6(b) shall apply. The Division of Motor Vehicles shall establish procedures for the issuance of the distinguishing placards, may charge a fee sufficient to pay the actual cost of issuance. Two placards may be issued to an applicant on request. Applicants who are organizations may receive one placard for each transporting vehicle.

(d) Designation of parking places. Designation of parking spaces for the physically handicapped and the visually impaired on streets and in other areas, including public vehicular areas specified in G.S. 20-4.01(32), shall be by the use of sign R7-8, Manual on Uniform Traffic Control Devices. Nonconforming signs in use prior to July 1, 1979, shall not constitute a violation during their useful lives, which shall not be extended by other means than normal maintenance.

(e) Enforcement of handicapped parking privileges. It shall be unlawful:

- (1) to park or leave standing any vehicle in a space designated for handicapped or visually impaired persons when the vehicle does not display the distinguishing license plate or placard as provided in this section;
- (2) for any person not qualifying for the rights and privileges extended to handicapped or visually impaired persons under this section to exercise or attempt to exercise such rights or privileges by the unauthorized use of a distinguishing license plate or placard issued pursuant to the provisions of this section;
- (3) to park or leave standing any vehicle so as to obstruct a curb ramp or curb cut for handicapped persons as provided for by North Carolina Building Code or as designated in G.S. 136-44.14;
- (4) for those responsible for designating parking spaces for the handicapped to erect or otherwise use signs not conforming to G.S. 20-37.6(e) for this purpose.

This section is enforceable in all public vehicular areas specified in G.S. 20-4.01(32).

(f) Penalties for violation.

- (1) The penalty for a violation of G.S. 20-37.6(e)(1),(2) and (3) shall be ten dollars (\$10.00) and whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of the provisions of this section, it shall be *prima facie* evidence in any court in the State of North Carolina that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division of Motor Vehicles. No evidence tendered or presented under this authorization shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.
- (2) The penalty for violation of G.S. 20-37.6(e)(4) shall be fifty dollars (\$50.00) and whenever evidence shall be presented in any court of the fact that any such nonconforming sign or markings are being used it shall be *prima facie* evidence in any court in the State of North Carolina that the person, firm, or corporation with ownership of the property where said nonconforming signs or markings are located is responsible for violation of this section. Building inspectors and others responsible for North Carolina State Building Code violations specified in G.S. 143-138(h) where such signs are required by the Handicapped Section of the North Carolina State Building Code, may cause a citation to be issued for this violation and may also initiate any appropriate action or proceeding to correct such violation.
- (3) A law enforcement officer, including security officer who has authority to enforce laws on the property of his employer as specified in G.S. Chapter 74A, may cause a vehicle parked in violation of this section to be towed; and such officer shall be a legal possessor as provided in G.S. 20-161(d)(2). This law enforcement officer, or security officer, shall not 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 from such space pursuant to this section, except where such motor vehicle is willfully, maliciously, or negligently damaged in the removal from aforesaid space to place of storage.

- (4) Notwithstanding any other provision of the General Statutes, the provisions of this section relative to handicapped parking shall be enforced by State, county, city and other municipal authorities in their respective jurisdictions whether on public or private property in the same manner as is used to enforce other parking laws and ordinances by said agencies."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

## S. B. 212

## CHAPTER 633

AN ACT TO AMEND ARTICLE 21 OF CHAPTER 143 IN ORDER TO PRESERVE DELEGATION TO THE STATE FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GOVERNING DISCHARGES OF WASTEWATER TO THE WATERS OF THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-213, as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended by adding a new subsection (27) as follows:

"The term 'waste treatment management practice' means any method, measure or practice to control plant site runoff, spillage or leaks, sludge or waste disposal and drainage from raw material storage which are associated with, or ancillary to the industrial manufacturing or treatment process of the class or category of point sources to which the management practice is applied. Waste treatment management practices may only be imposed, supplemental to effluent limitations, for a class or category of point sources, for any specific pollutant which has been designated as toxic or hazardous pursuant to Sections 307(a)(1) or 311 of the Federal Water Pollution Control Act."

**Sec. 2.** G.S. 143-215(a), as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended as follows:

(a) by inserting after the word "limitations" in line 3 the words "and waste treatment management practices",

(b) by inserting after the word "limitations" in line 4 the words "or management practices",

(c) by inserting after the word "limitations" in line 5 the words "or management practices",

(d) by inserting after the word "limitations" in line 6 a comma, followed by the words "management practices", and

(e) by inserting after the word "limitations" in line 9 the words "or management practices".

**Sec. 3.** G.S. 143-215(b), as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended by inserting after the final sentence in line 7 the words: "The management practices developed and adopted by the Environmental Management Commission shall be promulgated

in its official regulations as provided in G.S. 143-215.3(a)(1) and shall prescribe practices necessary to be employed in order to prevent or reduce contribution of pollutants to the State's waters."

**Sec. 4.** G.S. 143-215(c), as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended as follows:

(a) by inserting after the word "limitations" in line 1, the words "and management practices",

(b) by inserting after the word "limitations" in line 5, the words "and management practices",

(c) by inserting after the word "limitations" in line 7, the words "and management practices".

**Sec. 5.** G.S. 143-215.1(a), as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended as follows:

(a) by inserting a new subsection to read:

"(9) Dispose of sludge resulting from the operation of a treatment works, including the removal of in-place sewage sludge from one location and its deposit at another location, consistent with the requirement of the Resource Conservation and Recovery Act and regulations promulgated pursuant thereto."

(b) by inserting a new subsection to read:

"(10) Cause or permit any pollutant to enter into a defined managed area of the State's waters for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals."

**Sec. 6.** All references in General Statutes Chapter 143, Article 21, Part 1 to the "Federal Water Pollution Control Act Amendments of 1972" shall be amended to read "Federal Water Pollution Control Act".

**Sec. 7.** G.S. 143-215.3(a), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by adding a new subsection to read as follows:

"(14) To certify and approve, by appropriate delegations and conditions in permits required by G.S. 143-215.1, requests by publicly owned treatment works to implement, administer and enforce a pretreatment program for the control of pollutants which pass through or interfere with treatment processes in such treatment works; and to require such programs to be developed where necessary to comply with the Federal Water Pollution Control Act and the Resource Conservation and Recovery Act, including the addition of conditions and compliance schedules in permits required by G.S. 143-215.1. Pretreatment programs submitted by publicly owned treatment works shall include, at a minimum, the adoption of pretreatment standards, a permit or equally effective system for the control of pollutants contributed to the treatment works, and the ability to effectively enforce compliance with the program."

**Sec. 8.** G.S. 143-215.3(e), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by deleting the phrase, "but only after public hearing on due notice if it finds that:" and inserting in lieu thereof the phrase, "for fixed or indefinite periods after public hearing on due notice, or where it is found that circumstances so require, for a period not to exceed 90 days without prior hearing and notice. Prior to granting a variance hereunder, the Commission shall find that:" and by deleting the words "economically achievable" from subparagraph (2) and inserting in lieu thereof the phrase "found to be economically reasonable".



**Sec. 9.** G.S. 143-215.6(a)(1), as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended as follows:

(a) by deleting the words “five thousand dollars (\$5,000)” in line 1 and inserting instead the words “ten thousand dollars (\$10,000)”, and

(b) by deleting the word “or” in line 4, and by inserting a comma after the word “standard” in line 4 and inserting the words “or management practice” after the word “limitation” and before the word “established” in line 4.

**Sec. 10.** G.S. 143-215.6(a)(2), as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended by deleting the words “five thousand dollars (\$5,000)” in lines 3 and 4 and inserting instead the words “ten thousand dollars (\$10,000)”.

**Sec. 11.** G.S. 143-215.6(c), as it now appears in the 1978 Replacement Volume 3C of the General Statutes, is amended by inserting a comma after the word “Article” in line 3, followed by the words “any of the terms of any permit issued pursuant to this Article”.

**Sec. 12.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

## S. B. 672

## CHAPTER 634

## AN ACT TO ESTABLISH A GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND HEALTH.

Whereas, considerable morbidity and mortality from disease can be attributed to a lack of physical conditioning; and

Whereas, more than half of all deaths in North Carolina are attributable to diseases of the heart and blood vessels, and these diseases have been demonstrated to be significantly linked to inadequate physical activity and fitness; and

Whereas, forty-five percent (45%) of all adult Americans do not engage in physical activity for the purpose of exercise and more than fifty percent (50%) are overweight; and

Whereas, good physical fitness is a great source of preventive medicine and can restore and preserve the energy, endurance and sense of well-being which are too often missing in an increasingly sedentary way of life; and

Whereas, there is no current focus in the State of North Carolina for the promotion of greater availability and accessibility of organized community-based physical fitness resources for citizens of all ages; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Part is added to Article 3, Chapter 143B of the General Statutes to read as follows:

“Part 26.

“Governor’s Council on Physical Fitness and Health.

“§ 143B-216.8. *Governor’s Council on Physical Fitness and Health; creation; powers; duties.*—There is hereby created the Governor’s Council on Physical Fitness and Health in the Department of Human Resources. The council shall have the following functions and duties:

(1) to promote interest in the area of physical fitness; to consider the need for new State programs in the field of physical fitness; to enlist the active support of individual citizens, professional and civic groups, amateur and professional

athletes, voluntary organizations, State and local government agencies, private industry and business, and community recreation programs in efforts to improve the physical fitness and thereby the health of the citizens of North Carolina;

(2) to examine current programs of physical fitness available to the people of North Carolina, and to make recommendations to the Governor for coordination of programs to prevent duplication of such services; to support programs of physical fitness in the public school systems; to develop cooperative programs with medical, dental, and other groups; to maintain a liaison with government, private and other agencies concerning physical fitness programs; to stimulate research in the area of physical fitness; to sponsor physical fitness workshops, clinics, conferences, and other related activities pertaining to physical fitness throughout the State;

(3) to serve as an agency for recognizing outstanding developments, contributions, and achievements in physical fitness in North Carolina;

(4) the council shall make an annual report to the Governor and to the Secretary of Human Resources, including therein suggestions and recommendations for the furtherance of the physical fitness of the people of North Carolina.

“§ 143B-216.9. *The Governor's Council on Physical Fitness and Health; members; selection; quorum; compensation.*—The Governor's Council on Physical Fitness in the Department of Human Resources shall consist of 10 members, including a chairman.

(1) The composition of the council shall be as follows: one member of the Senate appointed by the President of the Senate, and one member of the House of Representatives appointed by the Speaker of the House of Representatives, and eight persons from the health care professions, the fields of business and industry, physical education, recreation, sports and the general public. The eight nonlegislative members of the Council shall be appointed by the Governor to serve at his pleasure.

(2) The eight initial nonlegislative members of the council shall be appointed thusly: two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years. At the end of the respective terms of office of these initial members, all succeeding appointments of nonlegislative members shall be for terms of four years; nonlegislative members shall serve no more than two consecutive four-year terms; all unexpired terms due to resignation, death, disability, removal or refusal to serve shall be filled by a qualified person appointed by the Governor for the balance of the unexpired term.

(3) Legislative members of the council shall serve two-year terms beginning and ending on July 1 of odd-numbered years, and shall serve no more than two consecutive terms.

(4) Members of the Governor's Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 or G.S. 138-6, or travel and subsistence expenses under G.S. 120-3.1, as appropriate.

(5) The Council shall meet no more than quarterly.

(6) A majority of the Governor's Council shall constitute a quorum for the transaction of business.”

**Sec. 2.** Implementation of the provisions of this act is contingent upon receipt of fully supporting funds from federal and other nonstate sources, and

nothing herein contained shall be construed to obligate the General Assembly to make appropriations for this purpose.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

## H. B. 927

**CHAPTER 635**

AN ACT TO CONFORM THE PROCEDURES FOR APPEALS FROM  
COUNTY BOARDS OF ADJUSTMENT TO THOSE FROM CITY  
BOARDS OF ADJUSTMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-345(e) is amended by adding the following language at the end of the subsection:

"Any petition for review to the superior court shall be taken 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 appellant, whichever is later. The decision of the board may be delivered to the appellant either by personal service, or registered mail or certified mail return receipt requested."

**Sec. 2.** This act is effective January 1, 1980.

In the General Assembly read three times and ratified, this the 24th day of May, 1979.

## H. B. 1092

**CHAPTER 636**

AN ACT TO SIMPLIFY THE INDEXING OF MARRIAGE LICENSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The last paragraph of Section 51-18 of the North Carolina General Statutes is rewritten to read as follows:

"In the book required by this section, each marriage license shall be indexed alphabetically according to the name of the proposed husband and the proposed wife. Each index entry shall include, but not be limited to, the full name of the intended husband and wife, the date the marriage ceremony was performed, and the location of the original license and the return thereon. The original license and return shall be filed and preserved."

**Sec. 2.** This act shall become effective July 1, 1979, and shall apply to all marriage licenses issued on and after that date.

In the General Assembly read three times and ratified, this the 24th day of May, 1979.

H. B. 1124

**CHAPTER 637**

AN ACT TO AMEND THE LAWS GOVERNING STATE AND LOCAL GOVERNMENT BANK DEPOSITS WITH RESPECT TO SECURITY OF PUBLIC DEPOSITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-31(b) is amended by rewriting the first sentence to read:

“(b) The amount of funds on deposit in an official depository or deposited at interest pursuant to G.S. 159-30(b) shall be secured by deposit insurance, surety bonds, or investment securities of such nature, in a sufficient amount to protect the local government or public authority on account of deposit of funds made therein, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission.”

**Sec. 2.** G.S. 159-33 is rewritten to read:

“§ 159-33. *Semiannual reports on status of deposits and investments.*—Each officer having custody of any funds of any local government or public authority shall report to the secretary of the Local Government Commission on January 1 and July 1 of each year (or such other dates as he may prescribe) the amounts of funds then in his custody, the amounts of deposits of such funds in depositories, and a list of all investment securities and time deposits held by the local government or public authority. In like manner, each bank or trust company acting as the official depository of any unit of local government or public authority may be required to report to the secretary a description of the surety bonds or investment securities securing such public deposits. If the secretary finds at any time that any funds of any unit or authority are not properly deposited or secured, or are invested in securities not eligible for investment, he shall notify the officer or depository in charge of the funds of the failure to comply with law or applicable regulations of the Commission. Upon such notification, the officer or depository shall comply with the law or regulations 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 Commission may extend the time for sale of ineligible securities, but no one extension may cover a period of more than one year.”

**Sec. 3.** G.S. 147-79 is rewritten to read:

“§ 147-79. *Deposits to be secured; reports of depositories.*—(a) The amount of funds deposited by the State Treasurer in an official depository shall be adequately 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 State Treasurer with the approval of the Governor and Council of State. No security is required for the protection of funds remitted to and received by a bank or trust company designated by the State Treasurer under G.S. 142-1 and acting as paying agent for the payment of the principal of or interest on bonds or notes of the State.

(b) Each official depository having deposits required to be secured by subsection (a) of this section may be required to report to the State Treasurer on January 1 and July 1 of each year (or such other dates as he may prescribe) a list of all surety bonds or investment securities securing such deposits. If the State Treasurer finds at any time that any funds of the State are not properly



secured, he shall so notify the depository. Upon such notification, the depository shall comply with the applicable law or regulations forthwith.

(c) Violation of the provisions of this section shall be a misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court."

**Sec. 4.** G.S. 147-78, as the same appears in the 1979 Replacement Volume 3C of the General Statutes, is amended by placing a period after the words "the State" in line 4 and striking out the remainder of the sentence, and further by striking out the word and punctuation "; bond" in the caption.

**Sec. 5.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 24th day of May, 1979.

## H. B. 1182

## CHAPTER 638

AN ACT TO AMEND ARTICLE IV OF THE CONSTITUTION OF NORTH CAROLINA, TO REQUIRE JUSTICES AND JUDGES OF THE GENERAL COURT OF JUSTICE TO BE AUTHORIZED TO PRACTICE LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article IV of the North Carolina Constitution is hereby amended by adding a new section at the end thereof to read as follows:

"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."

**Sec. 2.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election to be held in November 1980. That election shall be held and 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 requiring Justices and Judges of the Supreme Court, Court of Appeals, Superior Court and District Court to be duly authorized to practice law prior to election or appointment.

☐ AGAINST constitutional amendment requiring Justices and Judges of the Supreme Court, Court of Appeals, Superior Court and District Court to be duly authorized to practice law prior to election or appointment."

**Sec. 4.** If a majority of the votes cast are in favor of the amendment set out in Section 1 of this act, then 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 on January 1, 1981.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1979.

## H. B. 1136

## CHAPTER 639

## AN ACT PROVIDING FOR COOPERATION BETWEEN STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN THE EVENT OF A STRIKE BY LOCAL LAW ENFORCEMENT OFFICERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 13 of Chapter 160A of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 160A-288.1. *Assistance by State law enforcement officers; cost.*—(a) The governing body of any city or county may request the Governor to assign temporarily State law enforcement officers with statewide authority to provide law enforcement protection when local law enforcement officers: (1) are engaged in a strike; (2) are engaged in a slowdown; (3) otherwise refuse to fulfill their law enforcement responsibilities; or (4) submit mass resignations. The request from the governing body of the city or county shall be in writing. The request from a county governing board shall be upon the advice of the sheriff of the county.

(b) The Governor shall formulate such rules, policies or guidelines as may be necessary to establish a plan under which temporary State law enforcement assistance will be provided to cities and counties. The Governor may delegate the responsibility for developing appropriate rules, policies or guidelines to the head of any State department. The Governor may also delegate to a department head the authority to determine the number of officers to be assigned in a particular case, if any, and the length of time they are to be assigned.

(c) While providing assistance to a city or county, a State law enforcement officer shall be considered an employee of the State for all purposes, including compensation and fringe benefits.

(d) While providing assistance to the city or county, a State officer shall be subject to the lawful operational commands of his State superior officers. The ranking representative of each State law enforcement agency providing assistance shall consult with the appropriate city or county officials prior to deployment of the State officers under his command.”

**Sec. 2.** G.S. 153A-212 is rewritten to read as follows:

“§ 153A-212. *Cooperation on law enforcement matters.*—A county may cooperate with the State and other local governments in law enforcement matters, as permitted by G.S. 160A-283 (joint auxiliary police), by G.S. 160A-288 (emergency aid), G.S. 160A-288.1 (assistance by State law enforcement officers), and by Chapter 160A, Article 20, Part 1.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1979.

H. B. 1225

**CHAPTER 640**

AN ACT TO CLARIFY G.S. 14-360, RELATING TO ANIMAL ABUSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. Chapter 14, Article 47 is hereby amended by adding a new provision to read as follows:

“§ 14-363.2. *Confiscation.*—Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1979.

H. B. 1227

**CHAPTER 641**

AN ACT TO SPECIFY THAT PREDATOR CONTROL, SPORT-HUNTING FOR NONFOOD GAME, AND TRAPPING DO NOT CONSTITUTE CRUELTY TO ANIMALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-360 is hereby amended on line 13 by placing a period after the word “permitted,” deleting the phrase, “but such terms shall not be construed to prohibit lawful shooting of birds, deer and other game for human food,” and inserting the following:

“Such terms shall not be construed to prohibit the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of May, 1979.

H. B. 741

**CHAPTER 642**

AN ACT TO EXPAND THE BOUNDARIES OF THE BURLINGTON CITY ADMINISTRATIVE SCHOOL UNIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The boundary lines of the Burlington City Administrative School Unit are extended so as to embrace all territory presently within the municipal boundaries of the City of Burlington; and as additional territory is annexed by the City of Burlington, that territory shall automatically become a part of the Burlington City Administrative School Unit.

**Sec. 2.** The boundaries of the Burlington City Administrative School Unit shall not hereafter be extended to include additional territory outside the boundary of the City of Burlington.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1979.

H. B. 1204

**CHAPTER 643**

AN ACT TO VALIDATE ACTS OF NOTARIES WHERE THE WORDS  
"NORTH CAROLINA" WERE OMITTED FROM THE SEAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 10 of the General Statutes is amended by adding a new section to read:

"§ 10-16.1. *Act of notaries of North Carolina missing from seal.*—The notarial acts of any person heretofore duly commissioned as a notary public in this State, who used in performing such acts a seal correctly containing the name of the notary, but the words 'North Carolina' or an abbreviation 'N. C.' were omitted, are hereby validated and given the same legal effect as if such correct designation of the State had appeared on the seal or seal imprint so used. This section shall apply to notarial acts prior to July 1, 1979."

**Sec. 2.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 25th day of May, 1979.

S. B. 650

**CHAPTER 644**

AN ACT TO MAKE TECHNICAL AMENDMENTS TO AND TO CLARIFY  
EXISTING PROVISIONS OF PART 3B OF CHAPTER 160A, ARTICLE 19,  
RELATING TO HISTORIC PROPERTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 160A, Article 19, Part 3B, as the same appears in the 1976 Replacement Volume 3D of the General Statutes is amended to read as follows:

"Part 3B. Historic Properties Commissions.

"§ 160A-399.1(a). *Legislative findings.*—The historical heritage of our State is one of our most valued and important assets. The conservation and preservation of historic properties will stabilize and increase property values in their areas and strengthen the overall economy of the State. This Part authorizes cities and counties of the State, within their respective zoning jurisdictions and by means of listing, regulation, and acquisition:

- (1) to safeguard the heritage of the city or county by preserving any property therein that embodies important elements of its cultural, social, economic, political or architectural history; and
- (2) to promote the use and conservation of such property for the education, pleasure and enrichment of the residents of the city or county and the State as a whole.

(b) Exercise of powers under this Part by counties as well as cities. The term 'municipality' as used in G.S. 160A-399.1 through 160A-399.13 shall be deemed to include the county or its governing board or legislative board, to the end that counties may exercise the same powers as cities with respect to the establishment of historic districts.

"§ 160A-399.2. *Appointment or designation of historic properties commission.*—Before it may exercise the powers set forth in this Part, a municipality shall establish or designate a historic properties commission. The municipality's governing board shall determine the number of members of the commission, which shall be at least three, and the length of their terms, which



shall be no greater than four years. A majority of the members of such a commission shall have demonstrated special interest, experience, or education in history or architecture; and all the members shall reside within the territorial jurisdiction of the city or county as established pursuant to G.S. 160A-360. In establishing such a commission and making appointments to it, a city or county may seek the advice of any State or local historical or preservation agency, or organization.

In lieu of establishing a separate historic properties commission, a municipality may designate as its historic properties commission either (i) the city or county historic district commission, established pursuant to G.S. 160A-396, or (ii) a city or county planning agency. In order for a planning agency to be designated, at least two of its members shall have demonstrated special interest, experience, or education in history or architecture.

A county and one or more cities in the county may establish or designate a joint historic properties commission. If a joint commission is established, the county and city or cities involved shall determine the residence requirements for members of the joint historic properties commission.

“§ 160A-399.3. *Powers of the properties commission.*—Any historic properties commission established pursuant to this Part shall be authorized within the zoning jurisdiction of the unit to:

(1) undertake an inventory of properties of historical, architectural and/or archaeological significance;

(2) recommend to the municipal governing board structures, buildings, sites, areas or objects to be designated by ordinance as ‘historic properties’;

(3) acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such historic properties, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

(4) restore, preserve and operate such historic properties;

(5) recommend to the governing board that designation of any building, structure, site, area or object as a historic property be revoked or removed;

(6) conduct an educational program with respect to historic properties within its jurisdiction;

(7) cooperate with the State, federal and local governments in pursuance of the purposes of this Part. The governing board or the commission when authorized by the governing board may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law;

(8) enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.

“§ 160A-399.4. *Adoption of an ordinance, criteria for designation.*—Upon complying with G.S. 160A-399.5, the governing board may adopt and from time to time amend or repeal an ordinance designating one or more historic properties. No property shall be recommended for designation as a historic property unless it is deemed and found by the properties commission to be of special significance in terms of its history, architecture, and/or cultural

importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, and/or archaeological value, including the approximate area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a historic property, the ordinance shall require that the waiting period set forth in this Part be observed prior to its demolition, alteration, remodeling or removal. For each designated historic property, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

“§ 160A-399.5. *Required procedures.*—As a guide for the identification and evaluation of historic properties, the commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History. No ordinance designating a historic building, structure, site, area or object nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a historic properties commission or the governing board of a municipality, until the following procedural steps have been taken:

(1) The historic properties commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines, not inconsistent with this Part, for altering, restoring, moving or demolishing properties designated as historic.

(2) The historic properties commission shall make or cause to be made an investigation and report on the historic, architectural, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

(3) The Department of Cultural Resources, acting through any employee designated by the secretary or the North Carolina Historical Commission shall either upon request of the department or at the initiative of the historic properties commission be given an opportunity to review and comment upon the substance and effect of the designation of any historic property pursuant to this Part. Any comments shall be provided in writing. If the department does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the department of the investigation and report of the commission, the commission and any city or county governing board shall be relieved of any responsibility to consider such comments.

(4) The historic properties commission and the governing board shall hold a public hearing on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143, Article 33B.

(5) Following the joint public hearing, the governing board may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(6) Upon adoption of the ordinance, the owners and occupants of each designated historic property shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the historic properties commission in the office of the register of deeds of the county in which the property or properties are located. Each historic property designated shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the historic properties commission shall pay a reasonable fee for filing and indexing. In the case of any property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a historic property shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.

(7) Upon the adoption of the historic properties ordinance or any amendment thereto, it shall be the duty of the historic properties commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

“§ 160A-399.6. *Certificate of appropriateness required.*—A property which has been designated as a historic property as herein provided may be materially altered, restored, moved or demolished only following the issuance of a certificate of appropriateness by the historic properties commission in accordance with the procedures and standards set forth in Part 3A of this Article. An application for a certificate of appropriateness authorizing the demolition of a designated building or structure or the destruction of an object may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be deprived of all beneficial use of or return from such property by virtue of the delay. During such period the historic properties commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building, structure, or object.

“§ 160A-399.7. *Certain changes not prohibited.*—Nothing in this Part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a historic property that does not involve a change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when a building inspector or similar official certifies to the commission that such action is required for the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a

property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.

“§ 160A-399.8. *Authority to acquire historic properties.*—When such action is reasonably necessary or appropriate for the preservation of a designated historic property, the commission may negotiate at any time with the owner for its preservation in accordance with the provisions of Parts 3A and 3B.

“§ 160A-399.9. *Appropriations.*—A city or county governing board is authorized to make appropriations to a historic properties commission established pursuant to this Part in any amount that it may determine necessary for the expenses of the operation of the commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic buildings, structures, sites, areas or objects designated as historic properties, or of land on which historic buildings or structures are located, or to which they may be removed.

“§ 160A-399.10. *Ownership of property.*—All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by a city or county shall be acquired in the name of the city or county unless otherwise provided by the governing board. So long as owned by the city or county, historic properties may be maintained by or under the supervision and control of the city or county. However, all lands, buildings or structures acquired by a historic properties commission from funds other than those appropriated by a city or county may be acquired in the name of the historic properties commission, the city or county, or both.

“§ 160A-399.11. *Part to apply to publicly owned buildings and structures.*—All of the provisions of this Part are hereby made applicable to the construction, use, alteration, moving and demolition of buildings by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided that neither this section nor Part 3B of Chapter 160A shall apply to any project of The University of North Carolina or its constituent institutions for which an application has been submitted prior to the effective date of this act.

“§ 160A-399.12. *Conflict with other laws.*—Whenever any ordinance adopted pursuant to this Part requires a longer waiting period or imposes other higher standards with respect to a designated historic property than are established under any other statute, charter provision, or regulation, this Part shall govern. Whenever the provisions of any other statute, Charter provision, ordinance or regulation required a longer waiting period or impose other higher standards than are established under this Part, such other statute, charter provision, ordinance or regulation shall govern.

“§ 160A-399.13. *Remedies.*—In case any building, structure, site, area or object designated as a historic property pursuant to this Part is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance or the provisions of this Part, the city or county, the historic properties commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such historic property. Such remedies shall be in addition to any others authorized by this Chapter for violation of a municipal ordinance.”



G.S. 160A-400: Reserved for future codification purposes.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1979.

S. B. 877

## CHAPTER 645

AN ACT TO PROVIDE FOR THE ELECTION OF THE MAYOR AND BOARD OF COMMISSIONERS OF THE TOWN OF WILKESBORO.

*The General Assembly of North Carolina enacts:*

**Section 1.** At the regular municipal election in Wilkesboro in 1979 and quadrennially thereafter, a mayor shall be elected for a term of four years.

**Sec. 2.** The Board of Commissioners of the Town of Wilkesboro shall consist of four members elected as follows: At the regular municipal election in Wilkesboro in 1979, the two persons receiving the highest number of votes shall be elected for four-year terms, and the two persons receiving the next highest number of votes shall be elected for two-year terms. In the regular municipal election in 1981 and quadrennially thereafter, two members of the board of commissioners shall be elected for four-year terms. In the regular municipal election in 1983 and quadrennially thereafter, two commissioners shall be elected for four-year terms.

**Sec. 3.** Regular municipal elections in the Town of Wilkesboro shall be conducted under the nonpartisan primary and election method, and the results determined as provided in G.S. 163-294.

**Sec. 4.** Elections in the Town of Wilkesboro shall be conducted as provided in Subchapter IX of Chapter 163 of the General Statutes.

**Sec. 5.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1979.

S. B. 652

## CHAPTER 646

AN ACT TO MAKE TECHNICAL AMENDMENTS TO AND TO CLARIFY EXISTING PROVISIONS OF PART 3A OF CHAPTER 160A, ARTICLE 19, RELATING TO HISTORIC DISTRICTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 160A, Article 19, Part 3A, as the same appears in the 1976 Replacement Volume 3D of the General Statutes is amended to read as follows:

“Part 3A. Historic Districts.

“§ 160A-395. *Exercise of powers under this Part by counties as well as cities; designation of historic districts.*—The term ‘municipality’ or ‘municipal’ as used in G.S. 160A-395 through G.S. 160A-399 shall be deemed to include the governing board or legislative board of a county, to the end that counties may exercise the same powers as cities with respect to the establishment of historic districts.

Any such legislative body may, as part of a zoning ordinance enacted or amended pursuant to this Article, designate and from time to time amend one or more historic districts within the area subject to the ordinance. Such

ordinance may treat historic districts either as a separate use-district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include as uses by right or as conditional uses those uses found by the historic district commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration or preservation of the district. No historic district or districts shall be designated until:

- (1) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared; and
- (2) The Department of Cultural Resources, acting through an agent or employee designated by its Secretary, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the municipal governing body within 30 calendar days after a written request for such analysis has been mailed to it shall relieve the municipality of any responsibility for awaiting such analysis, and said body may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

The municipal governing body may also, in its discretion, refer the report and proposed boundaries to any local historic properties commission or other interested body for its recommendations prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of this section shall be prepared by the historic district commission, and shall be referred to the local planning agency for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposals for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (2) of this section.

On receipt of these reports and recommendations, the municipality may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

“§ 160A-395.1. *Character of historic district defined.*—Historic districts established pursuant to this Part shall consist of areas which are deemed to be of special significance in terms of their history, architecture and/or culture, and to possess integrity of design, setting, materials, feeling and association.

“§ 160A-396. *Historic district commission.*—Before it may designate one or more historic districts, a municipality shall establish or designate a historic district commission. The municipal governing board shall determine the number of members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of such a commission shall have demonstrated special interest, experience, or education in history or architecture; and all the members shall reside within the territorial jurisdiction of the municipality as established pursuant to G.S. 160A-360.

In lieu of establishing a separate historic district commission, a municipality may designate as its historic district commission, (i) a historic properties

commission established pursuant to G.S. 160A-399.2, (ii) a planning agency established pursuant to G.S. 160A-361, or (iii) a community appearance commission established pursuant to Part 7 of this Article. In order for a commission or board other than the historic district commission to be designated, at least two of its members shall have demonstrated special interest, experience, or education in history or architecture. At the discretion of the municipality the ordinance may also provide that the historic district commission may exercise within a historic district any or all of the powers of a planning agency or a community appearance commission.

A county and one or more cities in the county may establish or designate a joint historic district commission. If a joint commission is established or designated, the county and cities involved shall determine the residence requirements of members of the joint historic district commission.

“§ 160A-397. *Certificate of appropriateness required.*—From and after the designation of a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the historic district commission. The municipality shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this Part, ‘exterior features’ shall include the architecture style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, ‘exterior features’ shall be construed to mean the style, material, size, and location of all such signs. Such ‘exterior features’ may, in the discretion of the local governing board, include color and important landscape and natural features of the area.

The commission shall have no jurisdiction over interior arrangement and shall take no action under this section except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district which would be incongruous with the special character of the district.

Prior to any action to enforce a historic district ordinance, the commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Part for new construction, alterations, additions, moving and demolition. The ordinance may provide, subject to prior adoption by the historic district commission of detailed standards, for the review and approval by an administrative official, of minor works as defined by ordinance; provided, however, that no application for a

certificate of appropriateness may be denied without formal action by the historic district commission.

Prior to issuance or denial of a certificate of appropriateness the commission shall take such steps as may be reasonably required in the ordinance and/or rules of procedure to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143, Article 33B. An appeal may be taken to the Board of Adjustment from the commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed by the historic district commission by general rule, and (iii) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the superior court of the county in which the municipality is located.

All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, as defined by the ordinance or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances.

"§ 160A-398. *Certain changes not prohibited.*—Nothing in this Part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district which does not involve a change in design, material or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition.

"§ 160A-398.1. *Applicability of Part.*—No provision of this Part shall be applicable to the construction, use, alteration, moving or demolition of buildings by the State of North Carolina, its agencies and instrumentalities, or institutions of higher education. This Part shall apply to counties and municipalities.

"§ 160A-399. *Delay in demolition of buildings within historic district.*—An application for a certificate of appropriateness authorizing the demolition of a building or structure within the district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the historic district commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the historic district commission finds that the building has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1979.



## H. B. 366

## CHAPTER 647

AN ACT TO AMEND THE NORTH CAROLINA SECURITIES ACT BY PROVIDING FOR A HEARING BEFORE THE ADMINISTRATOR UPON AN APPLICATION FOR APPROVAL TO ISSUE SECURITIES OR OTHER CONSIDERATION IN EXCHANGE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 78A-17 is amended by adding the following subsection to read as follows:

“§ 78A-17(16). Any offer to purchase or to sell or any sale or issuance of a security pursuant to a plan approved by the administrator after a hearing conducted pursuant to the provisions of G.S. 78A-30 of this Chapter.”

**Sec. 2.** Chapter 78A of the General Statutes is amended by adding a new section to read as follows:

“§ 78A-30. *Application to Exchange Securities.*—(a) When application is made for approval to issue securities or to deliver other consideration (whether or not the security or transaction is exempt from registration or qualification other than by the provisions of G.S. 78A-17(16) or not required to be qualified) in exchange for one or more bona fide securities, claims, or property interests, or partly in such exchange and partly in cash, the administrator is expressly authorized to approve the terms and conditions of such issuance and exchange or such delivery and exchange and the fairness of such terms and conditions, and is expressly authorized to hold a hearing upon the fairness of such terms and conditions, at which all persons to whom it is proposed to issue securities or to deliver such other consideration in such exchange have the right to appear. Notice of such hearing shall be mailed by United States Mail, Postage Prepaid, to all persons to whom it is proposed to issue securities or to deliver such other consideration in such exchange, not less than 10 days prior to such hearing, and such notice shall be effective upon mailing. The application for approval to issue securities or to deliver other consideration shall be in such form, contain such information and be accompanied by such documents as shall be required by rule or order of the administrator.

(b) The administrator shall be required to hold a hearing on an application for approval within 30 days after the filing of the application and supporting documents required by rule of the administrator.

(c) Within 10 days after holding the hearing under subsection (a), the administrator shall issue his approval or a statement that his approval will not be forthcoming.

(d) The administrator's authority under this section shall extend to the issuance of securities or the delivery of other consideration: (1) by any corporation organized under the laws of this State; or (2) in any transaction which is subject to the registration or qualification requirements of this Chapter or which would be so subject except for the availability of an exemption under G.S. 78A-16 or 78A-17 or by reason of G.S. 78A-2(8)(f).

(e) The provisions of this section shall be permissive only and no request for approval, failure to request approval, withdrawal of a request for approval, or denial of approval by the administrator shall affect the availability of any exemption from the registration or qualification requirements other than the exemption available under G.S. 78A-17(16), and shall not be admissible as evidence in any legal or administrative proceeding.”

**Sec. 3.** This act is intended to provide for a fairness hearing before the administrator with respect to transactions which, if approved by the administrator, would be exempt from the registration requirements of the federal securities laws under Section 3(a)(10) of the Securities Act of 1933, or any section comparable thereto which may subsequently be enacted.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

H. B. 599

## CHAPTER 648

AN ACT TO PROVIDE THAT A JUDGMENT DEBTOR REQUEST SPECIFIC TIMED HEARING ON FAILURE TO ANSWER INTERROGATORIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The third paragraph of G.S. 1-352.1 is rewritten to read as follows:

"Upon failure of the judgment debtor to answer fully the written interrogatories, the judgment creditor may petition the court for an order requiring the judgment debtor to answer fully, which order shall be served upon the judgment debtor in the same manner as a summons is served pursuant to the Rules of Civil Procedure, fixing the time within which the judgment debtor can answer the interrogatories. In addition, the order shall provide, as an alternative, that the judgment debtor may mail the judgment creditor, by certified mail, within five days of the date of service of the order, a specific request for a hearing before a court or judge to answer oral questions concerning his property rather than answering the written interrogatories. Upon timely receipt of this request, the judgment creditor shall request the court to calendar the hearing."

**Sec. 2.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

H. B. 1058

## CHAPTER 649

AN ACT TO AUTHORIZE ESTABLISHMENT OF THE UNIVERSITY OF NORTH CAROLINA CENTER FOR PUBLIC TELEVISION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby written a new G.S. 116-37.1, to read as follows:

"§ 116-37.1. *Center for public television.*—(a) The Board of Governors is hereby authorized and directed to establish 'The University of North Carolina Center for Public Television' (hereinafter called 'the Center'). It shall be the functions of the Center, through itself or agencies with whom it may contract, to provide research, development, and production of noncommercial educational television programming and program materials; to provide distribution of noncommercial television programming through the broadcast facilities licensed to The University of North Carolina; and otherwise to enhance the uses of television for public purposes.

(b) The Center shall have a board of trustees, to be named 'The Board of Trustees of The University of North Carolina Center for Public Television' (hereinafter called 'the Board of Trustees'). The Board of Governors is hereby authorized and directed to establish the Board of Trustees of the Center and to delegate to the board of trustees such powers and duties as the Board of Governors deems necessary or appropriate for the effective discharge of the functions of the Center; provided, that the Board of Governors shall not be deemed by the provisions of this section to have the authority to delegate any responsibility it may have as licensee of the broadcast facilities of The University of North Carolina.

- (1) The Board of Trustees of The University of North Carolina Center for Public Television shall be composed of the following membership: eleven persons appointed by the Board of Governors; four persons appointed by the Governor; one Senator appointed by the President of the Senate; one member of the House of Representatives appointed by the Speaker of the House; and ex officio, the Secretary of the Department of Cultural Resources, the Secretary of the Department of Human Resources, the Superintendent of Public Instruction, the State President of the Community College System, and the President of The University of North Carolina. In making initial appointments to the board of trustees, the Board of Governors shall designate six persons for two-year terms and five persons for four-year terms, and the Governor shall designate two persons for two-year terms and two persons for four-year terms. Thereafter, the term of office of appointed members of the Board of Trustees of the Center shall be four years. In making appointments to the board of trustees the appointing authorities shall give consideration to promoting diversity among the membership, to the end that, in meeting the responsibilities delegated to it, the board of trustees will reflect and be responsive to the diverse needs, interests, and concerns of the citizens of North Carolina.
- (2) No person shall be appointed to the board of trustees who is an employee of the State or of any constituent institution; a public officer of the State as defined in G.S. 147-1, G.S. 147-2, and G.S. 147-3(c); a member of the Board of Governors; a trustee of a constituent institution; or the spouse of any of the foregoing. Any appointed member of the board of trustees who after appointment becomes any of the foregoing shall be deemed to have resigned from the board of trustees.
- (3) Each ex officio member of the board of trustees shall personally serve on the board of trustees but may designate in writing a proxy for specified meetings which the ex officio member finds he or she is unable reasonably to attend.
- (4) Each appointive member of the board of trustees shall personally serve on the board of trustees without benefit of proxy. Any appointive member who fails, for any reason other than ill health or service in the interest of the State or the nation, to attend three consecutive regular meetings of the board of trustees, shall be deemed to have resigned from the board of trustees.
- (5) Any vacancy which occurs during a term among the appointive membership of the board of trustees shall be filled for the remainder of

the unexpired term by appointment of the original appointing authority for the vacant seat. The principal officer of the board of trustees shall promptly notify the Secretary of The University of North Carolina of the vacancy and the Secretary shall give written notice of the vacancy to the appropriate appointing authority.

(c) The chief administrative officer of the Center shall be a Director, who shall be elected by the Board of Governors upon recommendation of the President and who shall be responsible to the President. The Center shall have such other staff as the Board of Governors may authorize."

**Sec. 2.** G.S. 116-36 is hereby amended by redesignating subsections (j) and (k) thereof as subsections (k) and (l), respectively, and inserting a new subsection (j), to read as follows:

"(j) The Board of Governors of The University of North Carolina shall establish and maintain in a manner not inconsistent with the provisions of this section or with regulations established under this section an endowment fund for all endowment funds now held or hereafter acquired for the benefit of The University of North Carolina Center for Public Television."

**Sec. 3.** G.S. 116-36 at newly designated (k) thereof is amended in the third line by inserting after the word "Press," the phrase "or to The University of North Carolina Center for Public Television."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## H. B. 1110

## CHAPTER 650

### AN ACT TO DELETE BONDING REQUIREMENTS FOR STATE PEACE OFFICERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 128-9, as the same is found in Volume 3B of the General Statutes, 1974 Replacement, is hereby repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1979.

## H. B. 1165

## CHAPTER 651

### AN ACT TO AUTHORIZE THE CLERK OF SUPERIOR COURT TO CONDUCT A FIRST APPEARANCE AND APPOINT COUNSEL WHEN A DISTRICT COURT JUDGE IS NOT AVAILABLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-601 as the same appears in the 1978 Replacement Volume 1C of the General Statutes is hereby amended by adding thereto a new subsection (e) to read as follows:

"(e) The clerk of the Superior Court in the county in which the defendant is taken into custody may conduct a first appearance as provided in this Article if a district court judge is not available in the county within 96 hours after the defendant is taken into custody. The clerk, in conducting a first appearance, shall proceed under this Article as would a district court judge."

**Sec. 2.** This act shall become effective October 1, 1979.



In the General Assembly read three times and ratified, this the 28th day of May, 1979.

H. B. 1305

**CHAPTER 652****AN ACT TO ENCOURAGE CO-GENERATION OF ELECTRICITY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 62, Article 1 of the General Statutes is amended by adding the following proviso at the end of G.S. 62-3 (23)a.1.:

“provided, however, that the term ‘public utility’ shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person’s own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation.”

**Sec. 2.** Chapter 62, Article 6 of the General Statutes is amended by adding the following new subsection (g) to G.S. 62-110.1.:

“(g) The certification requirements of this section shall not apply to persons who construct an electric generating facility primarily for that person’s own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; provided, however, that such persons shall, nevertheless, be required to report to the Utilities Commission the proposed construction of such a facility before beginning construction thereof.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

S. B. 36

**CHAPTER 653****AN ACT TO PROHIBIT POSSESSION OF RED AND BLUE LIGHTS IN MOTOR VEHICLES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-130.1 is rewritten to read as follows:

“§ 20-130.1. *Use of red or blue lights on vehicles prohibited; exceptions.*—(a) It is unlawful for any person to install or activate or operate a red light in or on any vehicle in this State. As used in this subsection, unless the context requires otherwise, ‘red light’ means an operable red light not sealed in the manufacturer’s original package which: (1) is designed for use by an emergency vehicle or is similar in appearance to a red light designed for use by an emergency vehicle; and (2) can be operated by use of the vehicle’s battery, vehicle’s electrical system, or a dry cell battery.

(b) The provisions of subsection (a) of this section do not apply to the following:

- (1) a police car;
- (2) a highway patrol car;
- (3) a vehicle owned by the Wildlife Resources Commission and operated exclusively for law-enforcement purposes;
- (4) an ambulance;
- (5) a vehicle designed, equipped, and used exclusively for the transportation of human tissues and organs for transplantation;
- (6) a fire-fighting vehicle;

- (7) a school bus;
- (8) a vehicle operated by any member of a municipal or rural fire department in the performance of his duties, regardless of whether members of that fire department are paid or voluntary;
- (9) a vehicle of a voluntary lifesaving organization that has been officially approved by the local police authorities and which is manned or operated by members of that organization while answering an official call;
- (10) a vehicle operated by medical doctors or anesthetists in emergencies;
- (11) a motor vehicle used in law enforcement by the sheriff, or any salaried rural policeman in any county, regardless of whether or not the county owns the vehicle;
- (12) a vehicle operated by any county fire marshal or civil preparedness coordinator in the performance of his duties, regardless of whether or not the county owns the vehicle; and
- (13) any lights that may be prescribed by the Interstate Commerce Commission.

(c) It is unlawful for any person to possess a blue light in or on any vehicle in this State. As used in this subsection, unless the context requires otherwise, 'blue light' means an operable blue light not sealed in the manufacturer's original package which: (1) is designed for use by an emergency vehicle, or is similar in appearance to a blue light designed for use by an emergency vehicle; and (2) can be operated by use of the vehicle's battery, the vehicle's electrical system, or a dry cell battery.

(d) The provisions of subsection (c) of this section do not apply to a publicly owned vehicle used primarily for law-enforcement purposes or any other vehicle used primarily by law-enforcement officers in the performance of their official duties.

(e) Violation of subsection (a) or (c) of this section is a misdemeanor punishable under G.S. 14-3(a)."

**Sec. 2.** G.S. 20-125(c) is repealed.

**Sec. 3.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## S. B. 189

## CHAPTER 654

### AN ACT RELATING TO CIVIL ACTIONS FOR DAMAGES FOR PERSONAL INJURY, DEATH OR DAMAGE TO PROPERTY RESULTING FROM THE USE OF PRODUCTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Chapter 99B of the General Statutes is enacted, entitled "Products Liability", to read as follows:

"Chapter 99B.

"Products Liability.

"§ 99B-1. *Definitions.*—When used in this Chapter, unless the context otherwise requires:

(1) 'Product liability action' includes any action brought for or on account of personal injury, death or property damage caused by or resulting from the manufacture, construction, design, formulation, development of standards,

preparation, processing, assembly, testing, listing, certifying, warning, instructing, marketing, selling, advertising, packaging or labeling of any product.

(2) 'Manufacturer' means a person or entity who designs, assembles, fabricates, produces, constructs or otherwise prepares a product or component part of a product prior to its sale to a user or consumer, including a seller owned in whole or significant part by the manufacturer or a seller owning the manufacturer in whole or significant part.

(3) 'Seller' includes a retailer, wholesaler, or distributor, and means any individual or entity engaged in the business of selling a product, whether such sale is for resale or for use or consumption. 'Seller' also includes a lessor or bailor engaged in the business of leasing or bailment of a product.

(4) 'Claimant' means a person or other entity asserting a claim and, if said claim is asserted on behalf of an estate, an incompetent or a minor, 'claimant' includes plaintiff's decedent, guardian or guardian *ad litem*.

"§ 99B-2. *Liability of seller.*—(a) No product liability action, except an action for breach of express warranty, shall be commenced or maintained against any seller when the product was acquired and sold by the seller in a sealed container or when the product was acquired and sold by the seller under circumstances in which the seller was afforded no reasonable opportunity to inspect the product in such a manner that would have or should have, in the exercise of reasonable care, revealed the existence of the condition complained of, unless the seller damaged or mishandled the product while in his possession; provided, that the provisions of this section shall not apply if the manufacturer of the product is not subject to the jurisdiction of the courts of this State or if such manufacturer has been judicially declared insolvent.

(b) A claimant who is a buyer, as defined in the Uniform Commercial Code, of the product involved, or who is a member or a guest of a member of the family of the buyer, a guest of the buyer, or an employee of the buyer not covered by workmen's compensation insurance may bring a product liability action directly against the manufacturer of the product involved for breach of implied warranty; and the lack of privity of contract shall not be grounds for the dismissal of such action.

"§ 99B-3. *Alteration or modification of the product.*—(a) No manufacturer or seller of a product shall be held liable in any product liability action where a proximate cause of the personal injury, death or damage to property was either an alteration or modification of the product by a party other than the manufacturer or seller, which alteration or modification occurred after the product left the control of such manufacturer or such seller unless:

- (1) the alteration or modification was in accordance with the instructions or specifications of such manufacturer or such seller; or
- (2) the alteration or modification was made with the express consent of such manufacturer or such seller.

(b) For the purposes of this section, alteration or modification includes changes in the design, formula, function, or use of the product from that originally designed, tested, or intended by the manufacturer. It includes failure to observe routine care and maintenance, but does not include ordinary wear and tear.

"§ 99B-4. *Injured parties' knowledge or reasonable care.*—No manufacturer or seller shall be held liable in any product liability action if:

(1) the use of the product giving rise to the product liability action was contrary to any express and adequate instructions or warnings delivered with, appearing on, or attached to the product or on its original container or wrapping, if the user knew or with the exercise of reasonable and diligent care should have known of such instructions or warnings; provided, that in the case of prescription drugs or devices the adequacy of the warning by the manufacturer shall be determined by the prescribing information made available by the manufacturer to the health care practitioner; or

(2) the user discovered a defect or unreasonably dangerous condition of the product and was aware of the danger, and nevertheless proceeded unreasonably to make use of the product and was injured by or caused injury with that product; or

(3) the claimant failed to exercise reasonable care under the circumstances in his use of the product, and such failure was a proximate cause of the occurrence that caused injury or damage to the claimant.”

**Sec. 2.** G.S. 1-50 is amended by adding a new subsection to read:

“(6) No action for the recovery of damages for personal injury, death or damage to property based upon or arising out of any alleged defect or any failure in relation to a product shall be brought more than six years after the date of initial purchase for use or consumption.”

**Sec. 3.** The following amendments are hereby made to General Statutes Chapter 1:

a. G.S. 1-15(b) is repealed.

b. G.S. 1-52 is amended by adding a new subsection to read:

“(16) Unless otherwise provided by statute, for personal injury or physical damage to claimant’s property, the cause of action, except in causes of actions referred to in G.S. 1-15(c), shall not accrue until bodily harm to the claimant or physical damage to his property becomes apparent or ought reasonably to have become apparent to the claimant, whichever event first occurs. Provided that no cause of action shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action.”

c. G.S. 1-53(4) is hereby rewritten to read as follows:

“(4) Actions for damages on account of the death of a person caused by the wrongful act, neglect or fault of another under G.S. 28A-18-2; the cause of action shall not accrue until the date of death. Provided that, whenever the decedent would have been barred, had he lived, from bringing an action for bodily harm because of the provisions of G.S. 1-15(c) or G.S. 1-52(16), no action for his death may be brought.”

**Sec. 4.** G.S. 1A-1, Rule 8(a)(2), as found in the 1977 Cumulative Supplement to Volume 1A, is amended in line 4 by inserting before the word, “wherein” the following:

“and in all actions against product manufacturers, wholesalers or retailers for recovery of damages for personal injury, death or damage to property based upon or arising out of any alleged defect or any failure in relation to a product,”.

**Sec. 5.** 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 application that can be given effect without the invalid provision or application; and to this end the provisions of this act are severable.



**Sec. 6.** The provisions of this act shall not be construed to amend or repeal the provisions of G.S. 1-17.

**Sec. 7.** This act shall not affect pending litigation.

**Sec. 8.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## H. B. 183

## CHAPTER 655

## AN ACT TO REVISE THE OPEN MEETINGS LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. Chapter 143, Article 33B is repealed, and a new Article 33C is enacted, to read as follows:

“ARTICLE 33C.

“Meetings of Public Bodies.

“§ 143-318.11. *Public policy.*—Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of North Carolina and its political subdivisions exist solely to conduct the people’s business, it is the public policy of North Carolina that the hearings, deliberations, and actions of these bodies be conducted openly.

“§ 143-318.12. *All official meetings of public bodies open to the public.*—(a) Except as provided in G.S. 143-318.13, G.S. 143-318.17, and G.S. 143-318.20, each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.

(b) As used in this Article, ‘public body’ means any authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, or other political subdivisions or public corporations in the State that is composed of two or more members; and

(1) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function; and

(2) is established by (i) the State Constitution, (ii) an act or resolution of the General Assembly, (iii) a resolution or order of a State agency, pursuant to a statutory procedure under which the agency establishes a political subdivision or public corporation, (iv) an ordinance, resolution, or other action of the governing board of one or more counties, cities, school administrative units, or other political subdivisions or public corporations, or (v) an executive order of the Governor or comparable formal action of the head of a principal State office or department, as defined in G.S. 143A-11 and G.S. 143B-6, or of a division thereof.

In addition, ‘public body’ means (1) the governing board of a ‘public hospital’ as defined in G.S. 159-39 and (2) each committee of a public body, except a committee of the governing board of a public hospital if the committee is not a policy-making body.

(c) ‘Public body’ does not include and shall not be construed to include (1) meetings among the professional staff of a public body, unless the staff members have been appointed to and are meeting as an authority, board, commission, committee, council, or other body established by one of the methods listed in subsection (b)(2) of this section, or (2) meetings among the medical staff of a public hospital.

(d) 'Official meeting' means a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body. However, a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article.

"§ 143-318.13. *Executive sessions.*—(a) Permitted purposes. A public body may hold an executive session and exclude the public:

- (1) To consider the selection of a site or the acquisition by any means or lease as lessee of interests in real property. At the conclusion of all negotiations with regard to the acquisition or lease of real property, if final authorization to acquire or lease is to be given, it shall be given at an open meeting.
- (2) To consider and authorize the acquisition by gift or bequest of personal property offered to the public body or the government of which it is a part.
- (3) To consider and authorize the acquisition by any means of paintings, sculptures, objects of virtu, artifacts, manuscripts, books and papers, and similar articles and objects that are or will be part of the collections of a museum, library, or archive.
- (4) To consider the validity, settlement, or other disposition of a claim against or on behalf of the public body or an officer or employee of the public body or in which the public body finds that it has a substantial interest; or the commencement, prosecution, defense, settlement, or litigation of a potential or pending judicial action or administrative proceeding in which the public body or an officer or employee of the public body is a party or in which the public body finds that it has a substantial interest. During such an executive session, the public body may give instructions to an attorney or other agent concerning the handling or settlement of a claim, judicial action, or administrative proceeding. If a public body has considered a settlement in executive session, the terms of that settlement shall be reported to the public body and entered into its minutes within a reasonable time after the settlement is concluded.
- (5) To consult with an attorney, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.
- (6) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.
- (7) To consider matters dealing with specific patients (including but not limited to all aspects of admission, treatment, and discharge; all medical records, reports, and summaries; and all charges, accounts, and credit information pertaining to such a patient).
- (8) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of a public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge or grievance by or against a

public officer or employee. A public body may consider the appointment or removal of a member of another body in executive session but may not consider or fill a vacancy among its own membership except in an open meeting.

Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting. If a public body considers an appointment to another body, except a committee composed of members of the public body, in executive session, it shall, before making that appointment, present at an open meeting a written list of the persons then being considered for the appointment, and that list shall on the same day be made available for public inspection in the office of the clerk or secretary to the public body. The public body may not make the appointment before the seventh day after the day on which the list was presented.

- (9) To consider the employment, performance, or discharge of an independent contractor. Any action employing or authorizing the employment or discharging or directing the discharge of an independent contractor shall be taken at an open meeting.
- (10) To hear, consider, and decide (1) disciplinary cases involving students or pupils and (2) questions of reassignment of pupils under G.S. 115-178.
- (11) To identify candidates for, assess the candidates' worthiness for, and choose the recipients of honors, awards, honorary degrees, or citations bestowed by the public body.
- (12) To consider information, when State or federal law (1) directs that the information be kept confidential or (2) makes the confidentiality of the information a condition of State or federal aid.
- (13) To consider and adopt contingency plans for dealing with, and consider and take action relating to, strikes, slowdowns, and other collective employment interruptions.
- (14) To consider and take action necessary to deal with a riot or civil disorder or with conditions that indicate that a riot or civil disorder is imminent.
- (15) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
- (16) To consider and decide matters concerning specific inmates of the correction system or security problems of the correction system.
- (17) To hear, consider, and decide matters involving admission, discipline, or termination of members of the medical staff of a public hospital. Final action on an admission or termination shall be reported at an open meeting.
- (18) To consider and give instructions relating to the setting or negotiation of airport landing fees or the negotiation of contracts, including leases, concerning the use of airport facilities. Final action approving landing fees or such a contract shall be taken in an open meeting.

(b) General Assembly committees and subcommittees. Except as provided in G.S. 143-318.17, a committee or subcommittee of the General Assembly has the inherent right to hold an executive session when it determines that it is absolutely necessary to have such a session in order to prevent personal

embarrassment or when it is in the best interest of the State. A committee or subcommittee may take final action only in an open meeting.

(c) Calling an executive session. A public body may hold an executive session only upon a motion made and adopted at an open meeting. The motion shall state the general purpose of the executive session and must be approved by the vote of a majority of those present and voting.

(d) Minutes of executive sessions. Notwithstanding the provisions of G.S. 132-6, minutes and other records made of an executive session may be withheld from public inspection so long as public inspection would frustrate the purpose of the executive session.

“§ 143-318.14. *Public notice of official meetings.*—(a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:

- (1) for public bodies that are part of State government, with the Secretary of State;
- (2) for the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;
- (3) for the governing board and each other public body that is part of a city government, with the city clerk;
- (4) for each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.

(b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.

- (1) If a meeting is an adjourned or recessed session of a regular meeting or of some other meeting, notice of which has been given pursuant to this subsection, and the time and place of the adjourned or recessed session has been set during the regular or other meeting, no further notice is necessary.
- (2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed or delivered to each newspaper, wire service, radio station, and television station, which has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. The public body shall also cause notice to be mailed or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the public body. This notice shall be posted and mailed or delivered at least



48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The public body shall charge a fee to persons other than the media, who request notice, of ten dollars (\$10.00) per calendar year, and may require them to renew their requests quarterly.

- (3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request, which includes the newspaper's, wire service's, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by telephone or by the same method used to notify the members of the public body and shall be given immediately after notice has been given to those members. This notice shall be given at the expense of the party notified. An 'emergency meeting' is one called because of generally unexpected circumstances that require immediate consideration by the public body. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this paragraph.

(c) This section does not apply to the General Assembly. Each house of the General Assembly shall provide by rule for notice of meetings of legislative committees and subcommittees.

"§ 143-318.15. *Electronic meetings, written ballots, acting by reference.*—(a) Electronic meetings. If a public body holds an official meeting by use of conference telephone or other electronic means, it shall provide a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by this Article shall specify that location. A fee of up to twenty-five dollars (\$25.00) may be charged each such listener to defray in part the cost of providing the necessary location and equipment.

(b) Written ballots. Except as provided in this subsection or by joint resolution of the General Assembly, a public body may not vote by secret or written ballot. If a public body decides to vote by written ballot, each member of the body so voting shall sign his or her ballot; and the minutes of the public body shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the clerk or secretary to the public body immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

(c) Acting by reference. The members of a public body shall not deliberate, vote, or otherwise take action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the public body to understand what is being deliberated, voted, or acted upon. However, this subsection does not prohibit a public body from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the meeting.

“§ 143-318.16. *Broadcasting or recording meetings.*—(a) Except as herein below provided, any radio or television station is entitled to broadcast all or any part of a meeting required to be open. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) A public body may regulate the placement and use of equipment necessary for broadcasting, photographing, filming, or recording a meeting, so as to prevent undue interference with the meeting. However, the public body must allow such equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of such equipment shall not be declared to constitute undue interference; provided, however, that if the public body, in good faith, should determine that the size of the meeting room is such that all the members of the public body, members of the public present, and the equipment and personnel necessary for broadcasting, photographing, filming, and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the public body, acting in good faith and consistent with the purposes of this Article, may require the pooling of such equipment and the personnel operating it; and provided further, if the news media, in order to facilitate news coverage, request an alternate site for the meeting, and the public body grants the request, then the news media making such request shall pay any costs incurred by the public body in securing an alternate meeting site.

“§ 143-318.17. *Advisory Budget Commission and appropriation committees of General Assembly; application of Article.*—(a) The provisions of this Article shall not apply to meetings of the Advisory Budget Commission held for the purpose of actually preparing the budget required by the provisions of the Executive Budget Act (Article 1, Chapter 143, General Statutes of North Carolina), but nothing in this Article shall be construed to amend, repeal or supersede the provisions of G.S. 143-10 (or any similar statutes hereafter enacted) requiring public hearings to secure information on any and all estimates to be included in the budget and providing for other procedures and practices incident to the preparation and adoption of the budget required by the State Budget Act.

(b) This Article does not amend, repeal or supersede the provisions of G.S. 143-14, relating to the meetings of the appropriations committees and subcommittees of the General Assembly.

“§ 143-318.18. *Injunctive relief against violations of Article.*—(a) The General Court of Justice has jurisdiction to enter mandatory or prohibitory injunctions to enjoin (1) threatened violations of this Article, (2) the recurrence of past violations of this Article, or (3) continuing violations of this Article. Any person may bring an action in the appropriate division of the General Court of Justice seeking such an injunction; and the plaintiff need not allege or prove special damage different from that suffered by the public at large. It is not a defense to such an action that there is an adequate remedy at law.

(b) Any injunction entered pursuant to this section shall describe the acts enjoined with reference to the violations of this Article that have been proved in the action.

(c) If the plaintiff prevails in an action brought pursuant to this section, the court may allow a reasonable attorney's fee to be taxed against the defendant as a part of costs, if the court finds as a fact that the violation was wilful. If the

defendant prevails and the court finds that the action was frivolous, the court may allow a reasonable attorney's fee to be taxed against the plaintiff as a part of costs.

“§ 143-318.19. *Disruptions of official meetings.*—A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a misdemeanor and upon conviction thereof is punishable by imprisonment for not more than six months, by fine of not more than two hundred fifty dollars (\$250.00), or both.

“§ 143-318.20. *Exceptions.*—This Article does not apply to:

(1) Grand and petit juries.

(2) Any public body that is specifically authorized or directed by law to meet in executive or confidential session, to the extent of the authorization or direction.

(3) The Judicial Standards Commission.

(4) The Legislative Services Commission.

(5) Law enforcement agencies.

(6) A public body authorized to investigate, examine, or determine the character and other qualifications of applicants for professional or occupational licenses or certificates or to take disciplinary actions against persons holding such licenses or certificates, (i) while preparing, approving, administering, or grading examinations or (ii) while meeting with respect to an individual applicant for or holder of such a license or certificate. This exception does not amend, repeal, or supercede any other statute that requires a public hearing or other practice and procedure in a proceeding before such a public body.

(7) Any public body subject to the Executive Budget Act (G.S. 143-1 et seq.) and exercising quasi-judicial functions, during a meeting or session held solely for the purpose of making a decision in an adjudicatory action or proceeding.

(8) The boards of trustees of endowment funds authorized by G.S. 116-36.

(9) The Council of State.

(10) The Board of Awards.

(11) The General Court of Justice.”

**Sec. 2.** G.S. 159-17, as it appears in the 1978 Replacement Volume 3D of the General Statutes, is amended by rewriting the third sentence to read as follows:

“Except for the notice requirements of G.S. 143-318.14, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as (i) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (ii) no business other than consideration of the budget is taken up.”

**Sec. 3.** All provisions of general laws, city charters, and local acts in effect as of October 1, 1979, and in conflict with the provisions of G.S. Chapter 143, Article 33C, as enacted by Section 1 of this act, are repealed insofar as they conflict with the provisions of G.S. Chapter 143, Article 33C. No general law, city charter, or local act enacted or taking effect after October 1, 1979, may be construed to modify, amend, or repeal any provision of Article 33C unless it expressly so provides by specific reference to the appropriate section number of that Article.

**Sec. 4.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

H. B. 475

**CHAPTER 656****AN ACT TO PROHIBIT ASSAULTS UPON CERTAIN PERSONNEL IN JUVENILE FACILITIES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-33(b)(4) is rewritten to read as follows:

“(4) Assaults a law-enforcement officer, a custodial officer of the State Department of Correction, personnel of a detention facility or personnel of a training school, while the officer or personnel is discharging or attempting to discharge a duty of his office.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

H. B. 901

**CHAPTER 657****AN ACT TO EXEMPT GENERAL ASSEMBLY PAGES FROM CHILD LABOR REGULATIONS ON AGE AND EMPLOYMENT CERTIFICATES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 110-1 is amended to add a sentence at the end thereof to read as follows:

“This section shall not apply to minors while serving as pages in the General Assembly.”

**Sec. 2.** G.S. 110-9 is amended to add a sentence at the end thereof to read as follows:

“This section shall not apply to minors seeking employment as pages in the General Assembly.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

H. B. 997

**CHAPTER 658****AN ACT RELATING TO RAILROAD REVITALIZATION.**

Whereas, the continuation of safe and efficient rail service is vital to the balanced development of North Carolina and the improvement of the economic well-being of the State and its citizens; and

Whereas, the State has a responsibility to insure that safe and efficient transportation is available when and where needed; and

Whereas, the use of public funds may be necessary to guarantee and improve rail service; and

Whereas, such expenditures of public funds are for a recognized public purpose; Now, therefore,

*The General Assembly of North Carolina enacts:*



**Section 1.** Article 2D of Chapter 136 of the General Statutes is amended by renumbering G.S. 136-44.35 as G.S. 136-44.36, and by adding a new section to read:

“§ 136-44.35. *Railroad revitalization a public purpose.*—The General Assembly hereby finds that programs for railroad revitalization which assure the maintenance of safe, adequate, and efficient rail transportation services are vital to the continued growth and prosperity of the State and serve the public purpose.”

**Sec. 2.** Article 2D of Chapter 136 of the General Statutes is further amended by rewriting G.S. 136-44.36 as renumbered by this act to read:

“§ 136-44.36. *Department of Transportation designated as agency to administer federal and State railroad revitalization programs.*—The General Assembly hereby designates the Department of Transportation as the agency of the State of North Carolina responsible for administering all State and federal railroad revitalization programs. The Department of Transportation is authorized to develop, and the Board of Transportation is authorized to adopt, a State railroad plan, and the Department of Transportation is authorized to do all things necessary under applicable State and federal legislation to properly administer State and federal railroad revitalization programs within the State. Such authority shall include, but shall not be limited to, the power to receive federal funds and distribute federal and State financial assistance for rail freight assistance programs designed to cover the costs of acquiring, by purchase, lease or other manner as the department considers appropriate, a railroad line or other rail property to maintain existing or to provide future rail service; the costs of rehabilitating and improving rail property on railroad lines to the extent necessary to permit safe, adequate and efficient rail service on such line; and the costs of constructing rail or rail related facilities for the purpose of improving the quality, efficiency and safety of freight rail service. Such authority shall also include the power to receive and administer federal financial assistance without State financial participation to railroad companies to cover the costs of local rail service continuation payments, of rail line rehabilitation, and of rail line construction as listed above. This Article shall not be construed to grant to the department the power or authority to purchase or operate any rail line or rail facilities.”

**Sec. 3.** Chapter 136 of the General Statutes is further amended by adding the following new sections to read:

“§ 136-44.37. *Department to provide nonfederal matching share.*—The Department of Transportation upon approval by the Board of Transportation and the advisory Budget Commission is authorized to provide for the matching share of federal rail revitalization assistance programs through private resources, county funds or State appropriations as may be provided by the General Assembly.

“§ 136-44.38. *Department to provide State and federal financial assistance to counties for rail revitalization.*—(a) The Department of Transportation is authorized to distribute to counties State financial assistance for local rail revitalization programs provided that every rail revitalization project for which State financial assistance would be utilized must be approved by the Board of Transportation and by the Advisory Budget Commission.

(b) State financial assistance to counties as authorized by this Article may not exceed ten percent (10%) of total project costs.”

**Sec. 4.** Chapter 153A of the General Statutes is amended by adding a new section to read:

“§ 153A-244. *Railroad revitalization programs.*—Any county is authorized to participate in State and federal railroad revitalization programs necessary to insure continued or improved rail service to the county, as are authorized in Article 2D of Chapter 136 of the General Statutes. County participation includes the authority to enter into contracts with the North Carolina Department of Transportation to provide for the nonfederal matching funds for railroad revitalization programs. Such funds may be comprised of State funds distributed to the counties under the provisions of G.S. 136-44.38 and of county funds. County governments are also authorized to levy local property tax for railroad revitalization programs subject to G.S. 153A-149(d). County funds for any project may not exceed ten percent (10%) of total project costs.”

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## H. B. 1031

## CHAPTER 659

### AN ACT TO PROVIDE AN UNLIMITED INCOME TAX DEDUCTION FOR CONTRIBUTIONS TO COMMUNITY FOUNDATIONS AND TRUSTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-147(16) is amended to read as follows:

“(16) Contributions or gifts made by individuals, firms, and partnerships within the income year to the State of North Carolina, any of its institutions, instrumentalities, or agencies, any county or municipality of this State, their institutions, instrumentalities, or agencies, contributions or gifts made by individuals, firms, and partnerships within the income year to educational institutions or nonprofit hospitals or the Civil Air Patrol located within North Carolina, and contributions or gifts made by individuals, firms, and partnerships within the income year to public-supported community foundations or public-supported community trusts, no part of the net earnings of which inures to the benefit of any private stockholder or individual; provided that in the case of 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. For the purpose of this subdivision, the words ‘educational institution’ shall mean only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where the educational activities are carried on.

The words ‘educational institution’ shall be deemed to include all of such institution's departments, schools and colleges, a group of ‘educational institutions’ and an organization (corporation, trust, foundation, association or other entity) organized and operated exclusively to receive, hold, invest and administer property and to make expenditures to or for the sole benefit of an ‘educational institution’ or group of ‘educational institutions’.

For the purpose of this subdivision, the words 'public-supported community foundations or public-supported community trusts' shall mean those community foundations or community trusts which are deemed to be publicly supported for purposes of the Internal Revenue Code of 1954, as amended, or regulations promulgated pursuant thereto."

**Sec. 2.** This act shall become effective January 1, 1980, with respect to taxable years beginning on and after that date.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## H. B. 1101

## CHAPTER 660

AN ACT TO AMEND CHAPTER 96 OF THE GENERAL STATUTES  
KNOWN AS THE EMPLOYMENT SECURITY LAW TO CONFORM  
WITH FEDERAL REQUIREMENTS AND TO MAKE TECHNICAL  
IMPROVEMENTS AND CORRECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 96-3(a), as it appears in the 1975 Replacement, Volume 2C, of the General Statutes of North Carolina, is amended by placing a period at the end of the word "employment" on line 7 and deleting the remainder of that sentence.

**Sec. 2.** G.S. 96-4(d), as it appears in the 1975 Replacement, Volume 2C, is amended by deleting after the period on line 9 following the words "merit basis": "The Commission shall not employ or pay any person who is an officer or committee member of any political party organization."

**Sec. 3.** G.S. 96-8, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by adding a new subsection (24) to read as follows: "Work, for purposes of this Chapter, means any performance or effort, physical or mental, done for remuneration or in expectation of remuneration, whether or not the one for whom such work is performed is a covered employer under this Chapter."

**Sec. 4.** G.S. 96-8 is further amended by adding a new subsection (25) to read as follows: "For purposes of G.S. 96-13(a)3, an implied contract is defined as a reasonable assurance."

**Sec. 5.** G.S. 96-8(5)n, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, of the General Statutes of North Carolina, is amended by adding a new sentence at the end of the present paragraph: "The farm operator shall be deemed to be the employer of any worker hired by the farm operator; any assignment to work with a crew or under a crew leader notwithstanding. All the workers shall be deemed the employees of the farm operator when the crew leader does not qualify as the employer under the provisions set out in this paragraph."

**Sec. 6.** G.S. 96-8(5)p, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by adding after the comma following the word "entity" in line 17: "jointly owned or operated governmental entities,".

**Sec. 7.** G.S. 96-8(6)b3, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting in line 2 the words "the Virgin Islands" and by deleting the words "the Virgin Islands" in lines 3 and 4.

**Sec. 8.** G.S. 96-8(6)f3, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by removing the letter “g” following the word “paragraph” in the last line and substituting the letter “k”.

**Sec. 9.** G.S. 96-8(6)f6, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting from the parenthetical provision in lines 2 and 3 the words “or the Virgin Islands”.

**Sec. 10.** G.S. 96-8(6)g, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting from Provision (D) in the body of that paragraph, the phrase: “or is domestic service in a private home of the employer”.

**Sec. 11.** G.S. 96-8(6)k7, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting the present wording in its entirety and substituting the following: “Services performed by an individual in the employ of a son, daughter, or spouse; services performed by a child under the age of 21 in the employ of his father or mother or of a partnership consisting only of parents of the child.”

**Sec. 12.** G.S. 96-8(6)k9, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by adding in line 1 after the word “newsboy”: “or newsgirl”.

**Sec. 13.** G.S. 96-9(a)5, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended on line 5 by removing the phrase “Prior to January 1, 1978,” and capitalizing the first letter of the word “for” in line 5 (the first line of the second paragraph of that subsection).

This subsection is further amended by removing the phrase “four thousand two hundred dollars (\$4,200)” after the words “in excess of” in line 3 of the second paragraph and inserting in line 3 after the words “in excess of”: “the FUTA tax base”.

Paragraph 3 of that subsection is amended by deleting the phrase “Prior to January 1, 1978,” and capitalizing the letter “a” in the word “any”; and by deleting after the word “exceeded” in line 5, the phrase “the sum of four thousand two hundred dollars (\$4,200)” and substituting the phrase: “the FUTA tax base”.

**Sec. 14.** G.S. 96-9(b)(2)a, as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting, following the word “throughout” in line 3, the Phrase “the twelve consecutive calendar-month period” and substituting: “more than thirteen consecutive calendar months”.

**Sec. 15.** G.S. 96-9(b)(2) is further amended by adding the following paragraphs:

“For purposes of this subsection, the first date on which an account shall be chargeable with benefits shall be the first date with respect to which a benefit year (as defined in G.S. 96-8(17)) can be established, based solely on wages paid by that employer.

No employer’s contribution rate shall be reduced below the standard rate for any calendar year unless his liability extends over a period of all or part of three consecutive calendar years and, as of August 1 of the third year, his credit reserve ratio meets the requirements of that schedule used in computing rates for the following calendar year, unless the employer’s liability was established under G.S. 96-8(5)b and his predecessor’s account was transferred as provided by G.S. 96-9(c)4(a).



Whenever contributions are erroneously paid into one account which should have been paid into another account or which should have been paid into a new account, that erroneous payment can be adjusted only by refunding the erroneously paid amounts to the paying entity. No pro rata adjustment to an existing account may be made, nor can a new account be created by transferring any portion of the erroneously paid amount, notwithstanding that the entities involved may be owned, operated, or controlled by the same person or organization. No adjustment of a contribution rate can be made reducing said rate below the standard rate for any period in which the account was not in actual existence and in which it was not actually chargeable for benefits. Whenever payments are found to have been made to the wrong account, refunds can be made to the entity making the wrongful payment for a period not exceeding five years from the last day of the calendar year in which it is determined that wrongful payments were made. Notwithstanding payment into the wrong account, any entity which is determined to have met the requirements to be a covered employer, whether or not the entity has had paid on the account of its employees any sum into another account, the Commission shall collect contributions at the standard rate or the assigned rate, whichever is higher, for the five years preceding the determination of erroneous payments, said five years to run from the last day of the calendar year in which the determination of liability for contributions or additional contributions is made. This paragraph shall apply to all cases arising hereunder, the question of good faith notwithstanding."

**Sec. 16.** G.S. 96-10(e), as it appears in the 1975 Replacement, Volume 2C, is amended by deleting after the word "received" on line 12 the following: "or if said money which constitutes the overpayment has been in the possession of the Commission for six months or more,".

**Sec. 17.** G.S. 96-11(b), as it appears in the 1975 Replacement, Volume 2C, is amended by adding after the period following the words "or more" in line 22, the following:

"Any employing unit, as defined in G.S. 96-8(5)n, shall cease to be an employer only if it files with the Commission by the first day of March of any calendar year an application for termination of coverage, and the Commission finds that there were no 20 different weeks within the preceding calendar year in which such employing unit had at least 10 individuals in employment, and that there was no calendar quarter within the preceding calendar year in which such employing unit paid twenty thousand dollars (\$20,000) or more in wages for services in employment. Any employing unit, as defined in G.S. 96-8(5)o, shall cease to be an employer if it files with the Commission by the first day of March of any calendar year an application for termination of coverage and the Commission finds that there was no calendar quarter within the preceding calendar year in which such employing unit paid one thousand dollars (\$1,000) or more in wages for services in employment."

**Sec. 18.** G.S. 96-12(b)(2), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting all of the first 13 lines and the words "1, 1974, and each August 1 thereafter" on line 14 and substituting before the words "a maximum" on line 14: "each August 1,".

**Sec. 19.** G.S. 96-12(e)A(10)c(2), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting from lines 2 and 3 the words "of the Virgin Islands or".

**Sec. 20.** G.S. 96-13(d), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by deleting the word “of” in the first line following the word “entitlement” and substituting: “based on services for”.

**Sec. 21.** G.S. 96-13(f), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by adding before the parenthesis on line 4 after the word “law” and before the parenthetical expression, the following: “or was lawfully present for purposes of performing such services”.

**Sec. 22.** G.S. 96-17(b), as it appears in the 1975 Replacement, Volume 2C, is amended by deleting after the word “counsel” on line 5: “; but no such counsel shall either charge or receive for such services more than an amount approved by the Commission”.

**Sec. 23.** G.S. 96-18(a), as it appears in the 1975 Replacement, Volume 2C, is amended by deleting after the words “shall be” in line 5 the phrase, “punished by a fine of not less than twenty dollars (\$20.00), nor more than fifty dollars (\$50.00), or by imprisonment for not longer than 30 days,” and substituting: “guilty of a misdemeanor,”.

**Sec. 24.** G.S. 96-18(b), as it appears in the 1975 Replacement, Volume 2C, is amended by deleting after the words “shall be” on line 8 the phrase “punished by a fine of not less than twenty dollars (\$20.00) or more than fifty dollars (\$50.00) or by imprisonment for not longer than 30 days;” and inserting in lieu thereof, the following phrase: “guilty of a misdemeanor;”.

**Sec. 25.** G.S. 96-18(c), as it appears in the 1975 Replacement, Volume 2C, is amended by deleting the phrase after the words “shall be” on line 5, “punished by a fine of not less than twenty dollars (\$20.00) or more than fifty dollars (\$50.00) or by imprisonment for not longer than 30 days,” and substituting in lieu thereof: “guilty of a misdemeanor,”.

**Sec. 26.** G.S. 96-21, as it appears in the 1975 Replacement, Volume 2C, is amended by striking the present language and substituting, “The Employment Service Division shall cooperate with all State and federal agencies in attempting to secure suitable employment and fair treatment for military veterans and disabled veterans.”

**Sec. 27.** G.S. 96-22, as it appears in the 1975 Replacement, Volume 2C, is amended by deleting after the word “adapted” in line 13, the remainder of the paragraph and inserting in its stead: “, including assisting those minors who are interested in securing vocational employment in agriculture and to aid in the development of good citizenship and in the study and development of vocational rehabilitation capabilities for handicapped minors.”

**Sec. 28.** G.S. 96-25, as it appears in the 1975 Replacement, Volume 2C, is amended by deleting after the word “assistance” in line 6, the remainder of the sentence and inserting in its stead: “to handicapped citizens through vocational rehabilitation.”

**Sec. 29.** G.S. 96-13(b)(1), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by adding after the word “contracts” and before the word “to” on line 14 the phrase: “or a reasonable assurance”.

**Sec. 30.** G.S. 96-13(b)(2), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended on line 6 after

the phrase “with respect to services” by adding the following: “in instructional, research or principal administrative capacity”.

**Sec. 31.** G.S. 96-13(b)(2), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement, Volume 2C, is amended by adding a new provision as follows: “Except with respect to services in a secondary school or subdivision thereof, in any capacity other than instructional, research or principal administrative, benefits shall be payable based on such services for any week commencing during the period between two successive academic years or during a similar period between two regular terms, only if the individual does not have a contract or contracts, written, oral, or implied or a reasonable assurance to perform services in any such capacity for any secondary school for both such academic years or both such terms.

**Sec. 32.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## H. B. 1184

## CHAPTER 661

### AN ACT TO PERMIT THE POSSESSION OF TEAR GAS AND DEVICES FOR SELF-DEFENSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-401.6 is rewritten to read:

“§ 14-401.6. *Unlawful to possess, etc., tear gas except for certain purposes.*—(a) It is unlawful for any person, firm, corporation or association to possess, use, store, sell, or transport within the State of North Carolina, any form of that type of gas generally known as ‘tear gas’, or any container or device for holding or releasing that gas; except this section does not apply to the possession, use, storage, sale or transportation of that gas or any container or device for holding or releasing that gas:

- (1) by officers and enlisted personnel of the armed forces of the United States or this State while in the discharge of their official duties and acting under orders requiring them to carry arms or weapons;
- (2) by or for any governmental agency for official use of the agency;
- (3) by or for county, municipal or State law enforcement officers in the discharge of their official duties;
- (4) by or for security guards sanctioned under Chapters 74A and 74B of the General Statutes, provided those security guards are on duty and have received training according to standards prescribed by the State Bureau of Investigation;
- (5) for bona fide scientific, educational, or industrial purposes;
- (6) in safes, vaults, and depositories, as a means of protection against robbery;
- (7) for use in the home for protection and elsewhere by individuals, who have not been convicted of a felony, for self-defense purposes only, as long as the capacity of any tear gas cartridge, shell, device or container does not exceed 50 cubic centimeters, and any tear gas device or container does not have the capability of discharging any cartridge, shell, or container larger than 50 cubic centimeters.

(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.

(c) Tear gas for the purpose of this section shall mean any solid, liquid or gaseous substance or combinations thereof which will, upon dispersion in the atmosphere, cause tears in the eyes, burning of the skin, coughing, difficulty in breathing or any one or more of these reactions and which will not cause permanent damage to the human body, and the substance and container or device is designed, manufactured, and intended to be used as tear gas.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## H. B. 1255

### CHAPTER 662

AN ACT TO AMEND G.S. 15A-1343 TO REQUIRE PROBATIONERS TO REIMBURSE THE COST OF COURT AND APPOINTED COUNSEL OR PUBLIC DEFENDER FEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-1343, as the same is found in Volume 1C of the General Statutes, 1978 Replacement, and the 1978 Interim Supplement, is hereby amended by adding a new subsection (e) to read as follows:

“(e) Costs of court and appointed counsel. Unless the court finds there are extenuating circumstances, any person placed upon supervised or unsupervised probation under the terms set forth by the court shall, as a condition of probation, be required to pay all court costs and costs for appointed counsel or public defender in the case in which he was convicted. The court shall determine the amount due and the method of payment.”

**Sec. 2.** G.S. 15A-1343(b)(14), as the same is found in the General Statutes, 1978 Interim Supplement, is hereby repealed.

**Sec. 3.** This act shall become effective October 1, 1979, and shall apply to any person placed upon probation on or after this effective date.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## S. B. 480

### CHAPTER 663

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO ENGAGE IN HOUSING PROGRAMS AND ACTIVITIES FOR LOW AND MODERATE INCOME PERSONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Findings and declarations. It is hereby found and declared that there is a serious shortage of decent, safe and sanitary housing available at low prices or rentals to persons and families of low and moderate income, and that private enterprise without assistance has been unable to meet that need in the City of Charlotte. These conditions contribute to urban blight and retard sound development and redevelopment thereby necessitating the following provisions to alleviate such conditions in the public interest.

**Sec. 2.** In addition to the other authority granted by law, the City of Charlotte is hereby authorized and empowered to engage in and to appropriate



and expend non ad valorem tax funds, and with voter approval as provided in G.S. 160A-209(e) expend property tax funds for housing programs and activities for the benefit of low and moderate income persons, and to engage in the following activities; issuance of revenue bonds to raise funds for the making of loans to private individuals; programs of assistance and financing of rehabilitation efforts, including direct repair and the making of grants or loans; the purchase, lease or disposition of property for housing sites; and the construction, reconstruction, improvement or alteration of housing or housing projects. The City of Charlotte is authorized to enter into contracts or agreements with any person, association, partnership, corporation or another governmental agency to undertake, carry out or otherwise exercise the authority granted by this section.

**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 28th day of May, 1979.

## S. B. 710

## CHAPTER 664

AN ACT TO DELETE THE REQUIREMENT THAT CANDIDATES FOR RALEIGH CITY OFFICE FILE CAMPAIGN REPORTS WITH THE CLERK OF SUPERIOR COURT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 561, Session Laws of 1975, is repealed.

**Sec. 2.** Section 15 of the Raleigh City Charter as amended is hereby repealed and rewritten to read as follows:

“Section 15. All ordinances passed by the City Council shall become effective upon their adoption or at such time after their adoption as the City Council may specify. An ordinance annexing territory to the City of Raleigh may be made effective on a date subsequent to the date of its adoption.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

## S. B. 731

## CHAPTER 665

AN ACT TO AMEND G.S. 105-342 CONCERNING APPEALS OF PUBLIC SERVICE COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-342(c) is rewritten to read as follows:

“(c) Review of appraised valuations to be certified to local taxing units.

(1) In the year in which a general reappraisal of real property is required to be conducted in a county under the provisions of G.S. 105-286(a), and in the third and seventh years following the effective date of a county's last general reappraisal of real property, any public service company whose property is subject to appraisal under this Article may petition the board of county commissioners in writing for a reduction in the assessment of the public service company's property by the county on the ground that there exists an inequitable difference between the level of assessment of locally appraised property and that of the public service

company's property by the Department of Revenue. The request for reduction shall be filed with the board of commissioners not later than April 1 of the year for which it is made. The request shall set forth with particularity the alleged inequitable difference in levels of appraisal and shall include any sales/assessment ratio studies or other appraisal information which the public service company desires to be considered by the board of commissioners. Within 60 days of the receipt of the request for reduction, the board of commissioners shall give written notice of its decision to the public service company. The board may deny the request, approve the reduction as requested, or it may offer a lesser reduction. If the county and the public service company agree to a reduction, they shall so notify the Department of Revenue and, in accordance therewith, the Department shall adjust its allocation of the public service company's property to be certified to the county and the municipalities therein. The percentage of reduction agreed upon in the year of the appeal shall also be applied by the Department of Revenue in certifying the appraised valuations of the public service company's property to the county and municipalities for the years following the appeal and until another request for reduction is filed as herein provided or a general reappraisal of real property as required in G.S. 105-286(a) is conducted; provided, however, if a county performs a horizontal adjustment pursuant to G.S. 105-286(b) the percentage of reduction shall be reduced as is appropriate to eliminate any remaining portion of the inequitable difference previously determined. If the decision of the board of commissioners is not satisfactory to the public service company, it may, within 30 days of the decision, or if no decision is rendered, not later than July 1, file with the Property Tax Commission a written request for a hearing at which it may submit evidence of the alleged inequitable difference. A copy of the request for hearing shall also be mailed to the chairman of the board of commissioners of the county whose appraisals are at issue.

- (2) If a timely request for a hearing is made, the Property Tax Commission shall fix a place and date for the hearing and shall give notice thereof to the taxpayer and to the chairman of the board of commissioners of the county whose appraisals are at issue.
- (3) In any request for a hearing under this section, the public service company shall set forth with particularity the inequitable difference in appraisal levels alleged and shall include any sales/assessment ratio studies or other appraisal information available to it.
- (4) As used in this section, the phrase 'inequitable difference' means a difference in the level of appraisals of fifteen percent (15%) or more.
- (5) Notwithstanding a request for hearing, as provided in subdivision (1) above, the Department of Revenue shall certify the appraised valuations of the appealing public service company's property to the county and municipalities therein and the taxes levied thereon shall be paid when due. If the Property Tax Commission finds that an inequitable difference exists, it shall order a reduction in the appraised valuations of the public service company's property to be allocated to the county and the municipalities so as to eliminate the inequitable difference. The Commission shall then notify the county and the

municipalities of the adjusted valuations by certified mail and the county and municipalities shall, within 30 days of the receipt of such notice, refund the difference between the amount of taxes paid by the company based on the certified valuations and the amount determined to be due based on the adjusted valuations. In certifying the appraised valuations of the public service company's property to the county and municipalities for the years following an appeal and until another request for hearing is filed as herein provided or a general reappraisal of real property as required in G.S. 105-286(a) is conducted, the Department of Revenue shall adjust the valuations in accordance with the percentage of reduction determined by the Property Tax Commission; provided, however, if a county performs a horizontal adjustment pursuant to G.S. 105-286(b) the percentage of reduction shall be reduced as is appropriate to eliminate any remaining portion of the inequitable difference previously determined.

- (6) The hearing provided in this section shall be conducted under the provisions of G.S. 105-342(d)."

**Sec. 2.** This act shall become effective January 1, 1980, and shall not apply to appeals filed with the Property Tax Commission before January 1, 1980.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

S. B. 737

## CHAPTER 666

AN ACT TO AMEND CHAPTER 168 OF PUBLIC-LOCAL LAWS 1939, AS AMENDED, RELATING TO THE RALEIGH-DURHAM AIRPORT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 168 of Public-Local Laws 1939, as amended, is hereby further amended as follows:

(1) The second sentence of Section 7(g), as it appears in Chapter 755 of the Session Laws of North Carolina 1959, is hereby amended to read as follows:

"The said bonds, if and when so issued, shall be denominated 'Raleigh-Durham Airport Authority Revenue Bonds' and shall be issued in such form and denomination and shall mature at such time or times, not exceeding 35 years after their date, and shall bear such rate of interest, payable annually or semiannually, as the said Raleigh-Durham Airport Authority may determine."

**Sec. 2.** Section 7 of Chapter 168 of Public-Local Laws 1939, as amended, is hereby further amended by adding a new subsection (l) immediately following Section 7(k) and immediately prior to Section 8, said subsection 7(l) to read as follows:

"(l) Private property needed for airport purposes may be acquired by the Raleigh-Durham Airport Authority by gift or devise or by purchase if the Raleigh-Durham Airport Authority is able to agree with the owners on the terms thereof. In case the Raleigh-Durham Airport Authority shall determine that condemnation of real property is necessary for airport purposes, it shall have the right to acquire such property within Wake County or Durham County by condemnation proceedings brought in its own name and without the joinder of the City of Raleigh, the City of Durham, the County of Durham or the County of Wake. The condemnation procedure to be followed shall be the

procedure set out and contained in Article 9 of Chapter 136 of the General Statutes of North Carolina. In such case, the Raleigh-Durham Airport Authority shall have the same powers, and shall follow the same statutory procedures, in the condemnation of land within Wake County or Durham County for airport purposes as the Board of Transportation does in the condemnation of land under Article 9 of Chapter 136 of the General Statutes of North Carolina for highway purposes. Any pleadings or documents necessary to be served on the Raleigh-Durham Airport Authority in such action may be served upon the Chairman or Secretary of the Raleigh-Durham Airport Authority or the Airport Director. Title to property so acquired by condemnation shall vest in the Raleigh-Durham Airport Authority; provided, however, that no such real property shall be sold or conveyed by the Raleigh-Durham Airport Authority without the prior approval of the County of Durham, the County of Wake, the City of Durham and the City of Raleigh."

**Sec. 3.** Chapter 168 of the Public-Local Laws of 1939, as amended, is further amended by inserting a new Section 8 immediately following Section 7, as amended and immediately prior to the present Section 8, as amended, and by renumbering all succeeding sections of said Chapter 168 as amended, the new Section 8 to read as follows:

"Sec. 8. In the event the Raleigh-Durham Airport Authority shall at any time hereafter cease to exist, all assets and properties of any kind then owned or held by the Raleigh-Durham Airport Authority shall revert to and become the property of the City of Durham, the City of Raleigh, the County of Durham and the County of Wake, subject to any and all debts, obligations and contractual undertakings applicable thereto."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

S. B. 273

## CHAPTER 667

### AN ACT TO AMEND CHAPTER 20 OF THE GENERAL STATUTES TO PROVIDE FOR CLASSIFIED DRIVERS' LICENSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-4.01 is amended as follows:

(1) By striking from line 1 of the subdivision (2) the words "operators' and chauffeurs'" and inserting in lieu thereof the word "drivers".

(2) By deleting subdivision (3) in its entirety.

**Sec. 2.** G.S. 20-4.18(3) is repealed.

**Sec. 3.** Subsection (a) of G.S. 20-7 is rewritten to read as follows:

"(a) Except as otherwise provided in this Article, no person shall operate a motor vehicle on a highway unless such person has first been licensed by the Division under the provisions of this Article for the type or class of vehicle being driven. Driver's licenses shall be classified as follows:

(1) Class 'A' which entitles a licensee to drive any vehicle or combination of vehicles, except motorcycles, including all vehicles under Classes 'B' or 'C'.

(2) Class 'B' which entitles a licensee to drive a single vehicle weighing over 30,000 pounds gross vehicle weight, any such vehicle towing a vehicle weighing 10,000 pounds gross vehicle weight or less, a single



vehicle designed to carry more than 12 passengers and all vehicles under Class 'C'. A Class 'B' license does not entitle the licensee to drive a motorcycle.

- (3) 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, and a church bus, farm bus, or activity bus operated for a nonprofit organization when the activity bus is operated for a nonprofit purpose. A Class 'C' license does not entitle the licensee to drive a motorcycle. A Class 'C' license does not entitle the licensee to drive a vehicle designed to carry more than 12 passengers unless this subsection or G.S. 20-218(a) specifically entitle him to do so.

Any unusual vehicle shall be assigned by the commissioner to the most appropriate class with suitable special restrictions if they appear to be necessary.

Any person who takes up residence in this State on a permanent basis is exempt from the provisions of this subsection for 30 days from the date that residence is established, if he is properly licensed in the jurisdiction of which he is a former resident."

**Sec. 4.** Subsection (c) of G.S. 20-7 is amended as follows:

(1) By adding in line 3, after the word "vehicles" and before the word "over", the words and punctuation "(of the type or class for which the person applied to be licensed)".

(2) By adding, between the second and third sentences, the following sentence: "The commissioner may adopt regulations that allow employees of governmental agencies or private businesses to receive a driver's license without taking a road test if the conditions specified in the regulations are complied with."

**Sec. 5.** Subsection (d) of G.S. 20-7 is amended by deleting the fourth sentence, as contained in lines 14 through 17.

**Sec. 6.** G.S. 20-7(g) is repealed.

**Sec. 7.** G.S. 20-7(i) is rewritten to read as follows:

"(i) The fee for issuance or reissuance of a Class 'C' license is four dollars (\$4.00). The fee for issuance or reissuance of a Class 'B' or Class 'A' license is ten dollars (\$10.00). A person receiving at the same time a driver's license and an endorsement pursuant to G.S. 20-7(a1) shall be charged only the fee required for the class of driver's license he is receiving."

**Sec. 8.** Subsection (1) of G.S. 20-7 is amended as follows:

(1) By adding in line 5, after the word "a" and before the word "motor", the words "specified type or class of".

(2) By rewriting the last sentence of the first paragraph to read as follows: "The permittee must, while operating a motor vehicle over the highways, be accompanied by a person who is licensed to operate the class or type of vehicle being operated and who is seated in the seat beside the permittee."

**Sec. 9.** Subsection (1-1) of G.S. 20-7 is amended by adding in line 6, after the word "a" and before the word "motor," the words "specified type or class of".

**Sec. 10.** Subsection (m) of G.S. 20-7 is amended by adding in line 7, after the word "a" and before the word "motor", the words "specified type or class of".

**Sec. 11.** Subsection (n) of G.S. 20-7 is amended by rewriting the last sentence to read as follows: "However, no person charged with failing to carry a license shall be convicted if he produces in court a driver's license issued to him which was valid at the time of his arrest for the type or class of vehicle he was operating at the time of his arrest."

**Sec. 12.** Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read as follows:

"§ 20-7.01. *Renewal of licenses after January 1, 1981.*—(a) All operators' and chauffeurs' licenses issued before January 1, 1981, are valid until their normal date of expiration, subject to this Chapter's provisions for cancellation and suspension of drivers' licenses.

(b) A person holding a valid operator's or chauffeur's license on January 1, 1981, whose license expires after that date may receive a Class 'C' license without taking a written or road test if he complies with the provisions of G.S. 20-7(f).

(c) A person holding a valid operator's or chauffeur's license on January 1, 1981, whose license expires after that date may receive a Class 'A' or 'B' license without taking a written or road test if:

(1) he files with the division an affidavit stating that he was licensed by North Carolina on January 1, 1981, and that he has operated a vehicle of the class for which he wishes to be licensed for at least one year prior to that date; and

(2) he complies with the provisions of G.S. 20-7(f).

An applicant who is not exempt from the road and written tests pursuant to this subsection is deemed to be an original applicant."

**Sec. 13.** G.S. 20-8 is amended as follows:

(1) By striking from line 3 of subdivision (1) the words "chauffeurs or".

(2) By rewriting subdivision (3) to read as follows:

"(3) A nonresident who is at least 16 years of age who has in his immediate possession a valid driver's license issued to him in his home state or country if the nonresident is operating a motor vehicle in this State in accordance with the license restrictions and vehicle classifications that would be applicable to him under the laws and regulations of his home state or country if he were driving in his home state or country."

(3) By deleting subdivisions (4), (5) and (6) in their entirety, and renumbering subdivision (7) as subdivision (4).

**Sec. 14.** G.S. 20-9 is amended as follows:

(1) By rewriting subsection (a) to read as follows:

"(a) A Class 'C' license shall not be issued to any person under 16 years of age and no Class 'A' or Class 'B' license shall be issued to any person under 18 years of age."

(2) By deleting from line 2 of subsection (b) the words and punctuation "either as operator or chauffeur,".

**Sec. 15.** Subsection (b) of G.S. 20-11 is amended as follows:

(1) By adding in line 7, after the word "vehicle" and before the word "upon" the words "of the specified type or class".

(2) By adding in line 10, after the word "vehicle" and before the word "and", the words "(of the type or class being operated by the permittee)".

**Sec. 16.** Subsection (c) of G.S. 20-11 is amended by adding on line 7, after the word "vehicle" and before the word "in", the words "of a specified type or class."

**Sec. 17.** G.S. 20-12 is amended by rewriting it to read as follows:

"Any licensed driver may instruct a person who is 16 or more years of age in the operation of any motor vehicle that the person instructing is licensed to drive. Any person so instructing another must actually occupy the seat beside the permittee."

**Sec. 18.** G.S. 20-16 is amended as follows:

(1) By deleting from line 2 of subsection (a) the words "or chauffeur".

(2) By deleting from line 3 of item (11) of subsection (a) the words "or chauffeur".

(3) By deleting from line 2 of subsection (b) the words "or chauffeur's".

(4) By deleting from lines 2 and 3 of subsection (c) the words "or chauffeur".

**Sec. 19.** G.S. 20-16.1 is amended as follows:

(1) By striking from line 3 of subsection (a) the words "operator or chauffeur" and inserting in lieu thereof the word "driver".

(2) By inserting in subsection (b)(1) on line 22, after the word "vehicles" and before the word "upon" the words "of the class or type that would be allowed by the person's license if it were not currently revoked".

(3) By deleting from line 3 of subsection (c) the words "or chauffeur".

(4) By striking from line 2 of subsection (d) the words "operator or chauffeur" and inserting in lieu thereof the word "driver".

(5) By deleting from line 1 of subsection (f) the words "or chauffeurs".

**Sec. 20.** G.S. 20-17 is amended by striking from line 2 of the first sentence the words "operator or chauffeur" and inserting in lieu thereof the word "driver".

**Sec. 21.** G.S. 20-20 is amended as follows:

(1) By striking from line 1 the word "vehicle".

(2) By striking from lines 3 and 4 the words "vehicle operator's and chauffeur's" and inserting in lieu thereof the word "driver's".

**Sec. 22.** G.S. 20-23 is amended by deleting from line 5 the words "or chauffeur".

**Sec. 23.** G.S. 20-26 is amended as follows:

(1) By striking from line 2 of subsection (a) the words "operator's and chauffeur's" and inserting in lieu thereof the word "driver's".

(2) By striking from the last sentence of subsection (c) the words "Operator's and Chauffeur's License" and inserting in lieu thereof the word "Highway".

**Sec. 24.** G.S. 20-27 is amended by striking from line 2 the words "operator's and chauffeur's license" and inserting in lieu thereof the words "drivers' licenses".

**Sec. 25.** G.S. 20-29 is amended by striking from line 12 the words "operators' or chauffeurs'" and inserting in lieu thereof the word "drivers'".

**Sec. 26.** G.S. 20-29.1 is amended by deleting from line 2 the words "or chauffeur".

**Sec. 27.** G.S. 20-30 is amended as follows:

(1) By striking from lines 1 and 2 of subdivision (1) the words "any operator's or chauffeur's" and inserting in lieu thereof the words "a driver's".

(2) By striking from line 2 of subdivision (2) the words “any operator’s or chauffeur’s” and inserting in lieu thereof the words “a driver’s”.

(3) By rewriting subdivision (4) to read as follows:

“(4) To fail or refuse to surrender to the Division upon demand any driver’s license or learner’s permit that has been suspended, cancelled or revoked as provided by law.”

**Sec. 28.** G.S. 20-33 is repealed.

**Sec. 29.** G.S. 20-37.1 is amended by striking from lines 4 and 10 the word “operator’s” and inserting in lieu thereof the word “driver’s”.

**Sec. 30.** Subsection (d) of G.S. 20-37.7 is amended by striking from line 3 the words “operator’s and chauffeur’s license” and inserting in lieu thereof the word “Highway”.

**Sec. 31.** G.S. 20-141.3 is amended as follows:

(1) By striking from lines 1 and 2 of subsection (d) the words “operator’s or chauffeur’s” and inserting in lieu thereof the word “driver’s”.

(2) By striking from line 1 of subsection (e) the words “operator’s or chauffeur’s” and inserting in lieu thereof the word “driver’s”.

**Sec. 32.** G.S. 20-166 is amended as follows:

(1) By striking from line 4 of subsection (b) the words “operator’s or chauffeur’s” and inserting in lieu thereof the word “driver’s”.

(2) By striking from lines 2 and 3 of subsection (c) the words “operator’s or chauffeur’s” and inserting in lieu thereof the word “driver’s”.

**Sec. 33.** Subsection (c) of G.S. 20-166.1 is hereby amended by striking from line 6 the words “operator’s and chauffeur’s” and inserting in lieu thereof the word “driver’s”.

**Sec. 34.** G.S. 20-179(b)(1) is amended as follows:

(1) By striking from line 17 the words “operator’s or chauffeur’s” and inserting in lieu thereof the word “driver’s”.

(2) By striking from line 24 the words “operator’s or chauffeur’s license” and inserting in lieu thereof the words “drivers’ licenses”.

(3) By inserting in line 21, after the word “vehicles” the words “of the class or type that would be allowed by the person’s license if it were not currently revoked”.

**Sec. 35.** G.S. 20-182 is amended by striking from lines 7 and 8 the words “operator’s or chauffeur’s” and inserting in lieu thereof the word “driver’s”.

**Sec. 36.** G.S. 20-218(a) is amended by deleting the second sentence of the first paragraph and inserting in lieu thereof the following sentence: “Notwithstanding the provisions of G.S. 20-7(a)(3), the driver of a school bus must be at least 16 years of age and hold a driver’s license of Class ‘A’, ‘B’, or ‘C’ and a school bus driver’s certificate, and the driver of a school activity bus must hold a driver’s license of Class ‘C’ and a school bus driver’s certificate or a driver’s license of Class ‘A’ or Class ‘B’.”

**Sec. 37.** Subsection (b) of G.S. 20-279.13 is amended as follows:

(1) By striking from line 2 the words and punctuation “, operator or chauffeur” and inserting in lieu thereof the words “or driver”.

(2) By striking from line 5 the words and punctuation “, operator, or chauffeur” and inserting in lieu thereof the words “or driver”.

**Sec. 38.** G.S. 20-279.32 is amended by deleting from lines 2 and 3 the words “and chauffeurs”.



**Sec. 39.** Subdivision (1) of G.S. 20-320 is amended by striking from lines 5 and 6 the words "an operator's or chauffeur's" and inserting in lieu thereof the words "a driver's".

**Sec. 40.** The Commissioner of Motor Vehicles is authorized to adopt and enforce rules and regulations as may be necessary to carry out the provisions of this act, including the promulgation of rules defining "gross vehicle weight".

**Sec. 41.** Whenever the words or phrases in the left hand column of the chart below ("Word or Phrase to Be Replaced") appear in Article 2 of General Statutes Chapter 20, they are deleted and the words or phrases in the corresponding position in the right hand column ("Word or Phrase to Be Inserted in Article 2") are inserted in the place of the deleted words or phrases.

<u>Word or Phrase to Be Replaced</u>	<u>Word or Phrase to Be Inserted into Article 2</u>
operators'	drivers'
operator's	driver's
an operator's	a driver's
an operator's or chauffeur's	a driver's
operator's or chauffeur's	driver's
operators' and chauffeurs'	drivers'
chauffeur's or operator's	driver's

If a word or phrase that appears in the listing is specifically deleted by or retained by another section of this act, the substitutions required by this section are not applicable.

**Sec. 42.** Nothing herein contained shall be construed to obligate the General Assembly to appropriate any additional funds.

**Sec. 43.** This act shall become effective January 1, 1981. Section 12 of this act is repealed on July 1, 1986.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

S. B. 586

**CHAPTER 668****AN ACT TO RETITLE AND REORGANIZE THE SCIENCE AND TECHNOLOGY COMMITTEE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Part 5 of Article 10 of Chapter 143B of the General Statutes is rewritten to read:

**"PART 5.**

**"North Carolina Board of Science and Technology.**

**"§ 143B-440. *North Carolina Board of Science and Technology; creation; powers and duties.***—The North Carolina Board of Science and Technology of the Department of Commerce is created. The board has the following powers and duties:

(1) to identify, and to support and foster the identification of, important research needs of both public and private agencies, institutions and organizations in North Carolina;

(2) to make recommendations concerning policies, procedures, organizational structures and financial requirements that will promote effective use of scientific and technological resources in fulfilling the research needs identified;

(3) to allocate funds available to the board to support research projects, to purchase research equipment and supplies, to construct or modify research facilities, to employ consultants, and for other purposes necessary or appropriate in discharging the duties of the board.

“§ 143B-441. *North Carolina Board of Science and Technology; membership, organization; compensation; staff services.*—The North Carolina Board of Science and Technology consists of the Governor, the Science Advisor to the Governor, and 13 members appointed as follows: The Governor shall appoint one member from The University of North Carolina at Chapel Hill, one member from North Carolina State University at Raleigh, and two members from other components of The University of North Carolina, all nominated by the President of The University of North Carolina; one member from Duke University, nominated by the President of Duke University; one member from a private college or university, other than Duke University, in North Carolina, nominated by the President of the Association of Private Colleges and Universities; one member from the Research Triangle Institute, nominated by the executive committee of the board of that institute; two members from private industry in North Carolina; and two members from public agencies in North Carolina. One member shall be from the membership of the North Carolina Senate, appointed by the Lieutenant Governor; and one member shall be from the membership of the North Carolina House of Representatives, appointed by the Speaker of the House. The nominating authority for any vacancy on the board among members appointed by the Governor shall submit to the Governor two nominations for each position to be filled, and the persons so nominated shall represent different disciplines.

The member of the North Carolina Senate and the member of the North Carolina House of Representatives appointed initially to the board shall serve for terms expiring June 30, 1981. Thereafter their successors shall serve for terms of two years each. The members from public agencies shall serve for terms expiring at the end of the term of the Governor appointing them. Of the remaining nine appointments by the Governor, five shall serve for four years expiring June 30, 1983, and four shall serve for two years expiring June 30, 1981; thereafter terms of all nine of these remaining members appointed by the Governor shall be for four years and until their successors are appointed and qualified. Any appointment to fill a vacancy on the board created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall serve as chairman of the board. The vice chairman of the board shall be designated by the Governor from among the members of the board. The Science Advisor to the Governor shall serve as executive director of the board. The Secretary of Commerce or his designee shall serve as secretary to the board.

The Governor may remove any member of the board from office in accordance with the provisions of G.S. 143B-16.

Members of the board who are employees of State agencies or institutions shall receive subsistence and travel allowances authorized by G.S. 138-6. Legislative members of the board shall receive subsistence and travel allowances authorized by G.S. 120-3.1. All other members of the board shall receive per diem and travel and subsistence allowances authorized by G.S. 138-5.

A majority of the board constitutes a quorum for the transaction of business.

The Secretary of Commerce shall provide all clerical and other services required by the board."

**Sec. 2.** G.S. 143B-433 is amended by deleting on line 15 the words: "Science and Technology Committee," and inserting in lieu thereof "Board of Science and Technology."

**Sec. 3.** G.S. 143B-443 is amended by striking from line 2 the words "Science and Technology Committee" and by inserting in lieu thereof the words "Department of Commerce."

**Sec. 4.** This act shall become effective May 1, 1979.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 599

## CHAPTER 669

### AN ACT TO AMEND THE PROCEDURES AND GROUNDS PROVIDED FOR THE TERMINATION OF PARENTAL RIGHTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-289.30(e), as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by deleting all of the first sentence thereof and substituting therefor the following sentence:

"All findings of fact shall be based on clear, cogent, and convincing evidence."

**Sec. 2.** G.S. 7A-289.32, as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by repealing subdivision (1), by deleting the word "physically" on lines 1 and 2 of subdivision (2), and by renumbering the remaining subdivisions accordingly.

**Sec. 3.** This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 602

## CHAPTER 670

### AN ACT TO REDEFINE A "PSYCHOLOGICAL EXAMINER" AS A "PSYCHOLOGICAL ASSOCIATE".

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-270.2(f) is amended on line 1, by deleting the words "Psychological examiner", and inserting in lieu thereof the words "Psychological associate", and is further amended on line 6, by deleting the words, "psychological examiner" and inserting in lieu thereof the words "psychological associate".

**Sec. 2.** G.S. 90-270.3 is amended on line 3, by deleting the words "psychological examiners", and inserting in lieu thereof the words "psychological associates", and is further amended on lines 8 and 9 by deleting the words "psychological examiner", and inserting in lieu thereof the words "psychological associate".

**Sec. 3.** G.S. 90-270.4(c), G.S. 90-270.5(f), G.S. 90-270.6, G.S. 90-270.10, G.S. 90-270.16(a) and G.S. 90-270.16(b) are amended by deleting the words "psychological examiner" whenever those words appear and inserting in lieu thereof the words "psychological associate".

**Sec. 4.** G.S. 90-270.4(e) is amended on lines 8 and 9, by deleting the words "psychological examiners" and inserting in lieu thereof the words "psychological associates".

**Sec. 5.** G.S. 90-270.11(a)(2) is amended on line 1, by deleting the words "psychological examiner" and inserting in lieu thereof the words "psychological associate".

**Sec. 6.** G.S. 90-270.11(b) is amended by deleting the subheading title "Psychological Examiner" and inserting in lieu thereof the title "Psychological Associate".

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

S. B. 664

## CHAPTER 671

AN ACT TO REWRITE THE "NORTH CAROLINA TOXIC VAPORS ACT".

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-113.9 is rewritten to read:

"§ 90-113.9. *Definitions.*—For purposes of this act, unless the context requires otherwise, (1) 'intoxication' means drunkenness, stupefaction, depression, giddiness, paralysis, irrational behavior, or other change, distortion, or disturbance of the auditory, visual, or mental processes."

**Sec. 2.** G.S. 90-113.10 is rewritten to read:

"§ 90-113.10. *Inhaling fumes for purpose of causing intoxication.*—It is unlawful for any person to knowingly breathe or inhale any compound, liquid, or chemical containing toluol, hexane, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other substance for the purpose of inducing a condition of intoxication. This section does not apply to any person using as an inhalant any chemical substance pursuant to the direction of a physician or dentist."

**Sec. 3.** G.S. 90-113.11 is rewritten to read:

"§ 90-113.11. *Possession of substances.*—It is unlawful for any person to possess any compound, liquid, or chemical containing toluol, hexane, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other substance which will induce a condition of intoxication through inhalation for the purpose of violating G.S. 90-113.10."

**Sec. 4.** G.S. 90-113.12 is rewritten to read:

"§ 90-113.12. *Sale of substance.*—It is unlawful for any person to sell, offer to sell, deliver, give, or possess with the intent to sell, deliver, or give any other person any compound, liquid, or chemical containing toluol, hexane, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other substance which will induce a condition of intoxication through inhalation if he has reasonable cause to suspect that the product sold, offered for sale, given, delivered, or possessed with the intent to sell, give, or deliver, will be used for the purpose of violating G.S. 90-113.10."

**Sec. 5.** A new section is added to Chapter 90 of the General Statutes to read:

"§ 90-113.13. *Violation a misdemeanor.*—Violation of this Article is a misdemeanor."

**Sec. 6.** This act shall become effective on July 1, 1979.



In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 668

## CHAPTER 672

AN ACT TO PROVIDE FOR PUNISHMENT FOR BURGLARY BY IMPRISONMENT FOR NOT LESS THAN TEN YEARS OR LIFE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-52(a) is amended by inserting the words "a term of not less than ten years nor more than" between the words "for" and "life" in the first sentence.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 689

## CHAPTER 673

AN ACT TO AMEND PROVISIONS OF CHAPTER 94 OF THE GENERAL STATUTES RELATING TO APPRENTICESHIP PROGRAMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 94-1, as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is hereby amended in the 10th and 11th lines by deleting therefrom the words "local and State joint apprenticeship committees" and substituting in lieu thereof the words "apprenticeship committees and sponsors".

**Sec. 2.** G.S. 94-4, as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is hereby amended in the fifth line by deleting therefrom the words "local and State joint apprenticeship committees" and substituting in lieu thereof the words "apprenticeship committees and sponsors," and in the eighth line by deleting therefrom the words "and of each State joint apprenticeship committee".

**Sec. 3.** G.S. 94-5, as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is rewritten to read as follows:

"§ 94-5. *Apprenticeship committees and program sponsors.*—(a) As used in this Chapter:

- (1) 'Apprenticeship program' means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.
- (2) 'Apprenticeship agreement' means a written agreement between an apprentice and either his employer or an apprenticeship committee or sponsor acting as agent for employer(s), which agreement satisfies the requirements of G.S. 94-7.
- (3) 'Sponsor' means any person, firm, corporation, organization, association or committee operating an apprenticeship program and in whose name the apprenticeship program is approved.
- (4) 'Employer' means any person, firm, corporation or organization employing an apprentice whether or not such person, firm, corporation or organization is a party to an apprenticeship agreement with the apprentice.

(5) 'Apprenticeship committee' means those persons designated by the sponsor, and approved by the Apprenticeship Council, to act for it in the administration of the apprenticeship program. A committee may be 'joint,' i.e., it is composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s) and has been established to conduct, operate or administer an apprenticeship program and enter into apprenticeship agreements with apprentices. A committee may be 'unilateral' or 'nonjoint' which shall mean a program sponsor in which employees or a bona fide collective bargaining agent is not a party.

(b) An apprenticeship committee may be appointed by the Apprenticeship Council in any trade or group of trades in a city or trade area, whenever the apprentice training needs of such trade or group of trades justifies such establishment.

(c) The function of the apprenticeship committee, or sponsor when there is no apprenticeship committee, shall be: to cooperate with school authorities in regard to the education of apprentices; in accordance with the standards set up by the apprenticeship committee for the same trade or group of trades, where such committee has been appointed, to work in an advisory capacity with employers and employees in matters regarding schedule of operations, application of wage rates, and working conditions for apprentices and to specify the number of apprentices which shall be employed locally in the trade under the apprenticeship agreements under this Chapter; and to adjust apprenticeship disputes, subject to the approval of the director; to ascertain the prevailing rate for journeymen in the city or trade area and specify the graduated scale of wages applicable to apprentices in such trade in such area; to ascertain employment needs in such trade or group of trades and specify the appropriate current ratio of apprentices to journeymen; and to make recommendations for the general good of apprentices engaged in the trade or trades represented by the committee. An apprenticeship committee may appoint a representative and delegate to such representative the authority for implementation and performance of any standards adopted by the committee pursuant to any of the aforementioned functions."

**Sec. 4.** G.S. 94-6, as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is rewritten to read as follows:

"§ 94-6. *Definition of an apprentice.*—The term 'apprentice,' as used herein, shall mean a person at least 16 years of age who is covered by a written apprenticeship agreement approved by the Apprenticeship Council, which apprenticeship agreement provides for not less than 2,000 hours of reasonably continuous employment for such person for his participation in an approved schedule of work experience and for organized, related supplemental instruction in technical subjects related to the trade. A minimum of 144 hours of related supplemental instruction for each year of apprenticeship is recommended. The required hours for apprenticeship agreements and the recommended hours for related supplemental instruction may be decreased or increased in accordance with standards adopted by the apprenticeship committee or sponsor, subject to approval of the Commissioner of Labor."

**Sec. 5.** G.S. 94-7(4), as the same appears in the 1977 Cumulative Supplement to the 1975 Replacement Volume 2C of the General Statutes, is hereby amended by rewriting the first sentence thereof to read as follows:

“A statement showing (1) the number of hours to be spent by the apprentice in work on the job, and (2) the number of hours to be spent in related and supplemental instruction, which is recommended to be not less than 144 hours per year.”

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 793

## CHAPTER 674

AN ACT TO AUTHORIZE CERTAIN COUNTIES TO APPROPRIATE FUNDS TO THE WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.

*The General Assembly of North Carolina enacts:*

**Section 1.** The board of county commissioners of the counties hereafter named are authorized to appropriate funds to the Western North Carolina Development Association, Inc., for the public good and welfare of said counties. The amount to be expended by each county shall be determined in the discretion of the board of commissioners.

**Sec. 2.** This act shall apply to the counties of Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

**Sec. 3.** This act shall become effective upon ratification and shall be on a continuing basis.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 823

## CHAPTER 675

AN ACT TO AUTHORIZE THE ISSUANCE OF UNDERINSURED MOTORIST COVERAGES BY INSURERS AT THE WRITTEN REQUESTS OF INSURED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-279.21(b) is amended by adding a new subdivision (4) to read:

“(4) In addition to the coverages set forth in subdivisions (1) through (3) of this subsection, at the written request of the insured, shall provide for underinsured motorist insurance coverage to be used with policies affording uninsured motorist at limits in excess of the limits prescribed by the applicable financial responsibility law pursuant to this section, as required or permitted by the applicable uninsured motorist insurance law, but not exceeding the policy limits for automobile bodily injury liability as specified in the owner's policy. An ‘underinsured motor vehicle’, as described in subdivision (3) of this subsection, shall include an ‘underinsured highway vehicle’ which means a highway vehicle with respect to the ownership, maintenance, or use of which, the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of liability under this insurance coverage. For the purposes of this subdivision, the term ‘highway vehicle’ means a land motor vehicle or trailer other than (i) a farm type tractor or other vehicle designed for use principally off public roads

and while not upon public roads, (ii) a vehicle operated on rails or crawler treads, or (iii) a vehicle while located for use as a residence or premises. The insurer shall not be obligated to make any payment because of bodily injury to which this insurance applies and which arises out of the ownership, maintenance, or use of an underinsured highway vehicle until after the limits of liability under all bodily injury liability bonds or insurance policies applicable at the time of the accident have been exhausted by payment of judgments or settlements.”

**Sec. 2.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

S. B. 348

## CHAPTER 676

### AN ACT TO PROVIDE FOR A CLEAN RISK SUBCLASSIFICATION WITHIN THE NORTH CAROLINA MOTOR VEHICLE REINSURANCE FACILITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-248.33(1) is amended in lines 4 through 6 by striking out the sentence therein reading as follows:

“The Commissioner may establish separate subclassifications within the Facility for clean risks as defined by the Commissioner.”, and by inserting in lieu thereof the following:

“The Board of Governors shall establish a separate subclassification within the Facility for ‘clean risks’ as herein defined. For the purpose of this Article, a ‘clean risk’ shall be any owner of a motor vehicle classified as a private passenger non-fleet motor vehicle as defined under Article 13C of this Chapter if the owner and the principal operator and each licensed operator in the owner’s household have two years driving experience and if neither the owner nor any member of his household nor the principal operator had had any chargeable accident or any conviction for a moving traffic violation pursuant to the subclassification plan established by the provisions of G.S. 58-30.4, during the three-year period immediately preceding the date of application for motor vehicle insurance or the date of preparation for a renewal motor vehicle insurance policy.”

**Sec. 2.** G.S. 58-248.33(1) is further amended in lines 18 through 23 by striking out the sentence therein reading as follows:

“However, if the Commissioner determines, after hearing, that any class reinsured in the Facility is entitled to a subsidy, the Commissioner can order that such subsidy shall be provided in which event the difference between the actual rate charged and the actuarially sound and self-supporting rates for such class shall be recouped in similar manner as assessments pursuant to G.S. 58-248.34(f).”, and by inserting in lieu thereof the following:

“However, the rates made by or on behalf of the Facility with respect to ‘clean risks’, as defined above, shall not exceed the rates charged ‘clean risks’ who are not reinsured in the Facility. The difference between the actual rate charged and the actuarially sound and self-supporting rates for ‘clean risks’ reinsured in the Facility may be recouped in similar manner as assessments pursuant to G.S. 58-248.34(f).”

**Sec. 3.** This act shall become effective October 1, 1979.



In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 846

## CHAPTER 677

## AN ACT TO ALLOW THE CRAVEN 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) shall not apply to the Craven County Alcoholic Beverage Control Board.

**Sec. 2.** The Craven County Alcoholic Beverage Control Board 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 Craven County Treasury, and the Craven County Commissioners shall utilize those funds exclusively to provide for more effective law enforcement of alcoholic beverage control laws in Craven County.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 147

## CHAPTER 678

## AN ACT TO DELETE THE LICENSE EXEMPTION FOR DRIVERS OF SMALL-ENGINE MOTORCYCLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-7(a1) is hereby amended by deleting therefrom the last sentence thereof which reads as follows:

"This section shall not apply to motorcycles which are rated at 190cc (cubic centimeters) or less."

**Sec. 2.** G.S. 20-7(a1) is further amended by deleting from the first line the date "January 1, 1978," and inserting in lieu thereof the date "October 1, 1979".

**Sec. 3.** G.S. 20-7(a1) is further amended by adding a sentence at the end thereof to read as follows: "Nothing contained in this subsection shall be construed to require a moped operator to have a driver's license."

**Sec. 4.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 352

## CHAPTER 679

## AN ACT AMENDING THE BURLINGTON CITY CHARTER CONCERNING NOTICE OF REGULAR AND SPECIAL MEETINGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3.22 of the Burlington City Charter, as it is found in Chapter 119, Session Laws of 1961 is amended to read:

"Sec. 3.22. Regular and Special Meetings. The Council shall fix suitable times for its regular meetings. The Mayor, Mayor Pro Tem, or any two (2) members of the Council may at any time call a special meeting by causing a written notice stating the time of holding such meeting and signed by a person calling the same, to be delivered in hand to each member or left at his usual dwelling place

at least forty-eight (48) hours before the time of such meeting. Furthermore, at least forty-eight (48) hours before the time of such meeting, this written notice shall be posted on the door of the usual meeting room and mailed or delivered to each newspaper, wire service, radio station and television station which has filed a written request for notice of special meetings with the Clerk. All such notices of said special meetings shall state therein the purpose for which such meeting was called, and, except as otherwise provided by law, any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) The Mayor, Mayor Pro Tem of the City Council, or any two (2) members thereof may at any time call an emergency meeting of the City Council by causing a written notice stating the time and purpose of holding such meeting and signed by a person calling the same, to be delivered in hand to each member or left at his usual dwelling place at least six (6) hours before the meeting. Furthermore, said notice of such emergency meeting shall be given by telephone to each local newspaper, wire service, radio station and television station which has filed with the City Clerk a written request to be notified of emergency meetings. (If there is any cost involved in providing emergency notices to said media, the cost shall be charged to the media so notified.) Only business connected with the emergency may be considered at such an emergency meeting. ('Emergency meeting' as used in this section shall be defined as a meeting called due to generally unexpected circumstances that require immediate consideration or attention by the City Council.)

(c) Except where otherwise specifically provided by this charter, the City Council shall have authority to determine the time and place of Council meetings, to make such provisions as it may deem wise relative to regular, special, emergency, adjourned and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner and method of the exercise of its powers. No ordinance, resolution, rule or directive may be adopted, amended or repealed, however, except in a public meeting. All meetings shall be held within Alamance County except in the case of an emergency. In the event the Council is authorized or required by law to hold a joint meeting with the governing body of another municipality or political subdivision of the State of North Carolina, it may at its election meet with the other governing body at a designated place within the area, subject to the jurisdiction of the other governing body."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 439

## CHAPTER 680

AN ACT TO AMEND CHAPTER 20 TO MAKE MOTOR VEHICLE LAWS WHICH NOW APPLY TO "PUBLIC VEHICULAR AREAS", APPLICABLE TO SUBDIVISION STREETS OFFERED FOR DEDICATION TO THE PUBLIC BUT OVER WHICH CONTROL IS NOT EXERCISED BY PUBLIC AUTHORITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 20 of the General Statutes is hereby amended by adding a new sentence to G.S. 20-4.01(32) at the end to read as follows:

"The term 'public vehicular area' shall also include any street opened to vehicular traffic within a subdivision which has been offered for dedication to the public by the filing of a map, plat or written instrument in the office of the Register of Deeds; provided however, a public authority (1) has not accepted the dedication of the street, and (2) a public authority has not assumed control over the street."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 512

## CHAPTER 681

AN ACT TO REQUIRE WRITTEN NOTICE OF SATISFACTION OF THE  
MORTGAGE BE GIVEN BY THE TRUSTEE OR MORTGAGEE TO THE  
GRANTOR OR MORTGAGOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4 of Chapter 45 is amended to add a new section to read as follows:

"§ 45-36.3. *Notification by mortgagee of satisfaction of provisions of deed of trust or mortgage, or other instrument; civil penalty.*—(a) After the satisfaction of the provisions of any deed of trust or mortgage, or other instrument intended to secure with real property the payment of money or the performance of any other obligation and registered as required by law, the holder of the evidence of the indebtedness, if it is a single instrument, or a duly authorized agent or attorney of such holder shall within 60 days:

- (1) discharge and release of record such documents and forward the cancelled documents to the grantor or mortgagor; or,
- (2) alternatively, the holder of the evidence of the indebtedness or a duly authorized agent or attorney of such holder, at the request of the mortgagor or grantor, shall acknowledge the satisfaction of said instrument's terms in writing on the face of said instrument and forward said instrument and the deed of trust or mortgage instrument, marked 'paid and satisfied', to the grantor or mortgagor.

(b) Any person, institution or agent who fails to cancel of record or give the notice required by this section may be required to pay a civil penalty of one hundred dollars (\$100.00) in addition to attorneys' fees and any other damages awarded by the court to the grantor or mortgagor: Provided, that prior to the institution of an action pursuant to this section, the petitioner shall give written notice to mortgagee, obligee or other responsible party of his intention to bring the action; and upon receipt of this notice, the mortgagee, obligee or other responsible party shall have an additional 30 days to fulfill the requirements of this section."

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

H. B. 800

**CHAPTER 682**

AN ACT TO CLARIFY, MODERNIZE AND CONSOLIDATE THE LAW OF  
SEX OFFENSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 14 of the North Carolina General Statutes as the same appears in the 1969 Replacement Volume 1B is hereby amended by adding thereto a new Article 7A to read as follows:

“Article 7A.

“Rape and Other Sex Offenses.

“§ 14-27.1. *Definitions.*—As used in this Article, unless the context requires otherwise: (a) ‘Mentally defective’ means (1) a victim who suffers from mental retardation, or (2) a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

(b) ‘Mentally incapacitated’ means a victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

(c) ‘Physically helpless’ means (1) a victim who is unconscious; or (2) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

(d) ‘Sexual act’ means cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person’s body: Provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.

“§ 14-27.2. *First degree rape.*—(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

(1) with another person by force and against the will of the other person, and:

(i) 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

(ii) inflicts serious personal injury upon the victim or another person; or

(iii) the person commits the offense aided and abetted by one or more other persons.

(2) With a victim who is a child of the age of 12 years or less and the defendant is four or more years older than the victim.

(b) Any person who commits the offense defined in this section is guilty of a felony and upon conviction shall be imprisoned in the State’s prison for life.

“§ 14-27.3. *Second degree rape.*—(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:

(1) by force and against the will of the other person; or

(2) who is mentally defective, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably



know the other person is mentally defective, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a felony and upon conviction shall be punished by imprisonment in the State's prison for a term of not more than 40 years.

"§ 14-27.4. *First degree sexual offense.*—(a) A person is guilty of a sexual offense in the first degree if the person engages in a sexual act:

(1) with another person by force and against the will of the other person, and:

(i) 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

(ii) inflicts serious personal injury upon the victim or another person; or

(iii) the person commits the offense aided and abetted by one or more other persons.

(2) The victim is a child of the age of 12 years or less and the defendant is four or more years older than the victim.

(b) Any person who commits the offense defined in this section is guilty of a felony and upon conviction shall be imprisoned in the State's prison for life.

"§ 14-27.5. *Second degree sexual offense.*—(a) A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:

(1) by force and against the will of the other person; or

(2) who is mentally defective, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally defective, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a felony and upon conviction shall be punished by imprisonment in the State's prison for a term of not more than 40 years.

"§ 14-27.6. *Penalty for attempt.*—An attempt to commit first degree rape as defined by G.S. 14-27.2, or an attempt to commit a first degree sexual offense as defined by G.S. 14-27.4 is a felony, and upon conviction, the defendant shall be punished by imprisonment in the State's prison for not more than 20 years. An attempt to commit second degree rape as defined by G.S. 14-27.3, or an attempt to commit a second degree sexual offense as defined by G.S. 14-27.5 is a felony, and upon conviction the defendant shall be punished by imprisonment in the State's prison for not more than 10 years.

"§ 14-27.7. *Intercourse and sexual offenses with certain victims; consent no defense.*—If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a felony and shall be punished by imprisonment in the State's prison for not less than two nor more than 15 years. Consent is not a defense to a charge under this section.

"§ 14-27.8. *Defense that victim is spouse of person committing act.*—A person may not be prosecuted under this Article if the victim is the person's legal

spouse at the time of the commission of the alleged rape or sexual offense unless the parties are living separate and apart pursuant to a written agreement or a judicial decree.

“§ 14-27.9. *No presumption as to incapacity.*—In prosecutions under this Article, there shall be no presumption that any person under the age of 14 years is physically incapable of committing a sex offense of any degree or physically incapable of committing rape, or that a male child under the age of 14 years is incapable of engaging in sexual intercourse.

“§ 14-27.10. *Evidence required in prosecutions under this Article.*—It shall not be necessary upon the trial of any indictment for an offense under this Article where the sex act alleged is vaginal intercourse or anal intercourse to prove the actual emission of semen in order to constitute the offense; but the offense shall be completed upon proof of penetration only. Penetration, however slight, is vaginal intercourse or anal intercourse.”

**Sec. 2.** A new section is added to Chapter 15A, Subchapter I, Article 3, of the General Statutes to read:

“§ 15A-136. *Venue for sexual offenses.*—If a person is transported by any means, with the intent to violate any of the provisions of Article 7A of Chapter 14 of the General Statutes and the intent is followed by actual violation thereof, the defendant may be tried in the county where transportation was offered, solicited, begun, continued or ended.”

**Sec. 3.** G.S. 15-166 as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is hereby amended as follows: (a) in the catch line by inserting after the word “rape” the words “and sex offenses”; (b) in the second line thereof by deleting the words “assault with the intent to commit rape” and substituting in lieu thereof the words “or a sex offense or attempt to commit rape or attempt to commit a sex offense”.

**Sec. 4.** G.S. 15-169 as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is hereby amended in the second line by deleting the words “rape, or”.

**Sec. 5.** G.S. 14-6 as the same appears in the 1969 Replacement Volume 1B of the General Statutes, is amended in the third line by inserting after the words “or rape” the words “or a sex offense”.

**Sec. 6.** G.S. 14-17 as the same appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is amended in the fifth line by inserting after the word “rape” the words “or a sex offense”.

**Sec. 7.** Article 7 of Chapter 14 as the same appears in the 1969 Replacement Volume 1B of the General Statutes and the 1977 Cumulative Supplement thereto are hereby repealed.

**Sec. 8.** G.S. 8-58.6 as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended in the catch line by inserting after the word “rape” the words “or sex offenses”. G.S. 8-58.6(c) is amended in the second line by inserting after the words “rape or any lesser included offense thereof” the words “or a sex offense or any lesser included offense thereof”.

**Sec. 9.** G.S. 15A-2000(e)(5) as the same appears in the 1977 Cumulative Supplement to the 1975 Replacement Volume 1C of the General Statutes is hereby amended in the third line by inserting after the word “rape” the words “or a sex offense”.

**Sec. 10.** G.S. 15-144.1(a) as the same appears in the 1978 Replacement Volume 1C of the General Statutes is hereby amended by deleting the words "assault with intent to commit rape" on lines 11 and 12, and substituting in lieu thereof the words "attempted rape". G.S. 15-144.1(b) as the same appears in the 1978 Replacement Volume 1C of the General Statutes is hereby amended by deleting the word "virtuous" in lines 1, 3, and 6. G.S. 15-144.1 is further amended by adding thereto the following new subdivision "(c)" to read as follows:

"(c) If the victim is a person who is mentally defective, mentally incapacitated, or physically helpless it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did carnally know and abuse a person who was mentally defective, mentally incapacitated or physically helpless, naming such victim, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law for the rape of a mentally defective, mentally incapacitated or physically helpless person and all lesser included offenses."

**Sec. 11.** Article 15 of Chapter 15 of the General Statutes is hereby amended by adding thereto the following new section G.S. 15-144.2:

"§ 15-144.2. *Essentials of bill for sex offense.*—(a) In indictments for a sex offense it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the sex offense was allegedly committed, and the averment 'with force and arms', as is now usual, it is sufficient in describing a sex offense to allege that the accused person unlawfully, willfully, and feloniously did engage in a sex offense with the victim, naming the victim, by force and against the will of such victim and concluding as is now required by law. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for a first degree sex offense and will support a verdict of guilty of a sex offense in the first degree, a sex offense in the second degree, an attempt to commit a sex offense or an assault.

(b) If the victim is a person of the age of 12 years or less, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a child of 12 years or less, naming the child, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for a sex offense against a child of the age of 12 years or less and all lesser included offenses.

(c) If the victim is a person who is mentally defective, mentally incapacitated, or physically helpless it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a person who was mentally defective, mentally incapacitated or physically helpless, naming such victim, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law for a sex offense against a mentally defective, mentally incapacitated or physically helpless person and all lesser included offenses."

**Sec. 12.** 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. 13.** All laws and clauses of laws in conflict with this act are hereby repealed, provided however, nothing in this act shall be construed to repeal any portion of Article 26 of Chapter 14 which relates to offenses against public morality and decency.

**Sec. 14.** This act shall become effective January 1, 1980, and shall apply to offenses occurring on and after that date. Nothing herein shall be construed to render lawful acts committed prior to the effective date of this act and unlawful at the time the said acts occurred; and nothing contained herein shall be construed to affect any prosecution instituted under any section repealed by this act pending on the effective date hereof.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 986

## CHAPTER 683

AN ACT TO ALLOW THE SALE OF WINE IN THE SAME PLACES THAT ARE ELIGIBLE TO SERVE MIXED BEVERAGES AND TO MAKE TECHNICAL AND CLARIFYING CHANGES IN THE ABC STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-2(4) is amended in line 2 by inserting between the words "gin," and "beer" the words "mixed beverages,".

**Sec. 2.** G.S. 18A-8 is amended by rewriting subsection (b) to read as follows:

"(b) Whenever a sale of malt beverages or unfortified wine is made to a person under the age of 18 years, or a sale of alcoholic beverage or mixed beverage is made to a person under the age of 21 years, it shall be prima facie evidence that the person making the sale had knowledge that the purchaser was under the required age for purchase. Such prima facie evidence may be rebutted by showing that the purchaser produced for inspection a driver's license, or military identification card showing the age of the purchaser to be at least the age required for that purchase, and that the description of the physical appearance of the person on the identification card reasonably described the purchaser. In the absence of such identification, the prima facie evidence of knowledge of age may be rebutted by the vendor by other evidence which reasonably indicated at the time of sale that the purchaser was at least the age required for the purchase."

**Sec. 3.** G.S. 18A-31(a) is amended by rewriting subdivision (8) to read as follows:

"(8) The Board shall not arbitrarily refuse to issue a permit to a person, firm or corporation who complies with the provisions of this Chapter and the regulations adopted pursuant to this Chapter."

**Sec. 4.** G.S. 18A-31.1 is amended by adding the following new subsection (c) to the end of that section:

"(c) A restaurant with a mixed beverages permit may not at the same time hold a permit under this section, but any restaurant with a mixed beverages permit may use for culinary purposes any alcoholic beverage it has purchased for resale in mixed beverages."



**Sec. 5.** G.S. 18A-38(e)(1) is amended by adding the following new sentence between the first and second sentences of that subdivision:

“Notwithstanding any other provision of this Chapter, or any local or special act or local election to the contrary, permits for the on-premises retail sale of unfortified wine may also be issued to restaurants, hotels and social establishments holding mixed beverage permits.”

**Sec. 6.** G.S. 18A-38(f) is amended by adding the following new sentence between the first and second sentences of that subsection:

“Notwithstanding any other provision of this Chapter, or any local or special act or local election to the contrary, permits for the on-premises retail sale of fortified wine may also be issued to restaurants, hotels and social establishments holding mixed beverage permits.”

**Sec. 7.** G.S. 105-113.78(1) is amended by adding the following new sentence between the first and second sentences of that subdivision:

“Licenses for the on-premises retail sale of unfortified wine may also be issued to restaurants, hotels and social establishments holding mixed beverage permits.”

**Sec. 8.** G.S. 105-113.85 is amended by adding the following new sentence between the first and second sentences of that section:

“It shall also be legal to sell fortified wine for consumption on the premises of restaurants, hotels and social establishments holding mixed beverage permits.”

**Sec. 9.** G.S. 18A-57 is amended by adding the following new subsection (c) to the end of that section:

“(c) Notwithstanding subsections (a) and (b) of this section, the on-premises retail sale of fortified and unfortified wine is permitted under G.S. 18A-38 in restaurants, hotels and social establishments holding mixed beverage permits.”

**Sec. 10.** G.S. 18A-31.1(a) is amended by deleting from the first sentence of that subsection the words “holding a Grade A rating from the Department of Human Resources,”.

**Sec. 11.** G.S. 18A-38(e)(1) is amended by deleting from the first sentence of that subdivision the words “which have a Grade A rating from the Department of Human Resources,”.

**Sec. 12.** G.S. 18A-38(f) is amended by deleting from the first sentence of that subsection the words “that have a Grade A rating from the Department of Human Resources,” and by deleting the last sentence of that subsection.

**Sec. 13.** G.S. 18A-52(j) is amended by deleting “Grade A” in ballot proposition (1) for unfortified wine elections.

**Sec. 14.** G.S. 105-113.78(1) is amended by deleting from the first sentence of that subsection the words “which shall have a Grade A rating from the Commission for Health Services,”.

**Sec. 15.** G.S. 105-113.85 is amended by deleting from the first sentence of that section the words “that have a Grade A rating from the Department of Human Resources,”.

**Sec. 16.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

H. B. 1088

**CHAPTER 684**

AN ACT TO AMEND G.S. 24-10 TO AUTHORIZE LATE PAYMENT CHARGES ON LOANS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 24-10 is amended by adding new subsections (e) and (f) to read:

“(e) Any lender may charge a party to a loan made under G.S. 24-1.1A, a late payment charge on any installment of principal, interest, or both in an amount not to exceed four percent (4%) of such installment. The charges authorized by this subsection may not be charged by a lender unless an installment is more than 15 days past due; provided, however, for the purposes of this subsection, a late payment charge may not be charged until an installment is more than 30 days past due where interest on such installment is paid in advance.

“(f) Any lender may charge a party to a mortgage loan made under G.S. 24-1.1 a late payment charge in an amount not to exceed four percent (4%) of any installment which is more than 15 days past due.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

H. B. 1107

**CHAPTER 685**

AN ACT TO PROVIDE REGULATIONS FOR BUDGETING AND FISCAL CONTROL OF JOINT MUNICIPAL POWER AGENCIES ORGANIZED UNDER CHAPTER 159B OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Part 6 is hereby added to Article 3 of Chapter 159 of the General Statutes to read:

“Part 6.

“Joint Municipal Power Agencies.

“§ 159-41. *Special regulations pertaining to joint municipal power agencies.*—

(a) For the purposes of this Part, ‘joint agency’ means a public body corporate and politic organized in accordance with the provisions of G.S. Chapter 159B, or the combination or recombination of any joint agencies so organized.

(b) Except as provided in this Part, none of the provisions of Article 3 of this Chapter shall apply to joint agencies. Whenever the provisions of this Part and the provisions of Chapter 159B of the General Statutes shall conflict, the provisions of Chapter 159B shall govern.

(c) Each joint agency shall operate under an annual balanced budget resolution adopted by the governing board and entered into the minutes. A budget is balanced when the sum of the appropriations is equal to the sum of estimated net revenues and appropriated fund balances. The budget resolution of a joint agency shall cover a fiscal year beginning January 1 and ending December 31, except that the Local Government Commission, if it determines that a different fiscal year would facilitate the agency’s financial operations, may enter an order permitting an agency to operate under a fiscal year other than from January 1 to December 31.

(d) The following directions and limitations shall bind the governing board in adopting the budget resolution:

- (1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
- (2) The full amount of any deficit in each fund shall be appropriated.
- (3) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated.
- (4) The sum of estimated net revenue and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balances in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenue, as those figures stand at the close of the fiscal year preceding the budget year.

(e) The governing board of the joint agency may amend the budget resolution at any time after its adoption and may authorize its designated finance officer to transfer moneys from one appropriation to another, subject to such limitations and procedures as it may prescribe. All such transfers will be reported to the governing board or its executive committee at its next regular meeting and shall be entered in the minutes.

(f) Joint agencies are subject to the following sections of Article 3 of this Chapter, to the same extent as a 'public authority', provided, however, the term 'budget ordinance' as used in such sections shall be interpreted for the purposes of this Part to mean the budget resolution of a joint agency:

- (1) G.S. 159-9, provided, however, that the governing board of an agency may designate as budget officer someone other than a member of the governing board or an officer or employee of the agency.
- (2) G.S. 159-12, provided, however, that the provision relating to making the budget available to the news media of a county shall not apply to a joint agency.
- (3) G.S. 159-13.2.
- (4) G.S. 159-16.
- (5) G.S. 159-18.
- (6) G.S. 159-19.
- (7) G.S. 159-21.
- (8) G.S. 159-22, provided, however, that the provision restricting transfers to funds maintained pursuant to G.S. 159-13(a) shall not apply to a joint agency.
- (9) G.S. 159-24.
- (10) G.S. 159-25.
- (11) G.S. 159-26.
- (12) G.S. 159-28.
- (13) G.S. 159-28.1.
- (14) G.S. 159-29.
- (15) G.S. 159-30.
- (16) G.S. 159-31.
- (17) G.S. 159-32.
- (18) G.S. 159-33.
- (19) G.S. 159-33.1.
- (20) G.S. 159-34.

(21) G.S. 159-36.

(22) G.S. 159-38.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

H. B. 1198

## CHAPTER 686

### AN ACT TO PREVENT DOUBLE TAXATION OF PROPERTY BELONGING TO HOMEOWNERS ASSOCIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 105 of the General Statutes is amended by adding a new section to read as follows:

“§ 105-277.8. *Taxation of homeowners association properties.*—(a) The following properties are designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution, and shall be appraised, assessed, and taxed as hereinafter provided:

All property, real or personal, owned by a nonprofit association, corporation, or similar nonprofit organization, as herein defined, shall be assessed for tax purposes on the basis of a nominal value if:

- (1) all property owned by said association or corporation is held for the use, benefit, and enjoyment of all members of said association equally;
- (2) each member of the association or corporation owns or possesses an easement, license, or other nonrevokable right for the use and enjoyment on an equal basis for all the property so held by such association or corporation, subject to any restrictions imposed by the instruments conveying such right or interest or granting such easement and any rules, regulations, or bylaws imposed by the association or corporation pursuant to the authority granted by the articles of incorporation, declaration of covenants, conditions and restrictions, the bylaws, or the articles of association of such corporation or association; and
- (3) each easement, license, or other nonrevokable right to the use and enjoyment of all association property is appurtenant to and an integral part of the taxable real property owned by such members.

(b) In appraising individual properties owned by members of the association or corporation who are entitled to the use and enjoyment of facilities owned by the association or corporation, the enhanced value of the individual properties because of the right to the use and benefit of the facilities shall be a factor taken into consideration by the appraiser.

(c) A nonprofit association, corporation, or other organization shall qualify for the benefits provided in this section only if:

- (1) such association or corporation is engaged in residential real estate management;
- (2) such association or corporation is organized and operated to provide for the acquisition, construction, management, maintenance, and care of property nominally owned by such association or corporation and held for the use, benefit, and enjoyment of its members;
- (3) sixty percent (60%) or more of the gross income of such association or corporation consists of amounts received as membership dues, fees, or



assessments from owners of residences or residential lots within the area subject to jurisdiction and assessment power of such association or corporation;

- (4) ninety percent (90%) or more of the expenditures of the association or corporation is made for the purpose of acquiring, constructing, managing, maintaining, and caring for the property nominally held by such association or corporation;
- (5) all members of the association or corporation own easement, license, or other nonrevokable rights for the use and enjoyment on an equal basis of all the property nominally owned by such association or corporation subject to any restrictions imposed by the instruments conveying such right or interest or granting such easement and any rules, regulations, or bylaws imposed by the association or corporation pursuant to the authority granted by the articles of incorporation, declaration of covenants, conditions and restrictions, the bylaws, or the articles of association of such corporation or association;
- (6) no part of the net earning, if any, of such association or corporation shall inure to the benefit of any member or individual, other than by acquiring, constructing, or providing management, maintenance, and care of association or corporation property, or other than by a rebate of excess membership dues, fees, or assessments; and
- (7) such nonprofit corporation, association, or organization shall qualify for treatment as a homeowners association under 26 U.S.C. 528, 'Certain Homeowners Associations'."

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## AN ACT TO OUTLAW ABANDONMENT OF ANIMALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 47 of G.S. Chapter 14 is hereby amended by adding a new section to read as follows:

"§ 14-361.1. *Abandonment.*—Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a misdemeanor punishable by a fine of up to two hundred dollars (\$200.00)."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 1257

## CHAPTER 688

AN ACT TO MAKE VEHICLE SAFETY INSPECTION RECORDS AVAILABLE TO LAW ENFORCEMENT OFFICERS; TO IDENTIFY SEPARATELY THE CHARGES FOR INSPECTIONS AND CERTIFICATES; TO INCREASE THE INSPECTION FEE; AND TO DECREASE THE TIME PERIOD FOR FREE INSPECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-183.7 is rewritten to read as follows:

“§ 20-183.7. *Charges for inspections and certificates, safety equipment inspection station records.*—(a) Every safety equipment inspection station shall charge a fee of three dollars and sixty-five cents (\$3.65) for inspecting a motor vehicle to determine compliance with the inspection requirements of this Article and shall give the vehicle operator a dated receipt, indicating the articles and equipment approved and disapproved. At any time within 90 days thereafter, when the receipt is presented to the inspection station which issued it with a request for reinspection, that inspection station shall reinspect the vehicle at no charge. When said vehicle is approved, the inspection station shall obtain a fee of thirty-five cents (35¢) for a valid inspection certificate, and affix the certificate to that vehicle.

(b) Self-inspector stations licensed under G.S. 20-183.4 are exempt from the inspecting fee provisions of subsection (a) above, but shall pay to the Division of Motor Vehicles the prescribed certificate fee for each inspection certificate issued by it.

(c) All fees collected for inspection certificates shall be paid to the Division of Motor Vehicles, in accordance with its regulations, and these fees shall be placed in the Highway Fund.

(d) Each inspection station shall maintain a record of inspections performed, in a form approved by the Division of Motor Vehicles, for a period of 18 months and such records shall be made available for inspection by any law enforcement officer, upon demand, during normal business hours.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 1304

## CHAPTER 689

AN ACT TO ALLOW THE CREATION OF SPECIAL AIRPORT DISTRICTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Short Title. This act shall be known and may be cited as the “North Carolina Special Airport Districts Act”.

**Sec. 2.** Definitions. As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) “aeronautical facilities” means airports, runways, terminals, hangars and other facilities related thereto;

(2) “district” means a special airport district created under the provisions of this Article;

(3) “district board” or “board” means a special airport district board established under the provisions of this Article as the governing body of a district;

(4) “governing body” means the board, commission, council or other body, by whatever name it may be known, of a unit of local government in which the general legislative powers thereof are vested;

(5) “unit” or “unit of local government” means counties, cities, towns and incorporated villages.

**Sec. 3. Procedure for Creation; Concurrent Resolutions; Notice and Public Hearing; Actions to Set Aside Proceedings.** (a) Any unit of local government in this State and any one or more other units of local government in this State may, by concurrent resolutions adopted by the governing body of each such unit, create special airport districts under the provisions of this Article which shall be public bodies corporate and politic and political subdivisions of the State. The district shall comprise the territory of the participating units. The district shall be designated “Special Airport District of \_\_\_\_\_” and shall be of such duration as the participating units shall determine.

(b) Prior to the adoption of any resolutions creating a special airport district, there shall be held a joint public hearing convened by the governing bodies of each of the participating units of government concerning the creation of the proposed special airport district. The presiding officers of the governing body of the units proposing to create such district shall name a time and place within the proposed district at which the public hearing shall be held. The presiding officers shall give prior notice of such hearing at the courthouse of the county or counties within which the district lies and also by publication at least once a week for two successive weeks in a newspaper having general circulation in the proposed district, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the creation of such special airport district cannot be concluded at such hearing, such hearing may be continued to a time and place within the proposed district determined by the governing body of each of the respective units of local government.

(c) Following the joint public hearing but prior to the adoption by a unit of local government of any resolution creating a special airport district, the governing body of such unit may submit the question of the unit’s participation in a special airport district to the qualified voters of such unit. The form of the question as stated on the ballot shall be in substantially the following words:

“Shall the governing body of \_\_\_\_\_ approve  
\_\_\_\_\_’s participation in the proposed \_\_\_\_\_  
special airport district?

☐ YES

☐ NO”

If a majority of the qualified voters of the unit who vote thereon approve such participation, the governing body of such unit may adopt a resolution creating the particular special airport district. The election shall be conducted and the results thereof certified, declared and published in the same manner as bond elections within the unit.

(d) Following the adoption of the resolutions creating the district by the governing body of each participating unit, the presiding officer of each such governing body shall cause to be published a single time in a newspaper circulating within the unit a notice in substantially the following form:

The governing body of \_\_\_\_\_ and the governing body of \_\_\_\_\_ passed resolutions on \_\_\_\_\_, 19\_\_\_\_, and on \_\_\_\_\_, 19\_\_\_\_, respectively, creating the Special Airport District of \_\_\_\_\_. Notice of the creation of such special airport district is hereby given on the date hereof. Any action or proceeding questioning the validity of the resolutions or the creation of the special airport district must be commenced within 30 days after the publication of this notice.

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Presiding Officer

(e) Any action or proceeding in any court to set aside the resolutions or the creation of a special airport district, or to obtain any other relief upon the ground that such resolutions or any proceeding or action taken with respect to the creation of such district is invalid, must be commenced within 60 days after the publication of the foregoing notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolutions or the creation of the special airport district shall be asserted nor shall the validity of the resolutions or the creation of such airport district be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

**Sec. 4. District Board; Composition, Appointment, Terms and Oaths; Organization; Meetings, Quorum.** (a) Appointment of Board for District. The board of the special airport district shall be composed of two representatives from each of the participating units of local government appointed annually by the governing body of each of said units of local government, respectively, from among their members at the first regular meeting thereof in January. Each member of the district board must be a member of the governing body of the unit of local government by which he was appointed. Membership on the district board may be held in addition to the offices authorized by G.S. 128-1 or G.S. 128-1.1. Said representatives shall hold office from their appointment until their successors are appointed and qualified, except that when any member of the district board ceases for any reason to be a member of the governing body of the unit of local government by which he was appointed, he shall simultaneously cease to be a member of said district board. Upon the occurrence of any vacancy on said district board, the vacancy shall be filled within 30 days after notice thereof by the governing body of the participating unit of local government having a vacancy in its representation. Within 30 days after the expiration of the period set forth in Section 3 hereof, the governing body of each participating unit of local government shall appoint its representatives to hold office until successors shall be appointed in the manner hereinbefore provided. Each member of the district board, before entering upon his duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of the United States and of this State and to discharge faithfully the duties of his office; and a record of each such oath shall be filed in the minutes of the respective participating units of local government.

(b) District Board Procedures. The district board shall meet regularly at such places and on such dates as are determined by the board. Special meetings may be called by the chairman on his own initiative and shall be called by him upon request of two or more members of the board. All members shall be notified in writing at least 24 hours in advance of such meeting. A majority of the members of the district board shall constitute a quorum. No vacancy in the



membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. No action, other than an action to recess or adjourn, shall be taken except upon a majority vote of the entire authorized membership of said district board. Each member, including the chairman, shall be entitled to vote on any question.

(c) District Board Officers. The district board shall elect annually in January from among its members a chairman, vice-chairman, secretary and treasurer.

**Sec. 5. Procedure for Inclusion of Additional Units of Local Government; Notice and Hearing; Actions to Set Aside Proceedings.** (a) If, at any time subsequent to the creation of a special airport district, there shall be filed with the district board a resolution of the governing body of a unit of local government requesting inclusion in the district of such unit of local government, and if the district board shall favor the inclusion in the district of such unit of local government, the district board shall notify the governing body of each of the participating units of local government within which the district lies and shall propose to such governing bodies an appropriate amendment of the concurrent resolutions creating the special airport district.

(b) The procedures set forth in Section 2 of this act regarding the creation of a special airport district shall apply to the inclusion in such special airport district of additional units of local government.

(c) If all of the participating units of local government agree to the amendment of the concurrent resolutions creating the special airport district to include such unit of local government in the special airport district, the presiding officer of the governing body of each of such participating units of local government, including the unit proposed to be included, shall cause to be published in the manner provided in Section 2 of this act, a notice of the inclusion of such unit of local government.

(d) Any action or proceeding in any court to set aside such amendatory resolutions providing for the inclusion of a unit of local government within a special airport district or to obtain any other relief upon the ground that such amendatory resolutions or any proceeding or action taken with respect to the inclusion of the unit of local government within the district is invalid, must be commenced within 30 days after publication of the notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the amendatory resolutions or the inclusion of the unit of local government in the district shall be asserted, nor shall the validity of the amendatory resolutions or the inclusion of the unit of local government in the district be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period. Provided that no such action or proceeding to set aside such amendatory resolutions shall impair or otherwise affect the conclusivity of the concurrent resolutions as provided in Section 3 of this act.

(e) Immediately following the inclusion of any additional unit of local government within an existing district, members representing such additional unit of local government shall be appointed to the district board in the manner provided in Section 4 hereof.

(f) The annexation by a participating unit of local government of an area lying outside the district shall not be construed as the inclusion within the district of an additional unit of local government within the meaning of the

provisions of this section; but any such area so annexed shall become a part of the district and shall be subject to all debts and supplemental tax obligations thereof.

**Sec. 6. Powers, Generally.** Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to aid counties, cities, towns, incorporated villages and airport authorities in constructing and financing aeronautical facilities and enhancing the security of airport revenue bonds issued by counties, cities, towns, incorporated villages and airport authorities, and each district is hereby authorized and empowered:

(1) to adopt bylaws for the regulation of its affairs and the conduct of its business not in conflict with this or other laws;

(2) to adopt an official seal and alter the same at pleasure;

(3) to maintain an office at such place or places in the district as it may designate;

(4) to sue and be sued in its own name, plead and be impleaded;

(5) to acquire in the name of the district by gift, purchase or exercise of the power of eminent domain any improved or unimproved lands or rights-in-land and make a conveyance thereof to a county, city, town, incorporated village or airport authority for use as or in connection with aeronautical facilities;

(6) to enter into contracts with any person, firm or corporation, public or private, or any airport authority or other public authority or governmental entity, upon such terms as the district board may determine with respect to aeronautical facilities owned or operated by counties, cities, towns, incorporated villages or airport authorities;

(7) to lend to any airport authority heretofore or hereafter created by statute such sum or sums of money and at such rate of interest and upon such other terms as the district and the airport authority shall contract and agree upon, for the purpose of establishing, enlarging, improving, or maintaining any airport under the control of such airport authority;

(8) to issue bonds or other obligations of the district as hereinafter provided and apply the proceeds thereof to the financing of aeronautical facilities owned or operated by counties, cities, towns, incorporated villages or airport authorities or to the retirement of bonds theretofore issued by such units for such purposes or by the district and to refund, whether or not in advance of maturity or the earliest redemption date, any such bonds or other obligations;

(9) to levy for the life of airport revenue bonds issued by counties, cities, towns, incorporated villages or airport authorities an annual property tax for operating supplements or debt service reserved supplements as hereinafter provided;

(10) to cause taxes to be levied and collected upon all taxable property within the district sufficient to meet the obligations of the district; and

(11) to do all acts and things necessary or convenient to carry out the powers granted by this Article.

**Sec. 7. Bonds and Notes Authorized.** In addition to the powers hereinbefore granted, a district shall have power to issue bonds and notes pursuant to the provisions of the Local Government Bond Act and the Local Government Revenue Bond Act for the purpose of financing aeronautical facilities and to refund such bonds and notes, whether or not in advance of their

maturity or earliest redemption date, and such bond or note issues may include bonds or notes, the proceeds of which are to be applied to the retirement of outstanding bonds or notes of counties, cities, towns, incorporated villages or airport authorities theretofore issued for the purpose of financing aeronautical facilities.

**Sec. 8. Taxes for Supplementing Airport Revenue Bond Projects.** A district shall have power from time to time to levy taxes or cause the levy thereof for operating supplements and debt service reserve supplements with respect to aeronautical facilities under and subject to the Local Government Revenue Bond Act.

**Sec. 9. Determination of Tax Rate by District Board; Levy and Collection of Tax; Remittance and Deposit of Funds.** After each assessment for taxes following the creation of the district, the board or boards of commissioners of the county or counties within which the district is located shall file with the district board the valuation of assessable property within the district. The district board shall then determine the amount of funds to be raised by taxation for the ensuing year in excess of available funds to provide for the payment of interest on and principal of all outstanding general obligation bonds as the same shall become due and payable and to pay all obligations incurred by the district in the performance of its lawful undertakings and functions.

The district board shall determine the number of cents per hundred dollars necessary to raise said amount and certify such rate to the appropriate board or boards of commissioners of the appropriate county or counties. The board or boards of commissioners of such county or counties shall include the number of cents per hundred dollars certified by the district board in its next annual levy against all taxable property within the district, which tax shall be collected as other county taxes are collected, and every month the amount of tax so collected shall be remitted to the district board and deposited by the district board in a separate account in a bank in the State. Such levy may include an amount for reimbursing the particular county for the cost to the county of levying and collecting any such taxes. The officer or officers having charge or custody of the funds of the district shall require security for protection of deposits as provided in the Local Government Budget and Fiscal Control Act.

**Sec. 10. Bond Election.** Elections for the purpose of authorizing the levy of taxes for the issuance of bonds shall be called by the district board and shall be conducted and the results canvassed by the boards of elections having jurisdiction within the participating units. Such results shall be certified to the district board and such board shall certify and declare the result of the election and publish a statement of the result once as provided in the Local Government Bond Act.

**Sec. 11. Advances.** Any participating unit of local government is hereby authorized to make advances, from any moneys that may be available for such purpose, in connection with the creation of the special airport district and to provide for the preliminary expenses of such district. Any such advances may be repaid to such participating units of local government from the proceeds of the bonds issued by such district or from other available funds of the district.

**Sec. 12.** Inconsistent Laws Declared Inapplicable. All general, special or local laws, or parts thereof, inconsistent herewith, are hereby declared to be inapplicable, unless otherwise specified in the provisions of this Article.

**Sec. 13.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## S. B. 659

## CHAPTER 690

## AN ACT TO ALLOW HOUSING AUTHORITIES TO GIVE MORTGAGES WITHOUT GOVERNMENT SUBSIDY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 157-9 of the General Statutes of North Carolina is amended to remove from line 48 of the second paragraph of that section the following parenthetical phrase, "(subject to the limitations hereinafter imposed)".

**Sec. 2.** Section 157-16(1) of the General Statutes of North Carolina is amended to remove from it the following parenthetical phrase, "(subject to the limitations hereinafter imposed)".

**Sec. 3.** Section 157-16(25) of the General Statutes of North Carolina is amended to substitute a period for the semicolon after the word "thereof" and to remove the proviso at the end.

**Sec. 4.** General Statutes Section 157-21 is rewritten to read as follows:

"§ 157-21. *Limitations on remedies of obligee.*—All property of the authority shall be exempt from levy and sale by virtue of an execution, and no execution shall issue against the same. No judgment against the authority shall be a charge or lien against its property, real or personal. The provisions of this section shall not apply to or limit the right of obligees of any mortgage of the authority provided for in G.S. 157-17, after foreclosure sale thereunder, to obtain a judgment or decree for any deficiency due on the indebtedness secured thereby and to issue execution on the credit of the authority. Such deficiency judgment or decree shall be a lien and charge upon the property of the authority, which may be levied on and sold by virtue of an execution or other judicial process for the purpose of satisfying such deficiency judgment or decree."

**Sec. 5.** Chapter 157 of the General Statutes is amended by adding a new section to read:

"§ 157-17.1. *Approval of mortgages by Local Government Commission.*—(a) With the exception of mortgages under G.S. 157-17, no housing authority may execute any mortgage authorized by this Chapter without the approval of the Local Government Commission.

(b) The Local Government Commission shall consider, in any application by a housing authority for approval of a mortgage, the following issues:

- (1) the value of the property, and any other secured indebtedness upon the property;
- (2) the ability of the authority to repay the indebtedness secured by the mortgage;
- (3) any other issues it deems necessary to insure the financial soundness of the housing authority.



(c) The Local Government Commission shall adopt rules and regulations to implement this section.”

**Sec. 6.** 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 severable.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

## H. B. 357

## CHAPTER 691

### AN ACT TO AMEND THE PROVISIONS FOR PUBLIC ASSISTANCE APPEALS TO ALLOW A DUE PROCESS HEARING PRIOR TO TERMINATION OR MODIFICATION OF BENEFITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-44 is hereby rewritten to read as follows:

“§ 108-44. *Appeals.*—(a) A public assistance applicant or recipient shall have a right to appeal the decision of the county board 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 to act within a reasonable time under the rules and regulations of the Social Services Commission or the Department of Human Resources. 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 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 a local 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 of Human Resources. Such notice of appeal must be given within 60 days from the effective date of the action. 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 of Human Resources, 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 of Human Resources. 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 of Human Resources, but shall not affect the right to reapply for benefits.

(h) If there is an appeal from the local appeal hearing decision, the county director shall notify the Department of Human Resources according to its rules and regulations. The Department of Human Resources 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 (j) 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.

(i) 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 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 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 (j) 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.

(j) Any appellant or county board of social services who is dissatisfied with the final decision of the Department of Human Resources 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 under federal and State law and under the rules and regulations of the Social Services Commission. 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 of Human Resources, the county board of social services, the board of county commissioners, and the appellant.

(k) In the event of conflict between federal law or regulations and State law or regulations, the federal law or regulations shall control."

**Sec. 2.** This act shall become effective October 1, 1979, but shall not apply to cases in which notice of appeal was given prior to the effective date.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 476

## CHAPTER 692

### AN ACT TO CLARIFY THE PROHIBITION AGAINST CONTRIBUTING TO DELINQUENCY AND NEGLECT BY PARENTS AND OTHERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-316.1 is rewritten to read as follows:

"§ 14-316.1. *Contributing to delinquency and neglect by parents and others.*—Any person over 16 years of age who knowingly or wilfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7A-507 shall be guilty of a misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Department of Human Resources under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Division of Youth Services who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 699

## CHAPTER 693

### AN ACT TO AMEND CHAPTER 473 OF THE SESSION LAWS OF 1975 RELATING TO THE CHARTER OF THE TOWN OF CHAPEL HILL.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Chapel Hill, as the same appears in Chapter 473, Session Laws of 1975, as amended, is hereby further amended as follows:

(1) Amend Chapter I, Section 1.3 by rewriting said section to read as follows:

"Sec. 1.3. Town Limits. The boundaries of the Town shall be those existing at the time of the adoption of this Charter, with such alterations as have been



made or may be made from time to time in the manner provided by law, and in addition, the following described area is included within the boundaries of the Town: BEGINNING at a point in the University Railway right-of-way at its southernmost point of contact with the area annexed to the Town of Chapel Hill on June 19, 1973, and proceeding thence west approximately 68 feet to the centerline of said railroad right-of-way; proceeding thence northwestward with the centerline of said railroad right-of-way approximately 1,274 feet to a point 1 foot north of the north right-of-way line of Estes Drive; proceeding thence in a generally northeastward direction parallel to said street right-of-way approximately 395 feet to the northwesternmost point of the area annexed to the Town of Chapel Hill on June 20, 1975; proceeding thence south 101 feet to the southern right-of-way line of Estes Drive at the junction of the areas annexed to the Town of Chapel Hill on June 19, 1973, and June 20, 1975; proceeding thence generally southwestward with said street right-of-way approximately 335 feet to the east line of the University Railway right-of-way; proceeding thence southeast with said railroad right-of-way approximately 1,195 feet to the point of BEGINNING.

Real and personal property in the territory annexed pursuant to this act is subject to municipal taxes according to the provisions of G.S. 160A-58.10.”;

(2) Amend Chapter II, Section 2.4 by rewriting said section to read as follows:

“Sec. 2.4. Vacancies in elected offices. If any elected town officer shall fail or refuse to be qualified, or if there is a vacancy in any elected town office after qualification, or if the holder of any such office be unable to discharge the duties of the office, the governing body shall choose some person to fill the vacancy as provided by law.”;

(3) Amend Chapter III, Section 3.1 by rewriting said section to read as follows:

“Sec. 3.1. Composition of governing body. The governing body of the Town of Chapel Hill shall consist of a mayor and an eight-member board of aldermen, which shall also constitute the legislative body of the Town.”;

(4) Amend Chapter III, Section 3.4(b), Quorum Votes, by adding the following thereto:

“The mayor shall be excused from voting only upon the same matters as a member.”;

(5) Amend Chapter III, Section 3.5 by rewriting said section to read as follows:

“Sec. 3.5. General powers of the governing board. (a) The government of the town and the general management of the town shall be vested in the governing body, except that the town manager shall have the powers hereinafter specified.

(b) In addition to other powers conferred upon it by law, the governing body may adopt and provide for the execution of such ordinances, rules, and regulations, not inconsistent with this Charter, as may be necessary or appropriate to protect health, life, or property, or to preserve or promote the comfort, convenience, security, good order, better government, or the general welfare of the town or its inhabitants; may enforce the same by imposing penalties on such as violate them; and may compel the performance of the duties imposed upon others, by suitable penalties.”;

(6) Amend Chapter V, Section 5.10, by rewriting the first sentence thereof to read as follows:

"If the Board of Aldermen desires to exercise the powers granted by this Article, it shall by ordinance create a planning board of 10 members, who shall be appointed as follows: Not fewer than five nor more than seven shall be appointed by the Aldermen, and shall be citizens and residents of the Town; not fewer than three nor more than five shall be appointed by the Orange County Board of Commissioners and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill as defined in this Article.";

(7) Amend Chapter V, Section 5.12 by rewriting the section to read as follows:

"If the Board of Aldermen should adopt a zoning ordinance for the territory beyond the corporate limits of the Town of Chapel Hill as authorized in this Article, it shall create a zoning board of adjustment of 10 members who shall be appointed as follows: Not fewer than five nor more than seven shall be appointed by the Aldermen, and shall be citizens and residents of the Town; not fewer than three nor more than five shall be appointed by the Orange County Board of Commissioners and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill as defined by this Article. The board of adjustment shall exercise all of the powers, duties, and functions enumerated in G.S. 160A-388. There shall be a quorum of five members for the purpose of hearing cases. The concurring vote of four-fifths of the members present for the hearing on any case shall be necessary in order:

(a) to reverse any order, requirement, decision, or determination of the administrative official charged with enforcement of the ordinance, or

(b) to effect any variation in such ordinance.

In all other cases, the concurring vote of majority of the members present shall be required to determine a matter, and insofar as the provisions of G.S. 160A-388 are inconsistent herewith, said section is amended with respect to the Town of Chapel Hill.";

(8) Amend Chapter V, Section 5.5 by rewriting said section to read as follows:

"Sec. 5.5. Special Parking Permit. The Town is authorized to issue special parking permits which permit the holder thereof to park a vehicle displaying such permit at a location on a public street in residential areas where the parking is otherwise prohibited."

(9) Amend Chapter V, Section 5.4, by adding the following new language at the end thereof:

"Where appropriate, the Board may also regulate the use of such fire lanes by non-emergency vehicles."

**Sec. 2.** The Charter of the Town of Chapel Hill as the same appears in Chapter 473 of the Session Laws of 1975, as amended, is hereby further amended by deleting Section 5.11 and Section 5.13 of Article II, Chapter V.

**Sec. 3.** Notwithstanding the provisions of G.S. 157-39.1, the Chapel Hill Housing Authority may operate and perform any of its lawful functions within the Town of Carrboro when requested to do so by resolution of the Board of Aldermen of the Town of Carrboro.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

H. B. 886

**CHAPTER 694**

AN ACT TO AMEND CHAPTERS 104E AND 130 OF THE GENERAL STATUTES TO PROVIDE FOR PUBLIC HEARINGS PRIOR TO THE ISSUANCE OF LICENSES FOR PROCESSING FACILITIES FOR RADIOACTIVE MATERIALS AND FOR HAZARDOUS WASTE DISPOSAL FACILITIES AND TO CLARIFY THE AUTHORITY OF THE RADIATION PROTECTION COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 104E-10, as it appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is hereby amended by adding a new subsection (d) to read as follows:

“(d) Prior to the issuance of a license or an amendment of an existing license the department shall issue public notice. The Radiation Protection Commission or a designee shall conduct a public hearing in any county in which a person proposes to operate a radioactive waste processing or disposal facility, as defined by regulation by the Commission, or to enlarge an existing facility for such processing or disposal. Notice and the public hearing shall be in accordance with G.S. Chapter 150A.”

**Sec. 2.** G.S. 130-166.18, as it appears in the 1978 Interim Supplement to the General Statutes, is amended by adding a new subsection (f) to read as follows:

“(f) Prior to the issuance of any permit or an amendment of an existing permit for a hazardous waste facility, the department shall issue public notice and conduct a public hearing in any county in which a hazardous waste facility is to be located. Notice and public hearing shall be in accordance with G.S. Chapter 150A.”

**Sec. 3.** G.S. 104E-7, as it appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is hereby amended by adding a new subsection (8) to read as follows:

“(8) To adopt, amend, repeal or promulgate such rules, regulations, and standards relating to the nonradioactive, toxic and hazardous aspects of radioactive waste disposal, as may be necessary to protect the public health and safety.”

**Sec. 4.** G.S. 104E-9, as it appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is hereby amended by the addition of a new subsection (7) to read as follows:

“(7) To implement the provisions of this act and the regulations duly promulgated under the act.”

**Sec. 5.** G.S. 104E-23, as it appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is hereby amended by designating the existing paragraph as subsection (a) and by adding a new subsection (b) to read as follows:

“(b) The Secretary may, either before or after the institution of any other action or proceedings authorized by law, institute a civil action in the superior court of the county in which the defendant in said action resides for injunctive

relief to prevent a threatened or continued violation of any provision of this act or any order or regulation issued pursuant to this act.”

**Sec. 6.** This act shall become effective on July 1, 1979, and shall not affect litigation pending at the time this act becomes effective.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 928

## CHAPTER 695

## AN ACT TO REVISE GENERAL STATUTES CHAPTER 86, RELATING TO REGULATION OF BARBERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 86 of the General Statutes is rewritten to read:

“Chapter 86.

“Barbers.

“§ 86-1. *Necessity for certificate of registration and shop or school permit.*—No person or combination of persons shall, either directly or indirectly, practice or attempt to practice barbering in the State of North Carolina without first obtaining a certificate of registration either as a registered apprentice or as a registered barber issued pursuant to provisions of this Chapter by the State Board of Barber Examiners. No person or combination of persons, or corporation, shall operate, manage or attempt to operate or manage a barber school, barber shop, or any other place where barber services are rendered, after July 1, 1945, without first obtaining a shop permit, or school permit, issued by the State Board of Barber Examiners, pursuant to the provisions of this Chapter.

“§ 86-2. *What constitutes practice of barbering.*—Any one or combination of the following practices constitutes the practice of barbering in the purview of this Chapter:

- (1) shaving or trimming the beard, or cutting the hair;
- (2) dyeing the hair or applying hair tonics, permanent waving or marcelling the hair;
- (3) giving facial or scalp massages, or treatments with oils, creams, lotions or other preparations either by hand or mechanical appliances.

“§ 86-3. *Qualifications for certificate as a registered barber.*—A certificate of registration as a registered barber shall be issued by the Board to any person who meets the following qualifications:

- (1) has attended an approved barber school for at least 1528 hours;
- (2) has completed a 12-month apprenticeship under the supervision of a licensed barber, as provided in G.S. 86-24; and
- (3) has passed an examination conducted and approved by the Board to determine the fitness of the applicant to practice barbering, such examination to test the applicant on knowledge of barbering, sanitary rules and regulations, and knowledge of the diseases of the face, skin and scalp, the purpose being to avoid the aggravation and spread of disease in the practice of barbering.

“§ 86-4. *State Board of Barber Examiners, appointment and qualifications, term of office, removal.*—The State Board of Barber Examiners is established to consist of three experienced barbers appointed by the Governor for four-year staggered terms. The Governor may remove any member for good cause shown and appoint members to fill unexpired terms.



*“§ 86-5. Powers and duties of the Board.—*The Board has the following powers and duties:

(1) to see that inspections of barber shops and schools are conducted to determine compliance with sanitary regulations. The Board may appoint inspectors as necessary;

(2) to adopt sanitary regulations concerning barber schools and shops and procedural rules in accordance with the guidelines established in G.S. 86-15;

(3) to review the barber licensing laws of other states and to determine which are ‘substantially similar’ to the laws of North Carolina for reciprocity purposes;

(4) to conduct examinations of applicants for certificate of registration as registered barber, registered apprentice and barber school instructor;

(5) each Board member shall submit periodic reports to the Board concerning his activities in carrying out duties as a Board member.

*“§ 86-6. Office, seal, officers and secretaries, bond.—*The Board shall maintain a suitable office in Raleigh, and shall adopt and use a common seal for the authentication of its orders and records. The Board shall elect its own officers, and in addition, may elect or appoint a full-time executive secretary who shall not be a member of the Board, and whose salary shall be fixed by the Governor with the approval of the Advisory Budget Commission. 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. The executive secretary shall turn over to the State Treasurer to be credited to the State Board of Barber Examiners all funds collected or received by him under this Chapter, the funds to be held and expended under the supervision of the Director of the Budget, exclusively for the enforcement and administration of the provisions of this Chapter. Nothing herein shall be construed to authorize any expenditure in excess of the amount available from time to time in the hands of the State Treasurer derived from fees collected under the provisions of this Chapter and received by the State Treasurer pursuant to the provisions of this section.

*“§ 86-7. Salary and expenses, employees, audits, annual reports to the Governor.—*(a) Each member of the Board of Barber Examiners shall be reimbursed for his actual expenses and shall receive compensation and travel allowance according to G.S. 93B-5 for the distance traveled in performance of his duties. The expenses, compensation and all other salaries and expenses in connection with the administration of this Chapter, shall be paid upon warrant drawn on the State Treasurer, solely from the funds derived from fees collected and received under this Chapter.

(b) The Board shall employ such agents, assistants and attorneys as it deems necessary.

(c) Each member of the Board of Barber Examiners, and each of its agents and assistants who collect any monies or fees in the discharge of their duties, shall execute to the State of North Carolina a bond in the sum of one thousand dollars (\$1,000) conditioned upon the faithful performance of the duties of office, and the true accounting for all funds collected.

(d) A complete audit and examination of the receipts and disbursements of the State Board of Barber Examiners shall be made annually by the State Auditor.

(e) The Board shall report annually to the Governor, a full statement of its receipts and expenditures, and also a full statement of its work during the year, together with such recommendations as it may deem expedient.

“§ 86-8. *Application for examinations, payment of fee.*—Each applicant for an examination shall:

(1) make application to the Board on forms prepared and furnished by the Board, and the application shall contain proof under applicant's oath of the particular qualifications of the applicant. All applications for examination must be filed with the Board at least 30 days prior to the actual taking of such examination by applicants;

(2) pay to the Board the required fee.

“§ 86-9. *Board to conduct examinations not less than four times each year.*—The Board shall conduct examinations of applicants for certificates of registration to practice as registered barbers and registered apprentices, not less than four times each year, at such times and places as will prove most convenient and as the Board may determine.

“§ 86-10. *Issuance of certificates of registration.*—Whenever the provisions of this Chapter have been complied with, the Board shall issue, or have issued, a certificate of registration as a registered barber or as a registered apprentice, as the case may be.

“§ 86-11. *Temporary permits.*—(a) The Board may grant a temporary permit to work to a graduate of a barber school in North Carolina provided application for examination has been filed and fee paid. The permit is valid only until the date of the next succeeding Board examination of applicants for barber license except in cases of undue hardship as the Board may determine, unless it is revoked or suspended earlier by the Board. The permittee may operate only under the supervision of a licensed barber.

(b) The Board may grant a temporary permit to work to one whose license has been expired for more than five years in North Carolina provided application for examination to restore has been filed and fee paid. The permit is valid only until the date of the next succeeding Board examination of applicants for barber licenses except in cases of undue hardship as the Board may determine, unless it is revoked or suspended earlier by the Board.

(c) The Board may grant a temporary permit to persons licensed in another state who come to North Carolina for the purpose of teaching or demonstrating barber skills. The Board shall also inspect and approve the area where the demonstration is to be given if it is not an already approved shop or school. This permit shall be limited to the specific days of demonstration and shall be of no validity before or after.

(d) The Board may grant a temporary permit to work to persons licensed in another state and seeking permanent licensure in North Carolina provided application for examination has been filed and fee paid. The permit is valid until the next succeeding board examination of applicants for reciprocity licenses, except in cases of undue hardship as the Board may determine, unless it is revoked or suspended earlier by the Board.

“§ 86-12. *Reciprocity.*—(a) The Board may issue a barber's license to one who is licensed by another state and has practiced barbering for three years next

preceding his or her application and who has paid the required fee and demonstrated a knowledge of barbering skills, and the sanitary regulations in North Carolina by practical, written or oral examination as determined by the Board, at a time to be set by the Board.

(b) The Board may issue a barber's license to one who has graduated from an approved barber school in another state or who has been licensed in another state and has practiced for less than three years if the Board determines that the requirements of that state are substantially similar to those in North Carolina, the applicant's license is in good standing and the applicant demonstrates a knowledge of barbering skills and of the sanitary regulations of North Carolina, by practical, written or oral examination as determined by the Board, at a time to be set by the Board.

"§ 86-13. *Barber shop and barber school permits.*—Any person, firm or corporation, before establishing or opening a barber shop or barber school not heretofore licensed by the State or the Board shall make application to the Board on forms to be furnished by the Board, for a permit to operate a barber shop or barber school, and the shop or school of the applicant shall be inspected and approved by the State Board of Barber Examiners or an agent designated for that purpose by the Board, before the barber shop or barber school may open for business. It is unlawful to open a new or reopened barber shop or barber school until that shop or school has been inspected and determined by the Board to be in compliance with the requirements of G.S. 86-15 in the case of shops and G.S. 86-15 and G.S. 86-22 in the case of schools. Upon compliance by the applicant with all requirements set forth in G.S. 86-15, and the payment of the prescribed fee the Board shall issue to the applicant the permit applied for.

"§ 86-14. *Persons exempt from the provisions of this Chapter.*—The following persons are exempt from the provisions of this Chapter while engaged in the proper discharge of their duties:

(1) persons authorized under the laws of the State to practice medicine and surgery, and those working under their supervision;

(2) commissioned medical or surgical officers of the U. S. Army or other components of the U. S. armed forces, and those working under their supervision;

(3) registered nurses and licensed practical nurses and those working under their supervision;

(4) licensed embalmers and funeral directors and those working under their supervision;

(5) persons licensed by the State Board of Cosmetic Art Examiners.

"§ 86-15. *Sanitary rules and regulations, inspections.*—(a) Each barber and each owner or manager of a barber shop, barber school or college, or any other place where barber service is rendered, shall comply with the following sanitary rules and regulations:

(1) Proper quarters.

a. Every barber shop, or other place where barber service is rendered, shall be located in buildings or rooms of such construction that they may be easily cleaned, well lighted, well ventilated and kept in an orderly and sanitary condition.

b. Each area where barber service is rendered shall be separated by a substantial partition or wall from areas used for other purposes.

- c. Walls, floor and fixtures where barber service is rendered are to be kept sanitary.
- d. Running water, hot and cold, shall be provided, and lavatories shall be located at a convenient place in each barber shop so that each barber may wash his hands after each haircut. Tanks and lavatories shall be of such construction that they may be easily cleaned. The lavatory must have a drain pipe to drain all waste water out of the building.

(2) Equipment and instruments.

- a. Each person serving as a barber shall, immediately before using razors, tweezers, combs, contact cup or pad, sterilize the instruments by immersing them in a solution of fifty percent (50%) alcohol, five percent (5%) carbolic acid, twenty percent (20%) formaldehyde, or ten percent (10%) lysol or other product or solution that the Board may approve. Every owner or manager of a barber shop shall supply a separate container for the use of each barber, adequate to provide for a sufficient supply of the above solutions.
- b. Each barber shall maintain combs and hair brushes in a clean and sanitary condition at all times and shall thoroughly clean mug and lather brush before each separate use.
- c. The headrest of every barber chair shall be protected with clean paper or clean laundered towel.
- d. Every person serving as a barber shall use a clean towel for each patron. All clean towels shall be placed in closed cabinets until used. Receptacles composed of material that can be washed and cleansed shall be provided to receive used towels, and all used towels must be placed in receptacles until laundered. Towels shall not be placed in a sterilizer or tank or rinsed in the barber shop. All wet and used towels shall be removed from the workstand or lavatory after serving each patron.
- e. Whenever a hair cloth is used in cutting the hair, shampooing, etc., a newly laundered towel or paper neckstrap shall be placed around the patron's neck so as to prevent the hair cloth from touching the skin. Hair cloths shall be replaced when soiled.

(3) Barbers.

- a. Every person serving as a barber shall thoroughly cleanse his hands immediately before serving each patron.
  - b. Each person working as a barber shall be clean both as to person and dress.
  - c. No barber shall serve any person who has an infectious or communicable disease, and no barber shall undertake to treat any patron's infectious or contagious disease. Each barber practicing the profession in North Carolina shall furnish the Board of Barber Examiners a satisfactory health certificate at such time as the Board may deem necessary.
- (4) Any person, other than a registered barber, shall before undertaking to give shampoos in a barber shop furnish the Board with a health certificate on a form provided by the Board.
- (5) The owner or manager of a barber shop or any other place where barber service is rendered shall post a copy of these rules and regulations in a



conspicuous place in the shop or other place where the services are rendered.

(b) All barber shops, barber schools and colleges, and any other place where barber service is rendered, shall be open for inspection at all times during business hours to any members of the Board of Barber Examiners or its agents or assistants. A copy of the sanitary rules and regulations set out in this section shall be furnished by the Board to the owner or manager of each barber shop or barber school, or any other place where barber service is rendered in the State, and that copy shall be posted in a conspicuous place in each barber shop or barber school. The Board shall have the right to make additional rules and regulations governing barbers and barber shops and barber schools for the proper administration and enforcement of this section, but no such additional rules or regulations shall be in effect until those rules and regulations have been furnished to each barber shop within the State.

“§ 86-16. *Certificates to be displayed.*—Every holder of a certificate of registration as a registered barber, registered apprentice, shop permit, school permit or instructor's certificate shall display it in a conspicuous place adjacent to or near his work chair.

“§ 86-17. *Renewal or restoration of certificate.*—(a) Every registered barber who continues in practice shall annually, on or before May 31 of each year, renew his certificate of registration and furnish such health certificate as the Board may require and pay the required fee. Every certificate of registration shall expire on the 31st day of May in each year.

(b) A registered barber whose certificate of registration has expired may have his certificate restored immediately upon paying the required registration fee and furnishing a health certificate if required by the Board; provided, however, a registered barber whose certificate has expired for a period of five years shall be required to take the examination prescribed by the State Board of Barber Examiners and otherwise comply with the provisions of this Chapter before engaging in the practice of barbering.

(c) All persons serving in the United States armed forces and any person whose certificate of registration as a registered barber was in force one year prior to entering service may, without taking the required examination, renew his certificate within 90 days after receiving an honorable discharge, by paying the current annual license fee and furnishing the State Board of Barber Examiners with a satisfactory health certificate if required by the Board.

“§ 86-18. *Disqualifications for certificate.*—The Board may either refuse to issue or to renew, or may suspend or revoke any certificate of registration or barber shop permit or barber school permit for any one or combination of the following causes:

(1) conviction of the certificate holder of a felony, proved by certified copy of the record of the court conviction;

(2) gross malpractice or gross incompetence;

(3) continued practice by a person knowingly having an infectious or contagious disease after being warned in writing by the Board to cease practice;

(4) habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit forming drugs;

(5) the commission of any of the offenses described in subdivisions (3), (5), and (7) of G.S. 86-20;

(6) the violation of any one or more of the sanitary rules and regulations established by statute or rule or regulation of the Board, provided that the Board has previously given two written warnings to the individual committing the violation;

(7) the violation of the rules and regulations pertaining to barber schools, provided that the Board has previously given two written warnings to the school.

“§ 86-19. *Refusal, revocation or suspension of certificates or permits.*—The Board may neither refuse to issue nor refuse to renew, or suspend or revoke any certificate of registration, barber shop permit, or barber school permit, for any of these causes except in accordance with the provisions of Chapter 150A of the General Statutes.

“§ 86-20. *Misdemeanors.*—Each of the following acts constitutes a misdemeanor, punishable upon conviction by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00), imprisonment for 30 days in jail, or both fine and imprisonment:

(1) violation of any of the provisions of G.S. 86-1;

(2) obtaining or attempting to obtain a certificate of registration for money other than required fee, or any other thing of value, or by fraudulent misrepresentations;

(3) practicing or attempting to practice by fraudulent misrepresentations;

(4) willful failure to display a certificate of registration as required by G.S. 86-16;

(5) practicing or attempting to practice barbering during the period of suspension or revocation of any certificate of registration granted under this Chapter. Each day's operation during a period of suspension or revocation shall be deemed a separate offense;

(6) permitting any person in one's employ, supervision or control to practice as a barber unless that person holds a certificate as a registered barber or registered apprentice.

“§ 86-21. *Board to keep record of proceedings, data on registrants.*—The Board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration. This record shall contain the name, place of business and residence of each registered barber and registered apprentice, and the date and number of his certificate of registration. This record shall be open to public inspection at all reasonable times.

“§ 86-22. *Licensing and regulating barber schools and colleges.*—The North Carolina State Board of Barber Examiners may approve barber schools or colleges in the State, and may prescribe rules and regulations for their operation. No barber school or college shall be approved by the Board unless the school or college meets all of the following requirements:

(1) Each school shall provide a course of instruction of at least 1528 hours.

(2) Each school shall have at least two instructors to properly instruct the number of students. Each instructor must hold a valid instructor's certificate issued by the Board.

(3) An application for a student's permit and a doctor's certificate, on forms prescribed by the Board, must be filed with the Board before the student enters school. No student may enroll without having obtained a student's permit.

(4) Each student enrolled shall be given a complete course of instruction on the following subjects: hair cutting; shaving; shampooing, and the application of creams and lotions; care and preparation of tools and implements; scientific massaging and manipulating the muscles of the scalp, face, and neck; sanitation and hygiene; shedding and regrowth of hair; elementary chemistry relating to sterilization and antiseptics; instruction on common skin and scalp diseases to the extent that they may be recognized; pharmacology as it relates to preparations commonly used in barber shops; instruction in the use of electrical appliances and the effects of the use of these on the human skin; structure of the skin and hair; nerve points of the face; the application of hair dyes and bleaches; permanent waving; marcelling or hair pressing; frosting and streaking; and the statutes and regulations relating to the practice of barbering in North Carolina.

(5) Each school shall file an up-to-date list of its students with the Board at least once a month. If a student withdraws or transfers, the school shall file a report with the Board stating the courses and hours completed by the withdrawing or transferring student. The school shall also file with the Board a list of students who have completed the amount of work necessary to meet the licensing requirements.

(6) Each school shall comply with the sanitary requirements of G.S. 86-15.

“§ 86-23. *Instructors.*—(a) The Board shall issue an instructor's certificate to any currently registered barber who has passed an instructor's examination given by the Board. This examination shall cover the subjects listed in G.S. 86-22(3) and any other subjects which the Board deems necessary for the teaching of sanitary barbering.

(b) A person desiring to take an instructor's examination must make application to the Board for examination on forms to be furnished by the Board and pay the instructor's examination fee. Each person who passes the instructor's examination shall be issued a certificate of registration as a registered instructor by paying the issuance fee and the instructor's certificate shall be renewable as of the 31st day of May of each year. Any person whose instructor's certificate has expired for a period of three years or more shall be required to take and pass the instructor's examination before the certificate can be renewed.

“§ 86-24. *Apprenticeship.*—(a) 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 the apprentice works under the supervision of a registered barber. No registered apprentice shall operate a barber shop.

(b) It is the responsibility of a supervising licensed registered barber to properly supervise his apprentices.

(c) On the completion of at least one year's apprenticeship, evidenced by the affidavit of the supervising registered licensed barber or barbers, the apprentice shall be allowed to take the examination prescribed by the Board. On the passage of that examination, he shall be issued a license as a registered barber, pursuant to G.S. 89-10. No registered apprentice may practice for a period of more than three years without passing the required examination to receive a certificate as a registered barber.

“§ 86-25. *Fees collectible by Board.*—The State Board of Barber Examiners shall charge and collect the following fees:

Certificate of registration or renewal as a barber	\$15.00
Certificate of registration or renewal as an apprentice barber	\$15.00
Barber shop permit or renewal	\$18.00
Examination to become a registered barber	\$35.00
Examination to become a registered apprentice barber	\$35.00
Restoration of an expired certificate of a registered apprentice, registered barber or barber shop permit	\$20.00 plus lapsed fees up to 5 years
Examination to become a barber school instructor	\$75.00
Student permit	\$ 8.00
Issuance of any duplicate copy of a license, certificate or permit	\$ 5.00
Barber school permit	\$50.00
Barber school instructor certificate or renewal	\$25.00
Inspection of newly established barber shop	\$50.00
Inspection of newly established barber school	\$100.00

"§ 86-26. *Barbering among members of same family.*—This Chapter shall not prohibit a member of a family from practicing barbering on a member of his or her family."

**Sec. 2.** Schedule. Persons serving on the State Board of Barber Examiners on the date of ratification of this act shall continue to serve until the expiration of their respective current terms. Upon the expiration of each term, and thereafter, successors shall be appointed for terms of four years.

**Sec. 3.** The renewal deadline for licenses, specified in G.S. 86-17, shall become effective January 1, 1980; for renewals in 1979 the deadline shall remain at June 30, 1979. All other provisions of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 994

## CHAPTER 696

### AN ACT TO AMEND G.S. 20-343 RELATING TO ODOMETER ALTERATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-343 is hereby amended by adding a new sentence to read as follows:

"Whenever evidence shall be presented in any court of the fact that an odometer has been reset or altered to change the number of miles indicated thereon, it shall be *prima facie* evidence in any court in the State of North Carolina that the resetting or alteration was made by the person, firm or corporation who held title or by law was required to hold title to the vehicle in which the reset or altered odometer was installed at the time of such resetting



or alteration or if such person has more than 20 employees and has specifically and in writing delegated responsibility for the motor vehicle to an agent, that the resetting or alteration was made by the agent.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1134

## CHAPTER 697

### AN ACT REQUIRING CERTIFICATION OF CERTAIN INDIVIDUALS WHO USE THE TITLE “CERTIFIED MARRIAGE AND FAMILY COUNSELOR/THERAPIST” AND CREATING A BOARD TO BE KNOWN AS THE STATE BOARD OF MARITAL AND FAMILY THERAPY EXAMINERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 90 of the North Carolina General Statutes is amended by adding a new Article to read as follows:

“1. This act shall be known as the ‘Marital and Family Therapy Certification Act’.

2. Policy and purpose. Marital and family therapy in the State of North Carolina is declared to be a professional practice which affects the public safety and welfare and requires appropriate certification and control in the public interest.

It is the purpose of this act to establish a certification agency, a structure, and procedures which will ensure that the public has a means of protecting itself from unprofessional, improper, unauthorized and unqualified use of certain titles by persons who practice marital and family therapy. This act shall be liberally construed to carry out these policies and purposes.

3. Definitions. As used in this act, unless the context clearly requires a different meaning:

(a) ‘Certified marital and family therapist’ means a person to whom a certificate has been issued pursuant to the provisions of this act, which certificate is in force and not suspended or revoked as of the particular time in question.

(b) ‘Practice of marital and family therapy’ means the rendering of professional marital and family therapy or counseling services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise. ‘Marital and family therapy’ is a specialized field of therapy which centers largely upon the family system and the relationship between husband and wife. ‘Marital and family therapy’ consists of the application of principles, methods, educational and therapeutic techniques for the purpose of resolving emotional conflict, altering old attitudes and establishing new ones in the area of marriage and family life.

(c) ‘Allied mental health field’ and ‘degree’ mean:

- (1) master’s or doctoral degree in clinical social work;
- (2) master’s or doctoral degree in psychiatric nursing;
- (3) doctoral degree in clinical or counseling psychology;
- (4) doctor of medicine or doctor of osteopathy degree with an appropriate residency training in psychiatry; or

(5) master's or doctoral degree in any mental health field wherein the course of study is equivalent to the master's degree in marital and family therapy.

(d) 'Board' means the North Carolina Marital and Family Therapy Certification Board.

(e) 'Recognized educational institution' means any educational institution which grants a bachelor's, master's, or doctor's degree and which is recognized by the Board or by a nationally or regionally recognized educational or professional accrediting body.

4. Prohibited acts. Except as specifically provided elsewhere in this act, commencing January 1, 1980, no person who is not certified under this act shall use a title or description such as 'certified marital or marriage therapist, counselor, advisor or consultant,' 'certified marital or marriage and family therapist, counselor, advisor or consultant,' or any other name, style or description denoting that the person is a certified marital and family therapist. Nothing herein shall prohibit any person from advertising the performance of marital and family therapy or counseling services, the persons from whom it may be obtained and prices.

5. North Carolina Marital and Family Therapy Certification Board.

(a) Establishment. There is hereby established as an agency of the State of North Carolina the North Carolina Marital and Family Therapy Certification Board, which shall be composed of seven Board members, one of which shall be designated as chairperson, to be appointed in the manner provided for in Section 6 of this act. Of the first Board members appointed, three shall continue in office for two years, two for three years, and two, including the chairperson for four years, respectively. Their successors shall be appointed for terms of four years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Board member whom he shall succeed. Upon the expiration of his term of office, a Board member shall continue to serve until his successor shall have been appointed and shall have qualified. No person may be appointed more than once to fill an unexpired term or more than two consecutive full terms. The Governor shall designate one Board member to serve as chairperson during the term of his appointment to the Board. No person may serve as chairperson for more than four years.

The Governor may remove any member of the Board or the chairperson from his position as chairperson for neglect of duty or malfeasance or conviction of a felony or crime of moral turpitude while in office but for no other reason.

No Board member shall participate in any matter before the Board in which he has a pecuniary interest, personal bias, or other similar conflict of interest.

(b) Quorum and principal office. Four of the members of the Board shall constitute a quorum of the Board. The principal office of the Board shall be at such location in the State of North Carolina as the Board shall from time to time specify.

(c) Board employees. The Board is authorized to employ, subject to the provisions of Chapter 126 of the General Statutes, such attorneys, experts, and other employees as it may from time to time find necessary for the proper performance of its duties and for whom the necessary funds are appropriated.

6. Appointment and qualification of Board members.

## (a) Nominations for appointment.

(1) The Governor shall appoint members of the Board only from among the candidates who meet the following qualifications:

a. Four members shall be practicing marital and family therapists who meet the educational and experience requirements stated in this act for persons applying after January 1, 1981; and each shall have been at least five years immediately preceding appointment actively engaged as a marital and family therapist in rendering professional services in marital and family therapy, or in the education and training of doctoral or postdoctoral students of marital and family therapy, and shall have spent the majority of the time devoted by him to such activity during the two years preceding his appointment, in this State. The initial appointees, appointed pursuant to this section, shall be deemed to be and shall become certified practicing marital and family therapists immediately upon their appointment and qualification as members of the Board.

b. Three members shall be representatives of the general public who have no direct affiliation with the practice of marital and family therapy.

(2) The appointment of any member of the Board shall automatically terminate 30 days after the date such member is no longer a resident of the State of North Carolina.

(3) If before the expiration of his term any member shall die, resign, become disqualified, or otherwise cease to be a Board member, the vacancy shall be filled by the Governor by appointment for the unexpired term.

7. Board meetings. (a) The Board shall administer and enforce the provisions of this act.

(b) Subject to the provisions of Chapter 150A, the Board shall have the power and authority to adopt, amend, or repeal reasonable rules and regulations for the purpose of carrying out the provisions of this Chapter, but not inconsistent herewith, which rules and regulations shall become effective when filed as provided by law.

(c) The Board shall examine and pass on the qualifications of all applicants for certificates under this act, and shall issue a certificate to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all certificates issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this act from the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year.

8. Certification application. Each person desiring to obtain a certificate under this act shall make application thereof to the Board upon such form and in such manner as the Board shall prescribe and shall furnish evidence satisfactory to the Board that he:

(a) is of good moral character;

(b) has not engaged or is not engaged in any practice or conduct which would be a ground for denial, revocation or suspension of a certificate under Section 16 of this act;

(c) is qualified for certification pursuant to the requirements of this act.

9. Application before January 1, 1981. Any person who applies on or before January 1, 1981, shall be issued a certificate by the Board if he meets the qualifications set forth in subsections (a), (b), and (c) of Section 8 and provides satisfactory evidence to the Board that he either:

(a) meets educational and experience qualifications as follows:

(1) Educational requirements: Possesses a minimum of a master's degree or the equivalent from a recognized educational institution in the field of marriage or family therapy or a degree in an allied mental health field or shall be a clergyman or a physician whose official transcripts establish that he has completed an appropriate course of study in an allied mental health field.

(2) Experience requirements: at least 3,000 hours of clinical experience in the practice of marital and family therapy, not more than 500 hours of which experience was obtained while the candidate was a student in a master's degree program and at least 2,500 of which experience was obtained subsequent to the granting of such degree in the field of marital and family therapy or an allied mental health field; or

(b) was certified prior to January 1, 1981, in this State in an allied mental health profession and satisfies the educational requirements for certification as a certified marital and family therapist set forth in (a)(1), of this section.

10. Application after January 1, 1981. Any person who applies to the Board after January 1, 1981, shall be issued a certificate by the Board if he meets the qualifications set forth in subsections (a), (b), and (c) of Section 8 and provides satisfactory evidence to the Board that he:

(a) meets educational and experience qualifications as follows:

(1) educational requirements: possesses a minimum of a master's degree or the equivalent from a recognized educational institution in the field of marital and family therapy or counseling, or a degree in an allied mental health field, which degree is evidenced by the applicant's official transcripts which establish that he has completed an appropriate course of study in an allied mental health field.

(2) experience requirements: at least 1,500 hours of clinical experience in the practice of marital and family therapy, not more than 500 hours of which experience was obtained while the candidate was a student in a Master's Degree program and at least 1,000 of which experience was obtained subsequent to the granting of such degree in the field of marital and family therapy or an allied mental health field; (with ongoing supervision consistent with standards approved by the Board); and

(b) passes a written and/or oral examination administered by the Board.

11. Examination. (a) The Board shall conduct an examination at least once a year at a time and place designated by the Board.

(b) Examinations may be written or oral as determined by the Board.

(c) Examinations shall include questions in such theoretical and applied fields to test an applicant's knowledge and competence to engage in the practice of marital and family therapy.

(d) An applicant shall be held to have passed an examination upon affirmative vote of a majority of the members of the Board present and voting.

(e) Any person who fails an examination conducted by the Board shall not be admitted to a subsequent examination for a period of at least six months.



12. Reciprocal certificates. The Board shall issue a certificate by reciprocity to any person licensed or certified as a marital and family therapist in another state whose requirements for the license or certificate are equivalent to or exceed the requirements of this State, provided the applicant submits an application on forms prescribed by the Board and pays the original certification fee prescribed by this act.

13. Fees. The Board shall charge for each examination and certificate provided for in this Chapter a fee not exceeding fifty dollars (\$50.00). This fee shall be payable to the Board by the applicant at the time of filing application. In no case shall the examination fee be refunded, unless in the discretion of the Board the applicant shall be deemed ineligible for examination.

14. Renewal of certificate. The Board shall require the renewal of all certificates of qualification annually on the first day of July, and shall charge and collect a fee not to exceed twenty-five dollars (\$25.00) for such renewal.

15. Disposition of funds. All fees and other monies collected and received by the Board shall be used for the purpose of implementing this Article.

16. Denial, revocation or suspension of certification.

(a) Grounds for denial, revocation, or suspension.

The Board is authorized to deny, revoke or suspend a certificate granted pursuant to this act on the following grounds:

- (1) conviction of a felony under the laws of the United States or of any state of the United States;
- (2) conviction of any crime, an essential element of which is dishonesty, deceit, or fraud;
- (3) fraud or deceit in obtaining a certificate as a certified marital and family therapist;
- (4) dishonesty, fraud or gross negligence in the practice of marital and family therapy;
- (5) violation of any rule of professional ethics and professional conduct adopted by the Board.

Any disciplinary action taken shall be in accordance with the provisions of Chapter 150A of the General Statutes.

17. Penalties. Any person not certified as a marital and family therapist under this act, who on or after January 1, 1980, holds himself out to be or advertises that he is a certified marital and family therapist in violation of this act shall, upon conviction, be guilty of a misdemeanor and be punished by a fine not exceeding two hundred dollars (\$200.00) for the first offense and five hundred dollars (\$500.00) for each subsequent offense.

18. Injunction. As an additional remedy, the Board may proceed in a superior court to enjoin and restrain any uncertified person from violating the prohibitions of this act. The Board shall not be required to post bond to such proceeding."

**Sec. 2.** Chapter 8 of the North Carolina General Statutes is amended by adding a new paragraph as follows:

"§ 8-53.5. *Communications between marital and family therapist and client(s).*—No person, duly authorized as a certified marital and family therapist, nor any of his employees or associates, shall be required to disclose any information which he may have acquired in rendering professional marital and family therapy services, and which information was necessary to enable him to render professional marital and family therapy services: Provided, that

the presiding judge of a superior court may compel such disclosure, if in his opinion the same is necessary to a proper administration of justice.”

**Sec. 3.** The Board shall be subject to the provisions of Chapter 93B of the General Statutes. No State appropriations shall be subject to the administration of this Board.

**Sec. 4.** This act shall become effective October 1, 1979, and shall expire October 1, 1985.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1144

## CHAPTER 698

AN ACT TO CLARIFY THE MANNER OF MAKING A GIFT OF LIFE INSURANCE TO A MINOR PURSUANT TO G.S. 33-69(a)(4).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 33-69(a)(4) is amended in line 3 thereof by deleting the word “or” at the end of said line and inserting in lieu thereof a comma, and by inserting in line 4 thereof between the words “minor,” and “followed” the following: “or a trust company,”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1155

## CHAPTER 699

AN ACT TO ALLOW THE COMMERCIAL DISTILLATION OF SPIRITUOUS LIQUORS IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-5(b) is amended by deleting the period after the word “control” and substituting in lieu thereof the following phrase:

“, except as expressly authorized in this Chapter.”

**Sec. 2.** G.S. 18A-9 is repealed.

**Sec. 3.** G.S. 18A-29(a) is amended by adding a new subsection thereto to read:

“(d) Notwithstanding any other provision in this Chapter, any distillery operating under the laws of this State may, without a transportation permit, transport into or out of that distillery the maximum amount of intoxicating liquor allowed under federal law, as long as the transportation is related to the distilling process.”

**Sec. 4.** A new Article is added to Chapter 18A of the General Statutes to read:

“Article 8.

“Distilleries.

“§ 18A-59. *Distillation of spirituous liquors.*—Notwithstanding any other provision of law, it shall be lawful for any person, firm, or corporation to engage in the business of distilling spirituous liquors in this State, pursuant to the provisions of this Article. Distilling includes blending, mixing, and purchasing for processing spirituous liquors of other manufacturers and distillers.

“§ 18A-60. *Permit and license required.*—Spirituous liquors may be manufactured, bottled or sold in this State only after the person desiring to

engage in that activity has acquired an appropriate permit from the State Board of Alcoholic Control as provided in this Article, and has secured the license or licenses required by Article 2C, Subchapter I, Chapter 105 of the General Statutes.

All permits shall be for a period of 10 years unless sooner revoked or suspended and shall expire on April 30 of each tenth year.

The State Board of Alcoholic Control shall arrange to computerize the files for permits as soon as feasible and once computerized shall retain a permanent number for each permit.

No permit issued under this section shall be transferable. When the ownership of any business to which a permit has been issued changes by merger, consolidation or otherwise, the permit shall automatically be terminated and returned immediately to the State Board of Alcoholic Control.

A change in ownership does not occur simply from the exchange or sale of stock unless a stockholder acquires more than twenty-five percent (25%) of the stock and that acquiring stockholder has not previously held twenty-five percent (25%) of the stock of the corporation.

“§ 18A-61. *Power of State Board of Alcoholic Control to issue permits.*—The State Board of Alcoholic Control shall be referred to herein as ‘the Board’. The Board shall have the sole power, in its discretion, to determine the fitness and qualifications of an applicant for a permit to sell, manufacture, and bottle spirituous liquors. With the assistance of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, the Board shall inquire into the character of the applicant and the location, general appearance, and type of place or business of the applicant. The Board, in addition to all powers now conferred upon it by law, is vested with additional powers to regulate the distillation and distribution of spirituous liquors as follows: A distillation permit authorizes the permittee to

- (1) manufacture, purchase, import, possess, and transport ingredients and equipment used in the distillation of spirituous liquors;
- (2) distill, sell, deliver, or ship spirituous liquors in accordance with the regulations of the Board in bottles or other permitted closed containers to persons authorized under the provisions of this Chapter;
- (3) sell spirituous liquors at wholesale to county, township, and municipal boards of alcoholic control within this State, and, subject to the laws of other jurisdictions, sell spirituous liquors at wholesale or retail to private or governmental agencies or establishments of other states and nations. The State Board of Alcoholic Control may issue any regulations it deems necessary concerning wholesale sales within this State, including prohibitions against exclusive outlet sales and other practices not in the public interest.

“§ 18A-62. *Application for permit; contents and fees.*—(a) All resident distillers shall file a written application for a permit with the State Board of Alcoholic Control, and in the application shall state under oath therein:

- (1) the name and residence of the applicant and the length of his residence within the State of North Carolina;
- (2) the particular place for which the license is desired, designating the same by street and number if practicable; if not, by other description which definitely locates it;

- (3) the name of the owner of the premises upon which the business licensed is to be carried on, and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;
- (4) that the place or building in which it is proposed to do business conforms to all laws of health and fire regulations applicable thereto, and is a safe and proper place or building;
- (5) that the applicant intends to carry on the business authorized by the permit for himself or under his immediate supervision and direction;
- (6) that the applicant has been a bona fide resident of this State for a period of at least one year immediately preceding the date of filing his application and that he is not less than 21 years of age;
- (7) the place of birth of applicant and, if a naturalized citizen, when and where naturalized;
- (8) that the applicant has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony or other crime involving moral turpitude within the past three years; that the applicant's citizenship has been restored by the court if he has been so deprived of it; that he has not, within the two years next preceding the filing of the application, been adjudged guilty of violating the prohibition or liquor laws, either State or federal. It shall be within the discretion of the Board, after making investigation, to determine whether any person who has ever been convicted of, or entered a plea of guilty or nolo contendere to, a felony shall be deemed a suitable person to receive and hold a distilling permit;
- (9) that the applicant has not during the three years next preceding the date of the application had any permit issuable hereunder, or any license issued to him pursuant to the laws of this State or any other state to make or sell intoxicating liquors of any kind, revoked;
- (10) if the applicant is a firm, association, or partnership, the application shall state the matters required in subdivisions (6), (7), (8), and (9), with respect to each of the members thereof, and each of those members must meet all the requirements in those subdivisions;
- (11) if the applicant is a corporation, organized or authorized to do business in this State, the application shall state the matters required in subdivisions (7), (8) and (9), with respect to each of the officers and directors thereof, and any stockholder owning more than twenty-five percent (25%) of the stock of that corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation. Each of those persons must meet all the requirements in those subdivisions; provided that the requirements as to residence shall not apply to the officers, directors, and stockholders of the corporation; however, the Board may apply that requirement to any officer, director or stockholder, agent, or employee who is also the manager and in charge of the premises for which the permit is applied.

(b) The application must be verified by the affidavit of the applicant before a notary public or other person duly authorized by law to administer oaths. The foregoing provisions and requirements are prerequisites for the issuance of a permit; if any applicant fails to qualify under the same, or if any false statement is knowingly made in any application, the permit shall be refused. If a permit is granted on any application containing a false statement knowingly made, it shall be revoked and the applicant upon conviction shall be guilty of a



misdeemeanor. In addition to the information furnished in any application, the Director of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety shall make any additional and independent investigation of each applicant and of the place to be occupied, as deemed necessary or advisable.

(c) Every person applying to the State Board of Alcoholic Control for a permit to distill spirituous liquors under the provisions of this section shall pay an application fee at the time of application in the amount of one hundred dollars (\$100.00), to be paid by check or money order made payable to the State Board of Alcoholic Control. These fees shall be deposited by the Board with the State Treasurer.

(d) The application of any person who fails to comply with the provisions of this section shall be refused, and if the permit has been granted, it shall be cancelled.

“§ 18A-63. *Revocation or suspension of permit.*—(a) If any permittee violates any of the provisions of this Chapter, or Chapter 105, or any rule or regulation promulgated under authority of either Chapter, or fails to superintend in person or through a manager the business for which the permit was issued, or allows the premises with respect to which the permit was issued to be used for any unlawful, disorderly, or immoral purpose, or knowingly employs in the sale or distribution of spirituous liquors any person who has been convicted of, or entered a plea of guilty or nolo contendere to a felony involving moral turpitude (federal or State) within the past three years, or adjudged guilty of violating the liquor or drug laws (federal or State) within two years, or leaves the licensed premises in charge of any person who has had a license or permit to make or sell intoxicating liquors of any kind revoked within the past two years, or otherwise fails to carry out in good faith the purposes of this Chapter, his permit may be revoked or suspended by the State Board of Alcoholic Control.

(b) The Board may refuse to issue a new permit or may suspend or revoke any permit issued by it if, in the discretion of the Board, the applicant or permittee is not a suitable person to hold the permit or the place occupied by the applicant or permittee is not a suitable place. In making its determination, the Board may consider the number already holding permits within the neighborhood, the recommendations of the governing body of the city or county in which the premises is located, reputation and criminal record of the applicant, and any other factors directly related to the suitability of the person and the premises.

(c) Whenever any license or permit which has been issued by the Secretary of Revenue or by the State Board of Alcoholic Control has been revoked, the State Board may refuse to issue a permit for the premises to any person for any period not to exceed six months after the revocation of that permit or license.

(d) The State A.B.C. Board may suspend or revoke any permit issued by it if the Board finds that the permittee has violated any provision of this Chapter or Chapter 105, or any rule or regulation of the State A.B.C. Board or the State Department of Revenue.

(e) Hearings before revocations or suspensions shall be conducted in accord with G.S. 18A-44.”

**Sec. 5.** G.S. 105-113.72 is amended by:

(1) changing the catchline of that section to read:

“Manufacturers and bottlers of fortified wines and spirituous liquors.”

(2) designating the present language as subsection (a); and

(3) adding a new subsection thereto to read:

“(b) Any person, firm, or corporation authorized to do business in North Carolina may, subject to the laws of this State and the rules and regulations of the State Board of Alcoholic Control, engage in the business of manufacturing, producing, and bottling of spirituous liquors, and is authorized and permitted to manufacture, purchase, import, and transport the ingredients and equipment used in the distillation process; provided that G.S. 18A-29 shall be applicable to the transportation of alcohol used in the process.

The same annual license tax imposed upon manufacturers of unfortified wines in G.S. 105-113.70 shall be paid by the manufacturer of spirituous liquors.”

**Sec. 6.** Nothing in this act shall prohibit the levy of additional license, permit, or other taxes on distilleries operating under this act.

**Sec. 7.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1171

## CHAPTER 700

AN ACT TO MAKE CERTAIN TECHNICAL AMENDMENTS TO THE GENERAL STATUTES TO FACILITATE THE CREATION AND MAINTENANCE OF PARCEL IDENTIFIER INDEXES BY REGISTERS OF DEEDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 45-40, as found in the 1977 Cumulative Supplement to Volume 2A, is amended on line 15 by deleting the period after “indexing” and adding the following:

“or to counties in which a parcel identifier index is established pursuant to G.S. 161-22.2.”

**Sec. 2.** G.S. 161-22.2(c) is amended on line 1 by inserting after the comma following “books” the following:

“on index cards,”.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1175

## CHAPTER 701

AN ACT TO AUTHORIZE THE SHORT-TERM RENTAL OF NATIONAL GUARD ARMORIES AND THE USE OF RENTAL MONIES TO SUPPLEMENT APPROPRIATIONS MADE TO THE RENTING UNITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 127A-138, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, 1974 Replacement, is hereby amended by designating the first paragraph as subsection (a) and adding a new subsection (b) to read as follows:

“(b) Any funds donated to any unit or units of the militia by local governments, civic organizations or private sources, short-term rental of their armory buildings, or funds earned through vending machine commissions and

items of similar nature shall remain at the unit or units to be expended in accordance with rules and regulations prescribed by the Secretary.”

**Sec. 2.** G.S. 127A-139, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, 1974 Replacement, is hereby amended by repealing subsection (d) and redesignating subsection (e) as subsection (d).

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1189

## CHAPTER 702

AN ACT TO AMEND CHAPTER 108 OF THE GENERAL STATUTES BY REPEALING THE PROGRAM OF AID TO THE AGED AND DISABLED, CURRENTLY ADMINISTERED BY THE UNITED STATES SOCIAL SECURITY ADMINISTRATION UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM, AND BY DEFINING ELIGIBILITY FOR THE STATE-COUNTY SPECIAL ASSISTANCE FOR ADULTS PROGRAMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-23(a)(1), as the same appears in the 1978 Interim Supplement to the General Statutes of North Carolina, is hereby repealed, and the remaining subdivisions of subsection (a) of G.S. 108-23 are renumbered accordingly.

**Sec. 2.** Part 1 of Article 2 of Chapter 108 of the General Statutes is hereby repealed, and the remaining Parts of Article 2 of Chapter 108 are renumbered accordingly.

**Sec. 3.** The title to Part 3 of Article 2 of Chapter 108 of the General Statutes is hereby amended to read as follows:

“Part 3. The Administration of Aid to Families  
with Dependent Children.”

**Sec. 4.** G.S. 108-40 is hereby amended by deleting the words “aid to the aged and disabled or” therefrom.

**Sec. 5.** G.S. 108-42(a) is hereby amended by deleting the words “aid to the aged and disabled and” therefrom and is further amended by deleting the comma following the word “case” on line 5 thereof as well as the words “except that the disability factor of applications for aid to the disabled shall be finally determined by the Department of Human Resources as provided in G.S. 108-26”.

**Sec. 6.** The title to Part 4 of Article 2 of Chapter 108 of the General Statutes is hereby amended to read as follows:

“Part 4. Financing of Programs of Public Assistance.”

**Sec. 7.** G.S. 108-60, as the same appears in the 1978 Interim Supplement to the General Statutes of North Carolina, is hereby amended by adding a new paragraph at the end thereof to read as follows:

“Provided, no payments from the fund 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 of Human Resources or of any county department of social services or by a spouse of any such person.”

**Sec. 8.** G.S. 108-62, as the same appears in the 1978 Interim Supplement to the General Statutes of North Carolina, is hereby amended by designating the current section as subsection (a) and by adding the following subsection at the end thereof:

“(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;
- (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.”

**Sec. 9.** A new section is hereby added to Part 6 of Article 2 of Chapter 108 of the General Statutes, immediately following G.S. 108-62, to read as follows:

“§ 108-62.1. *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. 106-24(5) by a physician or by a medical review board in his county of residence; such physician or board must submit any findings of disability to the county department of social services for transmittal to the Department of Human Resources.

(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 of Human Resources. The final decision on the disability factor shall be made by such medical consultants under rules and regulations adopted by the Social Services Commission.”

**Sec. 10.** The following new sections are hereby added at the end of Article 2, Part 6 of Chapter 108 of the General Statutes to read as follows:

“§ 108-65.1. *Direct payments for custodial care.*—(a) The Department of Human Resources is authorized and empowered to make payments to family care homes, homes for the aged and other domiciliary facilities for persons eligible to receive assistance under this Part when such facilities are found to be essential for such persons by a county department of social services under the pertinent rules and regulations of the Social Services Commission.

(b) The Department of Human Resources is authorized and empowered to utilize funds available to the Department to increase the rates for licensed family care homes, homes for the aged or other domiciliary facilities or payments made for this purpose to persons assigned by the Department to these homes, to offset the increased costs due to any additional increases in minimum wages required by federal or State laws after April 15, 1973.

“§ 108-65.2. *Limitations on payments.*—No payment of public assistance under this Part shall be made for the care of any person in a home for the aged, family care home, or other 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 of Human Resources or of any county department of social services;
- (3) a spouse of a person designated in subdivisions (1) and (2).”



**Sec. 11.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1222

**CHAPTER 703**

AN ACT TO REQUIRE THAT DOCUMENTS REGISTERED IN THE OFFICE OF THE REGISTER OF DEEDS SHALL BEAR A DESIGNATION OF THE DRAFTSMAN.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47-17.1 is rewritten to read:

"The register of deeds of any county in North Carolina shall not accept for registration, nor shall any judge order registration pursuant to G.S. 47-14, of any deeds or deeds of trust, executed after January 1, 1980, unless the first page of the deeds or deeds of trust bears an entry showing the name of the draftsman of the instrument, except that papers or documents prepared in other states may be registered or ordered to be registered without having the name of the draftsman designated thereon."

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1309

**CHAPTER 704**

AN ACT TO PROVIDE FOR INTEREST UPON CERTAIN TAXES LEVIED IN SCHEDULE B OF THE REVENUE ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 105 of the General Statutes is amended by adding a new section to read as follows:

"§ 105-109.1. *Interest.*—With respect to the taxes on gross receipts levied in G.S. 105-37.1(a), G.S. 105-38(7), G.S. 105-39(c) and G.S. 105-65.1(b)(2), and the tax on installment paper dealers levied in G.S. 105-83(b), all such taxes, including assessments of taxes or additional taxes, shall bear interest from the time such taxes were due to have been paid until paid, at rates established pursuant to G.S. 105-241.1(i).

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## S. B. 595

**CHAPTER 705**

AN ACT TO REQUIRE LOAN BROKERS TO DISCLOSE PERTINENT INFORMATION, FILE A BOND, AND OTHERWISE TO PROTECT THEIR CUSTOMERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 66 of the General Statutes is amended by adding a new Article 20, to be entitled "Loan Brokers", to read as follows:

"§ 66-101. *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.

"§ 66-102. *Required disclosure statement.*—At least seven days prior to the time any person signs a contract for the services of a loan broker, or the time of the receipt of any consideration by the loan broker, whichever occurs first, the broker must provide to the party with whom he contracts a written document, the cover sheet of which is entitled in at least 10-point bold face capital letters 'DISCLOSURES REQUIRED BY NORTH CAROLINA LAW.' Under this title shall appear the statement in at least 10-point type that 'The State of North Carolina has not reviewed and does not approve, recommend, endorse or sponsor any loan brokerage contract. The information contained in this disclosure has not been verified by the State. If you have any questions see an attorney before you sign a contract or agreement.' Nothing except the title and required statement shall appear on the cover sheet. The disclosure document shall contain the following information:

(1) the name of the broker; whether the broker is doing business as an individual, partnership, or corporation; the names under which the broker has done, is doing or intends to do business; and the name of any parent or affiliated companies;

(2) the names, addresses and titles of the broker's officers, directors, trustees, general partners, general managers, principal executives, and any other persons charged with responsibility for the broker's business activities; and all the broker's employees located in North Carolina;

(3) the length of time the broker has conducted business as a loan broker;

(4) the total number of loan brokerage contracts the broker has entered within the past 12 months;

(5) the number of loan brokerage contracts in which the broker has successfully obtained a loan for the prospective borrower within the past 12 months;

(6) a copy of a current (not older than 13 months) financial statement of the broker, updated to reflect any material changes in the broker's financial condition;

(7) a full and detailed description of the actual services that the broker undertakes to perform for the prospective borrower;

(8) a specific statement of the circumstances in which the broker will be entitled to obtain or retain consideration from the party with whom he contracts;

(9) one of the following statements, whichever is appropriate:

a. 'As required by North Carolina law, this loan broker has secured a bond by

\_\_\_\_\_ a surety  
(name and address of surety company)

authorized to do business in this State. Before signing a contract with this loan broker, you should check with the surety company to determine the bond's current status,' or

- b. 'As required by North Carolina law, this loan broker has established a trust account (*number of account*)

with (*name/address of bank or savings institution*).

Before signing a contract with this loan broker you should check with the bank or savings institution to determine the current status of the trust account.'

"§ 66-103. *Bond or trust account required.*—(a) Every loan broker must obtain a surety bond issued by a surety company authorized to do business in this State, or establish a trust account with a licensed and insured bank or savings institution located in the State of North Carolina. The amount of the bond or trust account shall be ten thousand dollars (\$10,000). The bond or trust account shall be in favor of the State of North Carolina. Any person damaged by the loan broker's breach of contract or of any obligation arising therefrom, or by any violation of this Article, may bring an action against the bond or trust account to recover damages suffered. The aggregate liability of the surety or trustee shall be only for actual damages and in no event shall exceed the amount of the bond or trust account.

(b) Failure to comply with subsection (a) shall be a misdemeanor.

"§ 66-104. *Filing with Secretary of State.*—(a) Prior to placing any advertisement or making any other representations to prospective borrowers in this State, every loan broker shall file with the Secretary of State a copy of the disclosure statement required by G.S. 66-102, and either a copy of the bond required by G.S. 66-103, or a copy of the formal notification by the depository that the trust account required by G.S. 66-103 is established. These filings shall be updated as any material changes in the required information or the status of the bond or trust account occur, but no less than annually.

(b) Failure to comply with subsection (a) shall be a misdemeanor.

"§ 66-105. *Contracts to be in writing.*—Every loan brokerage contract shall be in writing, and signed by all contracting parties. A copy of the contract shall be given to the prospective borrower at the time he signs the contract.

"§ 66-106. *Remedies.*—(a) If a loan broker uses any untrue or misleading statements in connection with a loan brokerage contract, fails to fully comply with the requirements of this Article, fails to comply with the terms of the contract or any obligation arising therefrom, or fails to make diligent effort to grant a loan to or procure a loan on behalf of the prospective borrower, then, upon written notice to the broker, the prospective borrower may void the contract, and shall be entitled to receive from the broker all sums paid to the broker, and recover any additional damages including attorney's fees.

(b) Upon complaint of any person that a loan broker has violated the provisions of this Article, the superior court shall have jurisdiction to enjoin that defendant from further such violations.

(c) The remedies provided herein shall be in addition to any other remedies provided for by law or in equity.

(d) The violation of any provisions of this Article shall constitute an unfair practice under G.S. 75-1.1.

“§ 66-107. *Scope.*—The provisions of this Article shall apply in all circumstances in which any party to the contract conducted any contractual activity (including but not limited to solicitation, discussion, negotiation, offer, acceptance, signing, or performance) in this State.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## S. B. 596

## CHAPTER 706

### AN ACT TO AMEND VARIOUS CREDIT LAWS TO SPECIFICALLY INCLUDE MAIL ORDER TRANSACTIONS.

Whereas, the Retail Installment Sales Act does not expressly set forth provisions concerning the application of the act to transactions which may involve a buyer located in this State and a seller in another state; and

Whereas, the provisions of Consumer Finance Act which define the scope of the act to out-of-State companies are somewhat ambiguous; and

Whereas, the interest and usury laws of North Carolina do not expressly set forth provisions concerning the application of those laws to transactions involving borrowers located in this State and lenders located in another state; and

Whereas, it is the purpose of this bill to set forth specifically the application of North Carolina laws to certain transactions in which some, but not all of the parties reside in North Carolina; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 25A-2 is hereby amended by adding a new subsection (d) to read as follows:

“(d) For the purposes of this Chapter, a consumer credit sale shall be deemed to have been made in this State, and therefore subject to the provisions of this Chapter, if the seller offers or agrees in this State to sell to a buyer who is a resident of this State, or if such buyer accepts or makes the offer in this State to buy, regardless of the situs of the contract as specified therein.

Any solicitation or communication to sell, oral or written, originating outside of this State, but forwarded to and received in this State by a buyer who is a resident of this State, shall be deemed to be an offer or agreement to sell in this State.

Any solicitation or communication to buy, oral or written, originating within this State, from a buyer who is a resident of this State, but forwarded to and received by a retail seller outside of this State, shall be deemed to be an acceptance or offer to buy in this State.”

**Sec. 2.** G.S. 53-190 is rewritten as follows:

“(a) No loan contract made outside this State in the amount or of the value of three thousand dollars (\$3,000) or less, for which greater consideration or charges than are authorized by G.S. 53-173 of this Article have been charged, contracted for, or received, shall be enforced in this State. Provided, the foregoing shall not apply to loan contracts in which all contractual activities, including solicitation, discussion, negotiation, offer, acceptance, signing of documents, and delivery and receipt of funds, occur entirely outside North Carolina.



(b) If any lender or agent of a lender who makes loan contracts outside this State in the amount or of the value of three thousand dollars (\$3,000) or less, comes into this State to solicit or otherwise conduct activities in regard to such loan contracts, then such lender shall be subject to the requirements of this Article.

(c) No lender licensed to do business under this Article may collect, or cause to be collected, any loan made by a lender in another state to a borrower, who was a legal resident of North Carolina at the time the loan was made. The purchase of a loan account shall not alter this prohibition."

**Sec. 3.** Chapter 24 of the General Statutes is amended by adding a new section, designated G.S. 24-2.1, to read as follows:

"§ 24-2.1. *Transactions governed by Chapter.*—For purposes of this Chapter, any extension of credit shall be deemed to have been made in this State, and therefore subject to the provisions of this Chapter if the lender offers or agrees in this State to lend to a borrower who is a resident of this State, or if such borrower accepts or makes the offer in this State to borrow, regardless of the situs of the contract as specified therein.

Any solicitation or communication to lend, oral or written, originating outside of this State, but forwarded to and received in this State by a borrower who is a resident of this State, shall be deemed to be an offer or agreement to lend in this State.

Any solicitation or communication to borrow, oral or written, originating within this State, from a borrower who is a resident of this State, but forwarded to, and received by a lender outside of this State, shall be deemed to be an acceptance or offer to borrow in this State."

**Sec. 4.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 1302

## CHAPTER 707

### AN ACT TO PROMOTE THE INCREASED USE OF PEER REVIEW GROUPS FOR NURSING HOMES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 130 of the General Statutes is amended by adding a new section to read:

"§ 130-266.1. *Peer review.*—It is not a violation of G.S. 130-266(5) for medical records to be disclosed to a private peer review committee if:

(1) The peer review committee has been approved by the Division of Facilities Services of the Department of Human Resources;

(2) The purposes of the peer review committee are to:

- a. survey facilities to verify a high level of quality care through evaluation and peer assistance;
- b. resolve written complaints in a responsible and professional manner; and
- c. develop a basic core of knowledge and standards useful in establishing a means of measuring quality of care; and

(3) The peer review committee keeps such records confidential."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## S. B. 364

## CHAPTER 708

AN ACT TO GIVE PAID LEAVE TO STATE EMPLOYEES WHO TRAIN AND COMPETE AS MEMBERS OF A UNITED STATES ATHLETIC TEAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 126-8.1 is written to read as follows:

“§ 126-8.1. *Paid leave for certain athletic competition.*—(a) As used in this section, the term ‘United States team’ includes any group leader, coach, official, trainer, or athlete who is a member of an official United States delegation in Pan American, Olympic or international athletic competition.

(b) Any State employee or public school employee paid by State funds who has been chosen to be a member of a United States team for Pan American, Olympic or international competition shall be granted paid leave, in addition to annual and sick leave that person is otherwise entitled to, for the sole purpose of training for and competing in that competition. The paid leave shall be for the period of the official training camp and competition or 30 days a year, whichever is less.

(c) The Department of Administration may adopt such rules and regulations as are reasonable and necessary to carry out the provisions of this section, with the approval of the Governor and the Advisory Budget Commission.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## S. B. 573

## CHAPTER 709

AN ACT PROVIDING THAT CERTAIN DEFENSES SHALL NOT BE A BAR TO A DIVORCE UNDER G.S. 50-6 AND PERMITTING CERTAIN ACTIONS TO BE MAINTAINED AS INDEPENDENT ACTIONS NOTWITHSTANDING RULE 13(a) OF THE RULES OF CIVIL PROCEDURE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 50-6 is amended by rewriting the third sentence to read:

“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.”

**Sec. 2.** G.S. Chapter 50 is amended by adding a new section to read:

“§ 50-19. *Maintenance of certain actions as independent actions permissible.*—(a) Notwithstanding the provisions of G.S. 1A-1, Rule 13(a), any action for divorce under the provisions of G.S. 50-5 or G.S. 50-6 that is filed as an independent, separate action may be prosecuted during the pendency of an action for:

- (1) alimony;
- (2) alimony *pendente lite*;

(3) custody and support of minor children;

(4) custody and support of a person incapable of self-support upon reaching majority; or

(5) divorce pursuant to G.S. 50-5 or G.S. 50-6.

(b) Notwithstanding the provisions of G.S. 1A-1, Rule 13(a), any action described in subdivision (a)(1) through (a)(5) of this section that is filed as an independent, separate action may be prosecuted during the pendency of an action for divorce under G.S. 50-5 or G.S. 50-6.

(c) Notwithstanding the provisions of this section, any divorce obtained under G.S. 50-5 or G.S. 50-6 by a supporting spouse shall not affect the rights of a dependent spouse with respect to any action for alimony or alimony *pendente lite* that is pending at the time the judgment for divorce is granted."

**Sec. 3.** G.S. 50-13.5 is amended on line 3 by deleting the words "as herein provided" and inserting in lieu thereof the followings: "as provided in this section and in G.S. 50-19".

**Sec. 4.** G.S. 50-16.8 is amended on line 2 by inserting the words "and in G.S. 50-19" after the word "section".

**Sec. 5.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## S. B. 601

## CHAPTER 710

AN ACT TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS  
FOR LICENSED PSYCHOLOGISTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-270.14 is rewritten to read:

"§ 90-270.14. *Renewal of licenses.*—A license issued under this Article must be renewed annually on or before the first day of January, the requirements for such renewal being:

(1) Each application for renewal must be accompanied by a renewal fee of twenty dollars (\$20.00). If a license is not renewed on or before the first day of January of each year, an additional fee of two dollars (\$2.00) shall be charged for late renewal; and

(2) The board may establish recommendations for continuing education for psychologists licensed and registered in this State."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

S. B. 654

**CHAPTER 711****AN ACT RELATED TO THE PROCEDURE FOR THE SELECTION OF  
ALTERNATE JURORS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-1215 captioned "Alternate Jurors" is amended by inserting before the present section the letter "(a)" and by adding a second subsection as follows:

"(b) In all criminal actions in which one or more defendants is to be tried for a capital offense, or enter a plea of guilty to a capital offense, the presiding judge shall provide for the selection of at least two alternate jurors, or more as he deems appropriate. The alternate jurors shall be retained during the deliberations of the jury on the issue of guilt or innocence under such restrictions, regulations and instructions as the presiding judge shall direct. In case of sequestration of a jury during deliberations in a capital case, alternates shall be sequestered in the same manner as is the trial jury, but such alternates shall also be sequestered from the trial jury. In no event shall more than 12 jurors participate in the jury's deliberations."

**Sec. 2.** G.S. 9-18 captioned "Alternate Jurors" is rewritten to read as follows:

"§ 9-18. *Alternate jurors.*—(a) Civil cases. Whenever the presiding judge deems it appropriate, one or more alternate jurors may be selected in the same manner as the regular trial panel of jurors in the case. Each party shall be entitled to two peremptory challenges as to each such alternate juror, in addition to any unexpended challenges the party may have after the selection of the regular trial panel. Alternate jurors shall be sworn and seated near the jury with equal opportunity to see and hear the proceedings and shall attend the trial at all times with the jury and shall obey all orders and admonitions of the court to the jury. When the jurors are ordered kept together in any case, the alternate jurors shall be kept with them. An alternate juror shall receive the same compensation as other jurors and, except as hereinafter provided, shall be discharged upon the final submission of the case to the jury. If before that time any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. If more than one alternate juror has been selected, they shall be available to become a part of the jury in the order in which they were selected.

(b) Criminal cases. Procedures relating to alternate jurors in criminal cases are governed by Article 72, Selecting and Impanelling the Jury, of Chapter 15A of the General Statutes."

**Sec. 3.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.



## S. B. 692

## CHAPTER 712

## AN ACT TO AMEND ARTICLE 5 OF CHAPTER 87 OF THE GENERAL STATUTES RELATING TO REFRIGERATION CONTRACTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 87-52 is rewritten to read:

“§ 87-52. *State Board of Refrigeration Examiners, appointment, term of office.*—For the purpose of carrying out the provisions of this Article, the State Board of Refrigeration Examiners is created, consisting of seven members appointed by the Governor to serve seven-year staggered terms. The Board shall consist of one member who is a wholesaler or a manufacturer of refrigeration equipment; one member from an engineering school of The Greater University of North Carolina, one member from the Division of Public Health of The Greater University of North Carolina, two licensed refrigeration contractors, and two members who have no ties with the construction industry to represent the interest of the public at-large. The term of office of one member shall expire each year. Vacancies occurring during a term shall be filled by appointment of the Governor for the unexpired term. Whenever the term ‘Board’ is used in this Article, it means the State Board of Refrigeration Examiners. No Board member shall serve more than one complete consecutive term.”

**Sec. 2.** G.S. 87-53 is amended by deleting from line 3 of the section the phrase “a citizen of the United States and”.

**Sec. 3.** G.S. 87-59 is amended by designating the existing section as subsection (a) and by adding the following new subsections:

“(b) The Board shall adopt and publish guidelines, consistent with the provisions of this Article, governing the suspension and revocation of licenses.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee. This record shall include, for each licensee, the date and nature of each complaint, investigatory action taken by the Board, any findings of the Board, and the disposition of the matter.”

**Sec. 4.** Article 5 of Chapter 87 of the General Statutes is amended by adding the following new sections:

“§ 87-61.1. *Board may seek injunctive relief.*—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 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 of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation.

“§ 87-64.1. *Public awareness program.*—The Board shall establish and implement a public awareness program to inform the general public of the purpose and function of the Board.”

**Sec. 5.** Schedule. Members of the State Board of Refrigeration Examiners who are serving on the date of ratification of this act shall continue to serve until their respective terms expire. Upon expiration of the term of the current member who is an employee of the Department of Human Resources, and of the current member who is a wholesaler or a manufacturer (as the case may be) of refrigeration equipment, the Governor shall appoint a public

member as the successor to each of those two members. Thereafter, as terms of all members expire the Governor shall appoint a successor to each member from the same group as the person whose term is expiring.

**Sec. 6.** G.S. 143-34.11 is amended by deleting line 10 of the section which reads:

“Chapter 87, Article 5, entitled ‘Refrigeration Contractors.’”

**Sec. 7.** G.S. 87-53 is hereby amended by deleting the last sentence, beginning at line 4 thereof, and by inserting in lieu thereof the following: “Payment of compensation and reimbursement of expenses of Board members shall be governed by G.S. 93B-5.”

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

S. B. 693

## CHAPTER 713

### AN ACT TO AMEND ARTICLE 1 OF CHAPTER 87 OF THE GENERAL STATUTES RELATING TO GENERAL CONTRACTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 87-2 is rewritten to read:

“§ 87-2. *Licensing board; organization.*—There is created the State Licensing Board for General Contractors consisting of seven members which include five general contractors and two public members appointed by the Governor for staggered five-year terms. One member shall have as the larger part of his business the construction of highways; one member shall have as the larger part of his business the construction of public utilities; one member shall have as the larger part of his business the construction of buildings; one member shall be either a highway, utility, or building contractor; one member shall have as a larger part of his business the construction of residences; and two members shall be public members who have no ties with the construction industry and who shall represent the interests of the public at large. Members shall serve until the expiration of their respective terms and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment of the Governor for the remainder of the unexpired term. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty. No board member shall serve more than two complete consecutive terms.”

**Sec. 2.** G.S. 87-10 is amended by deleting the word “four” at the end of line 12 of the 2nd paragraph, and inserting in lieu thereof the word “five”; by rewriting the classification in subdivision (1) on line 14 of the 2nd paragraph to read:

“(1) Building Contractor, which shall include private, public, commercial, industrial and residential buildings of all types;”  
and by inserting a new subparagraph (2) to read:

“(2) Residential Contractor, which shall include any general contractor constructing only residences which are required to conform to the North Carolina Uniform Residential Building Code (Vol 1-B);”  
and by renumbering subparagraphs (2), (3) and (4) as (3), (4) and (5) respectively.

**Sec. 3.** G.S. 87-11 is amended by designating the first paragraph of the section as subsection (a); by designating the remaining paragraphs as subsection (d); and by adding the following new subsections:

“(b) The board shall adopt and publish guidelines, consistent with the provisions of this Article, governing the suspension and revocation of licenses.

“(c) The board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee. This record shall include, for each licensee, the date and nature of each complaint, investigatory action taken by the board, any findings by the board, and the disposition of the matter.”

**Sec. 4.** Article 1 of Chapter 87 of the General Statutes is amended by adding the following new sections:

“§ 87-13.1. *Board may seek injunctive relief.*—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 of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason of the violation.

“§ 87-15.2. *Public awareness program.*—The board shall establish and implement a public awareness program to inform the general public of the purpose and function of the board.”

**Sec. 5.** Schedule. Members of the board who are serving on the date of ratification of this act shall continue to serve for the remainder of the terms for which they were appointed. Upon ratification of this act, the Governor shall appoint one public member for an initial term expiring December 31, 1981, and one public member for an initial term expiring December 31, 1983. As the terms of current members and the two new members expire, their successors shall be appointed for terms of five years.

**Sec. 6.** G.S. 87-4 is amended by adding at the end of the section a sentence to read as follows:

“Payment of compensation and reimbursement of expenses of board members shall be governed by G.S. 93B-5.”

**Sec. 7.** G.S. 87-5 is amended by rewriting the second sentence thereof to read as follows:

“The seal shall have the words ‘North Carolina Licensing Board for General Contractors’ and the secretary shall have charge, care and custody thereof.”

**Sec. 8.** G.S. 87-6 is amended by rewriting the last sentence to read as follows:

“Five members of the board shall constitute a quorum.”

**Sec. 9.** G.S. 143-34.11 is amended by deleting line 6 which reads:

“Chapter 87, Article 1, entitled ‘General Contractors’.”

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## S. B. 765

## CHAPTER 714

## AN ACT TO RETITLE THE WORKMEN'S COMPENSATION ACT AS THE WORKERS' COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-1 is rewritten to read:

"§ 97-1. *Short title.*—This Article shall be known and cited as The North Carolina Workers' Compensation Act."

**Sec. 2.** The following sections of the General Statutes are amended by deleting the word "workmen's" whenever that word appears and inserting in lieu thereof the word "workers'", and are amended by deleting the word "Workmen's" whenever that word appears and inserting in lieu thereof the word "Workers'".

15A-405(b)	97-108	115-160
20-185	97-109	115-192
58-72(15)	97-110	130-11(5)
58-131.36(8)	97-113(a)	143-166.5
69-25.8	97-114	143-296
97-13(b)	97-115	160A-164
97-45	97-116	160A-282
97-52	97-117	160A-283
97-64	97-122	166A-14(b)
97-105	105-228.5	143B-491(b)
97-107	115-159.1	115D-21

**Sec. 3.** Section 1 of Chapter 86, Session Laws of 1979 is amended by deleting the word "Workmen's", and inserting in lieu thereof the word "Workers'".

**Sec. 4.** Chapter 97 of the General Statutes is amended by adding a new section to read:

"§ 97-1.1. *References to Workmen's Compensation.*—Any reference in any act, public or local, to the 'Workmen's Compensation Act', 'Workmen's Compensation', or 'workmen's compensation' shall be deemed to refer respectively to 'Workers' Compensation Act', 'Workers' Compensation' or 'workers' compensation'."

**Sec. 5.** Any and all forms that are prepared by the State and in existence at the time of the effective date hereof may be used notwithstanding the fact they refer to "Workmen's" instead of "Workers'".

**Sec. 6.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.



## S. B. 771

## CHAPTER 715

AN ACT TO AMEND ARTICLE 23 OF THE GENERAL STATUTES  
RELATING TO THE RIGHT TO NATURAL DEATH AND BRAIN  
DEATH.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-320 of Article 23, as it appears in the 1977 Cumulative Supplement to Volume 2C, 1975 Replacement, is amended as follows:

By adding at the end of such section the following: "Nothing in this Article shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. In such respect the provisions of this Article are cumulative."

**Sec. 2.** G.S. 90-322 of Article 23, as it appears in the 1977 Cumulative Supplement to Volume 2C, 1975 Replacement, is amended as follows:

In line 1, by striking out the words "Brain death" and inserting in lieu thereof "Procedures for natural death in the absence of a declaration".

In line 7, by striking out the entire line and inserting in lieu thereof the following: "irreversible; and".

In lines 12 and 13, by striking out the words "in addition to any other medically recognized criteria for determining death, the person may be pronounced dead", and inserting in lieu thereof the words "extraordinary means may be discontinued in accordance with subsection (b)".

In line 14, by striking out the words "If a person has been pronounced dead in accordance with subsection (a)", and inserting in lieu thereof the words "If a person's condition has been determined to meet the conditions set forth in subsection (a) and no instrument has been executed as provided in G.S. 90-321".

By striking out subsection (c) and renumbering subsection (d) as (c).

**Sec. 3.** Article 23 of the General Statutes, as it appears in the 1977 Cumulative Supplement to Volume 2C, 1975 Replacement, is amended by adding a new section reading as follows:

"§ 90-323. *Death; determination by physician.*—The determination that a person is dead shall be made by a physician licensed to practice medicine applying ordinary and accepted standards of medical practice. Brain death, defined as irreversible cessation of total brain function, may be used as a sole basis for the determination that a person has died, particularly when brain death occurs in the presence of artificially maintained respiratory and circulatory functions. This specific recognition of brain death as a criterion of death of the person shall not preclude the use of other medically recognized criteria for determining whether and when a person had died."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

S. B. 820

**CHAPTER 716**

AN ACT TO AMEND THE PUNISHMENT FOR EMBEZZLEMENT OF STATE PROPERTY BY PUBLIC OFFICERS AND EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-91 is rewritten to read as follows:

“§ 14-91. *Embezzlement of State property by public officers and employees.*— If any officer, agent, or employee of the State, or other person having or holding in trust for the same any bonds issued by the State, or any security, or other property and effects of the same, shall embezzle or knowingly and wilfully misapply or convert the same to his own use, or otherwise wilfully or corruptly abuse such trust, such offender and all persons knowingly and wilfully aiding and abetting or otherwise assisting therein shall be guilty of a felony.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

S. B. 859

**CHAPTER 717**

AN ACT TO AMEND CERTAIN PROVISIONS TO CLARIFY THAT THE STATE TREASURER MAY MAKE INVESTMENTS IN SHARES OF OR DEPOSITS IN CERTAIN SAVINGS AND LOAN ASSOCIATIONS AND TO AUTHORIZE PERSONAL REPRESENTATIVES OR FIDUCIARIES TO MAKE DEPOSITS IN INSURED INTEREST-BEARING ACCOUNTS OF CREDIT UNIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 147-69.1(c)(4), as enacted by this General Assembly, 1979 Session, is amended by adding thereto the following new paragraph d.

“d. Shares of or deposits in any savings and loan association organized under the laws of the State of North Carolina, or any federal savings and loan association having its principal office in North Carolina; provided that any monies invested in such shares or deposits in excess of the amount insured by the federal government or an agency thereof, or by a mutual deposit guaranty association authorized by the Administrator of the Savings and Loan Division of the Department of Commerce of the State of North Carolina, be fully secured by surety bonds, or be fully collateralized.”

**Sec. 2.** G.S. 159-30 c(7) is amended by adding the following:

“Any form of investment allowed by law to the State Treasurer under G.S. 147-69.1.”

**Sec. 3.** G.S. 28A-13-3(6) is amended by adding thereto the following sentence:

“Provided, that in addition to the types of investments hereby authorized, deposits in interest-bearing accounts of any credit union authorized to do business in this State, when such deposits are insured in the same manner as required by G.S. 147-69.1 for deposits in a savings and loan association, are hereby authorized.”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

## H. B. 206

## CHAPTER 718

AN ACT TO CLARIFY THE AUTHORITY OF THE STATE ABC BOARD  
TO ADOPT REGULATIONS CONCERNING SOCIAL  
ESTABLISHMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-30(2) is amended by adding the following to the end of that subsection:

“The State ABC Board may adopt regulations to fulfill the intent of this subsection that permits be issued only to social establishments that are organized and operated solely for social, recreational, patriotic or fraternal purposes and are bona fide private clubs. Such regulations may include, but need not be limited to, requirements that the social establishment have a membership committee to review all applications for membership, that the establishment charge membership dues substantially greater than what would be paid by a one-timer or casual user of the premises, that the establishment restrict use by nonmembers, that the establishment provide facilities or activities other than those directly related to the consumption of intoxicating liquor, that members’ alcoholic beverages and their use be kept separate from alcoholic beverages possessed for resale in mixed beverages, and that the establishment have a waiting period between receiving an application and granting membership. The waiting period required by the Board may not exceed 30 days and may be for less than 30 days if the Board determines that a shorter period will reasonably serve the intent of this subsection.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## H. B. 211

## CHAPTER 719

## AN ACT TO INSURE THE SAFETY OF STUDENTS ON SCHOOL BUSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The catch line of G.S. 115-185 is amended to read:

“§ 115-185. *School bus drivers; monitors; safety assistants.*—”

**Sec. 2.** G.S. 115-185(d) is amended by adding at the end thereof the following:

“Such monitors shall be unpaid volunteers who shall serve at the pleasure of the principal.”

**Sec. 3.** G.S. 115-185 is further amended by adding a new subsection (e) to read as follows:

“(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.”

**Sec. 4.** G.S. 115-185 is further amended by adding a new subsection (f) to read as follows:

“(f) Funds appropriated for the special purpose of children with special needs may be used to pay transportation safety assistants employed in accordance with the provisions of this act for buses to which children with special needs are assigned.”

**Sec. 5.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## H. B. 237

## CHAPTER 720

### AN ACT TO EXEMPT ELECTED OFFICIALS AND CERTAIN APPOINTED OFFICIALS IN CERTAIN VILLAGES, TOWNS, CITIES, AND COUNTIES FROM G.S. 14-234 UNDER CERTAIN CIRCUMSTANCES.

Whereas, the elected officials of the smaller towns, cities and counties are often the only professional persons or business owners who can conveniently and inexpensively provide services, facilities or supplies to the public bodies they serve; and

Whereas, G.S. 14-234 makes it unlawful for those officials to undertake or contract to provide services, facilities or supplies to the public bodies or agencies that they serve; and

Whereas, it is in the public interest to make it lawful for those officials to undertake or contract to provide services, facilities or supplies to the public bodies and agencies they serve if done properly and openly; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-234 is amended by redesignating present subsection (e) as subsection (f) and by inserting a new subsection (e) reading as follows:

“(e) The first sentence of subsection (a) shall not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 7,500 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of 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 (iii) any physician, pharmacist, or dentist appointed to a county social services board, local health board, or area mental health board serving one or more counties 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 if:

- (1) the undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, local health board or area mental health board and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed ten thousand dollars (\$10,000) for medically related services and five thousand dollars (\$5,000) for other goods or services within a 12-month period; and



- (2) the official entering into the contract or undertaking with the unit or agency does not in his official capacity participate in any way or vote; and
- (3) the total annual amount of undertakings or contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county; and
- (4) the governing board of any village, town, city, county, county social services board, local health board, or area mental health board which undertakes or contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such undertakings or contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

H. B. 652

## CHAPTER 721

### AN ACT TO REGULATE THE HUNTING WITH RIFLES IN CERTAIN TOWNSHIPS OF MOORE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful for any person to hunt with the use of any rifle that has a bore larger than twenty-two (.22) caliber unless the person discharging (shooting) the rifle is positioned at least eight feet from the ground and is not located within one mile of any residence or any business establishment including a golf course. This act shall be deemed to prohibit the use of a rifle which is capable of firing twenty-two (.22) caliber center fire ammunition or the use of such ammunition.

**Sec. 2.** Violation of this act shall constitute a misdemeanor, punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days, or both fine and imprisonment, in the discretion of the court.

**Sec. 3.** All law enforcement officers of the county and State, including officers of the Wildlife Resources Commission, shall have authority to enforce the provisions of this act.

**Sec. 4.** It shall be unlawful for any person to hunt any game animal unless he has in his possession the written permission of the person owning or leasing the land on which he is located.

**Sec. 5.** This act shall apply only to the Townships of Sandhill and Mineral Springs in Moore County.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## H. B. 740

## CHAPTER 722

AN ACT TO REDUCE THE SIZE OF THE RICHMOND COUNTY BOARD OF COMMISSIONERS FROM SIX TO FIVE BY ABOLISHING THE SEPARATELY ELECTED OFFICE OF CHAIRMAN, SUBJECT TO A REFERENDUM.

*The General Assembly of North Carolina enacts:*

**Section 1.** For the purpose of nominating and electing the five members of the Board of County Commissioners for Richmond County, the County shall be divided into five resident districts as follows:

(1) District #1 shall be composed of the entire county (this District to be effective beginning with the 1982 election);

(2) District #2 shall be composed of Beaverdam, Steels, Mineral Springs and Black Jack Townships;

(3) District #3 shall be composed of Rockingham Township;

(4) District #4 shall be composed of Wolf Pitt Township; and

(5) District #5 shall be composed of Marks Creek Township.

**Sec. 2.** Candidates must be residents of the district for which they seek election. All candidates shall be nominated and elected by the voters of the entire county. In the general election, the candidate for each district receiving the highest number of votes cast for candidates from that district shall be elected.

**Sec. 3.** In the 1980 primary and general election and quadrennially thereafter, one member shall be elected from District #3 for a four-year term, and one member shall be elected from District #5 for a four-year term.

**Sec. 4.** In the 1982 primary and general election and quadrennially thereafter, one member shall be elected from District #1 for a four-year term, one member shall be elected from District #2 for a four-year term, and one member shall be elected from District #4 for a four-year term.

**Sec. 5.** The Chairman of the Board of County Commissioners and the members elected from Districts #2 and #4 in 1978 shall serve until the first Monday in December of 1982, if otherwise qualified. The member from District #1 elected in 1978, for a two-year term shall continue to serve until the first Monday in December of 1980, if otherwise qualified, when the term will expire. No member from District #1 shall be elected in 1980, and the incumbent shall not hold over.

**Sec. 6.** Effective on the first Monday in December of 1982, the Board of County Commissioners shall elect their own chairman from among themselves for a one-year term. Such chairman may vote on all issues. Until that time, the chairman shall not have a vote on matters before the board, but shall have a vote only to break a tie.

**Sec. 7.** Effective on the first Monday in December of 1980, the Board of Commissioners consists of the chairman and four members. Effective on the first Monday in December of 1982, the Board of Commissioners consists of five members.

**Sec. 8.** Chapter 536, Session Laws of 1977 is repealed.

**Sec. 9.** The Richmond County Board of Commissioners is authorized, by adoption of a resolution on or before September 1, 1979, to call a special election on approval of Sections 1 through 8 of this act, said election to be held on November 6, 1979. Sections 1 through 8 of this act are not effective if such an

election is not called, and are not effective if such an election is held unless approved by a majority of the voters of Richmond County voting on that question at that election. The Richmond County Board of Elections shall conduct such election in accordance with the rules and regulations for conducting special elections generally. The question to be submitted to the voters shall be:

“FOR an Act reducing the size of the Richmond County Board of Commissioners from six members to five by only electing two commissioners in 1980, and converting the separately elected office of chairman to an at-large commissioner in 1982, and letting the board choose its own chairman at that time.”

“AGAINST an Act reducing the size of the Richmond County Board of Commissioners from six members to five by only electing two commissioners in 1980, and converting the separately elected office of chairman to an at-large commission in 1982, and letting the board choose its own chairman at that time.”

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

H. B. 896

## CHAPTER 723

AN ACT TO CLARIFY WHICH COURT IN THE APPELLATE DIVISION HAS JURISDICTION IN STATE'S APPEALS FROM PRETRIAL SUPPRESSION HEARINGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-979(c), as it appears in 1978 Replacement Volume 1C, is hereby amended by adding at the end thereof the following:

“The appeal is to the appellate court that would have jurisdiction if the defendant were found guilty of the charge and received the maximum punishment. If there are multiple charges affected by a motion to suppress, the ruling is appealable to the court with jurisdiction over the offense carrying the highest punishment.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

H. B. 1119

## CHAPTER 724

AN ACT TO PREVENT UNFAIR AND DECEPTIVE WORK-AT-HOME SOLICITATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 75 of the General Statutes is hereby amended by adding thereto a new Section 75-30 to read as follows:

“§ 75-30. *Work-at-home solicitations.*—No person, firm, association, or corporation shall advertise, represent, or imply that any person can earn money by stuffing envelopes, addressing envelopes, mailing circulars, clipping

newspaper and magazine articles, or performing similar work, unless the person, firm, association or corporation making the advertisement or representation:

(1) actually pays a wage, salary, set fee, or commission to others for performing the represented tasks; and

(2) at no time requires the person who will perform the represented tasks to purchase from or make a deposit to the solicitor on any instructional booklets, brochures, kits, programs or similar information materials, mailing lists, directories, memberships in cooperative associations, or other items or services."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## H. B. 1190

## CHAPTER 725

AN ACT TO LENGTHEN THE PERIOD OF TIME BEFORE WHICH UNDELIVERED ARREST PROCESS MUST BE RETURNED TO THE COURT AND TO CLARIFY THE RIGHT OF LAW ENFORCEMENT OFFICERS TO RETAIN COPIES OF CRIMINAL PROCESS FOR SERVICE UPON FUGITIVES OR ARREST UNDER THE PROVISIONS OF G.S. 15A-401(a)(2).

*The General Assembly of North Carolina enacts:*

**Section 1.** Subdivisions a. and b. of G.S. 15A-301(d)(2) are each amended to delete "90 days" and to substitute in lieu thereof "180 days".

**Sec. 2.** The second sentence of G.S. 15A-301(e)(1) is rewritten to read as follows:

"The copy may be executed as effectively as the original process whether or not the original has been redelivered as provided in G.S. 15A-301(d)(4)."

**Sec. 3.** G.S. 15A-301(e) is amended to add a new subdivision (4) as follows:

"(4) Nothing in this section prevents the making and retention of uncertified copies of process for information purposes under G.S. 15A-401(a)(2) or for any other lawful purpose."

**Sec. 4.** G.S. 15A-401(a)(2) is amended to add at the end the following sentence:

"This subdivision applies even though the arrest process has been returned to the clerk under G.S. 15A-301."

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.



## H. B. 1238

## CHAPTER 726

## AN ACT TO PROVIDE FOR ALTERNATIVE BONDS FOR PUBLIC ADMINISTRATORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 28A-12-3 is amended by designating the language of the present section as subsection (a) and adding a new subsection thereto to read:

“(b) As an alternative to and in lieu of the bonding requirement provided in subsection (a), the administrator may, in the discretion of the clerk of superior court, enter into a single permanent bond, secured by any of the methods provided in G.S. 28A-8-2(4), payable to the State of North Carolina, conditioned upon the faithful performance of the duties of his office and obedience to all lawful orders of the clerk of superior court or other court touching the administration of any estate committed to him. The amount of the permanent bond shall be determined by the clerk, based on the total value of all the estates administered by the public administrator, and may be increased or decreased from time to time as the clerk determines is necessary. The expense of the bond shall be borne by the estates administered by the administrator, as determined by the clerk.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## H. B. 1303

## CHAPTER 727

## AN ACT TO AMEND CHAPTER 780 OF THE 1971 SESSION LAWS, AS AMENDED, IN ORDER TO MAKE TECHNICAL AMENDMENTS TO SUBCHAPTER IV OF G.S. CHAPTER 159, CONCERNING AIRPORT DISTRICTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Each time Chapter 159 of the General Statutes is amended in this act, the amendment is to Chapter 159 as enacted by Section 1 of Chapter 780 of the 1971 Session Laws, and as G.S. Chapter 159 appears in Chapter 780, as amended and supplemented.

**Sec. 2.** G.S. 159-44 is amended by rewriting subdivision (4) to read as follows:

“(4) ‘Unit,’ ‘unit of local government,’ or ‘local government’ means counties; cities, towns, and incorporated villages; sanitary districts; mosquito control districts; hospital districts; metropolitan sewerage districts; metropolitan water districts; county water and sewer districts; and special airport districts.”

**Sec. 3.** G.S. 159-48 is amended by rewriting subsection (e) to read as follows:

“(e) Each sanitary district, mosquito control district, hospital district, metropolitan sewerage district, metropolitan water district, county water and sewer district and special airport district is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses.”

**Sec. 4.** G.S. 159-81 is amended by rewriting paragraph (1) as follows:

“(1) ‘Municipality’ means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, and airport authority but not any other forms of local government.”

**Sec. 5.** G.S. 159-97 is amended by inserting the following new subsection (i):

“(i) For the purposes of this section the terms county or city shall include a special airport district with respect to financing of aeronautical facilities.”

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## H. B. 1391

## CHAPTER 728

### AN ACT TO AMEND G.S. 90-271 RELATING TO STERILIZATION OPERATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-271 is amended by inserting between the words “hospital” and “licensed” the following phrase:

“or ambulatory surgical facility”.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## S. B. 330

## CHAPTER 729

### AN ACT TO AUTHORIZE SEARCH WARRANTS TO BE AFFIXED TO THE PROPERTY WHEN THE OWNER OR POSSESSOR OF THE PROPERTY IS NOT PRESENT AND REASONABLE EFFORTS TO LOCATE HIM HAVE FAILED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15-27.2(e) is amended by adding to the end of that subsection the following sentence:

“If the owner or possessor of the property is not present on the property at the time of the search or inspection and reasonable efforts to locate the owner or possessor have been made and have failed, the warrant or a copy thereof may be affixed to the property and shall have the same effect as if served personally upon the owner or possessor.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## S. B. 713

## CHAPTER 730

AN ACT TO PROVIDE THAT A POLITICAL PARTY REQUIRED TO FILE REPORTS UNDER BOTH STATE AND FEDERAL LAW SHALL FILE A COPY OF THE FEDERAL REPORT IN LIEU OF THE STATE REPORT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-278.9 is amended by adding new subsections to read:

“(d) Notwithstanding subsections (a) through (c) of this section, any political party (including a State, district, county, or precinct committee thereof) which is required to file reports under those subsections and under the Federal Election Campaign Act of 1971, as amended (2U.S.C.434) shall instead of filing the reports required by those subsections, file with the State Board of Elections:

- (1) the organizational report required by subsection (a)(1) of this section, and
- (2) a copy of each report required to be filed under 2U.S.C.434, such copy to be filed on the same day as the federal report is required to be filed.

(e) Any report filed under subsection (d) of this section may include matter required by the federal law but not required by this Article.

(f) Any report filed under subsection (d) of this section must contain all the information required by G.S. 163-278.8 or G.S. 163-278.11, notwithstanding that the federal law may set a higher reporting threshold.

(g) Any report filed under subsection (d) of this section may reflect the cumulative totals required by G.S. 163-278.11 in an attachment, if the federal law does not permit such information in the body of the report.

(h) Any report or attachment filed under subsection (d) of this section must be made under oath.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

## S. B. 125

## CHAPTER 731

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 1979”.

**Sec. 2.** The appropriations made by this act are for constructing or renovating State buildings, utilities, and other capital facilities; acquiring sites therefor where necessary; and acquiring buildings and land for State government purposes.

—PROCEDURES FOR DISBURSEMENTS

**Sec. 3.** The appropriations made by Sections 4 and 5 of this act shall be disbursed for the purposes provided by this act upon warrants drawn by the State Disbursing Officer, which warrants shall not be drawn for any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget, and which allotment shall be approved only after full compliance with the Executive Budget Act, Article J, 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 such projects including the source of funds, interest rate, and liquidation period.

Where direct appropriations are provided in this act for the purpose of furnishing movable equipment for any project, such funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget.

Projects listed in this act 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 out of the General Fund the sum of eighty-three million twenty-four thousand five hundred sixty-nine dollars (\$83,024,569) effective July 1, 1979, and ninety-nine million four hundred seventeen thousand two hundred sixteen dollars (\$99,417,216) effective July 1, 1980, for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

<u>Capital Improvements—General Fund</u>		<u>1979-80</u>	<u>1980-81</u>
<b>DEPARTMENT OF ADMINISTRATION</b>			
(TOTAL)		\$ 2,353,000	\$ 555,000
01.	Renovations and Repairs- Government Center	500,000	
02.	High-Rise Safety Codes Compliance- Albemarle Building	5,000	
03.	Energy Retrofit-Government Center	1,000,000	
04.	Supplement to Helicopter Hanger and Fuel Storage Facility	90,000	
05.	Architectural Barrier Removal- Government Center	50,000	
06.	Supplement to Old Health Building Renovation		375,000
07.	Reserve for Repairs & Completion of Previously Authorized Capital Projects	600,000	
08.	Repairs at Marine Resource Centers		
	Total	150,000	
	Less Receipts	42,000	
	General Fund	108,000	180,000
<b>DEPARTMENT OF AGRICULTURE (TOTAL)</b>		837,016	2,683,800
01.	Storage and Distribution Facility-Butner	88,000	2,276,000
02.	Expansion of Poultry Unit- Piedmont Station	276,000	
03.	Additions to Western Farmers Market	310,000	387,500
04.	Pesticide Storage Facility	11,000	20,300
05.	Underground Main for Irrigation		



	System-Horticulture Crops Station	15,456	
06.	Completion of Western Animal Disease Diagnostic Lab	43,000	
07.	Two Bulk Barns-Upper Coastal Plain Station	20,000	
08.	Sanitary Unloading Dock-Rollins Lab	15,000	
09.	Bull Testing Facility-Mountain Research Station	58,560	
THE UNIVERSITY OF NORTH CAROLINA -			
	BOARD OF GOVERNORS (TOTAL)	59,195,800	53,536,000
Funds for Schedule of Priorities-Capital Improvements:			
01.	Utilities, Roads, Walks and Drives Projects		
02.	Occupational Safety and Health Act and Barrier Removal Projects		
03.	Renovation and Major Maintenance Projects		
04.	Land Acquisition		
05.	Educational Television Production Center-Advance Planning		
06.	Programming-Planning for Future Campus Physical Plant Development		
07.	School of Veterinary Medicine		
08.	Construction of New Facilities		
09.	East Carolina University-Bed Tower at Pitt County Memorial Hospital (Supplement)		
	Subtotal - Schedule of Priorities	38,744,800	28,156,000
10.	Reserve for Traditionally Black Institutions	20,000,000	20,000,000
11.	Agricultural Experiment Station-N. C. State University:		
	a. Greenhouse-Headhouse Complex	251,000	4,000,000
	b. Williams Hall Addition-Planning	200,000	
12.	North Carolina Memorial Hospital:		
	a. Renovations		1,380,000
DEPARTMENT OF COMMERCE (TOTAL)		4,235,000	4,880,000
01.	New Helicopter	1,450,000	
02.	State Ports-Berth C Development-Wilmington	2,700,000	3,900,000
03.	State Ports-North Expansion Area, Design-Wilmington		900,000
04.	Construct Three Welcome Centers	225,000	350,000
	Less Receipts-Fed. Highway Adm.	140,000	270,000
	General Fund	85,000	80,000
DEPARTMENT OF CORRECTION (TOTAL)		4,500,000	21,300,000
01.	Repairs, Renovations and		

	Reconstruction	1,000,000	1,000,000
02.	Reserve for New Prison Construction	3,500,000	20,300,000
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (TOTAL)			
		236,915	295,246
01.	Replace Roanoke Rapids Armory	410,750	
	Less Receipts-Local Funds	56,500	
	Less Receipts-Federal Funds	297,000	
	General Fund	57,250	
02.	Replace Concord Armory	691,220	
	Less Receipts-Local Funds	88,600	
	Less Receipts-Federal Funds	504,300	
	General Fund	98,320	
03.	Replace Parkton Armory	485,220	
	Less Receipts-Local Funds	60,500	
	Less Receipts-Federal Funds	357,375	
	General Fund	67,345	
04.	Completely Renovate Warrenton Armory	15,500	420,250
	Less Receipts-Local Funds		55,250
	Less Receipts-Federal Funds	11,625	309,000
	General Fund	3,875	56,000
05.	New Armory-Jefferson	12,000	527,220
	Less Receipts-Local Funds		77,525
	Less Receipts-Federal Funds	9,000	370,950
	General Fund	3,000	78,745
06.	New Armory-Murphy	11,500	464,250
	Less Receipts-Local Funds		69,187
	Less Receipts-Federal Funds	8,625	325,125
	General Fund	2,875	69,938
07.	New Armory-Marion	11,500	446,250
	Less Receipts-Local Funds		65,062
	Less Receipts-Federal Funds	8,625	315,375
	General Fund	2,875	65,813
08.	Armory Addition at Hickory	5,500	97,500
	Less Receipts-Federal Funds	4,125	72,750
	General Fund	1,375	24,750
DEPARTMENT OF CULTURAL RESOURCES (TOTAL)			
		1,220,000	930,250
01.	Art Museum-Completion of Interior	500,000	
02.	Reserve for Spencer Shops-Development	625,000	625,000
03.	Bennett Place-Visitor Center		223,750
04.	Stagville Preservation Center-Development	95,000	81,500
DEPARTMENT OF HUMAN RESOURCES (TOTAL)			
		4,531,500	3,045,000
01.	Life Safety Code and Section 504 Compliance Projects	2,000,000	2,000,000
02.	New Gymnasium-Juvenile Evaluation Center	25,000	445,000

03.	Alcoholic Rehabilitation Center-Greenville-Energy Conservation Projects	33,000	
04.	Renovations and Repairs Projects-Mental Health Facilities	250,000	250,000
05.	Renovations and Repairs Projects-Youth Services Facilities	100,000	100,000
06.	Renovations and Repairs-Blind and Deaf Schools	75,000	
07.	Audiometric Suite-Central School for Deaf	11,000	
08.	Reroofing-Eastern School for Deaf	501,500	
09.	Wood Chip Boiler-Dorothea Dix Hospital	826,000	
10.	Western Carolina Center Renovations	710,000	
11.	Chapels at Mental Retardation Centers-Matching		250,000
DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT (TOTAL)		3,010,500	8,567,100
01.	Replacement of Claridge Nursery Facilities	337,000	
02.	Reserve for State Parks-Development Less Receipts-Federal-BOR	1,000,000	1,000,000
	Subtotal, General Fund	500,000	500,000
03.	Reserve for State Parks-Acquisition Less Receipts-Federal-BOR		500,000
	Subtotal, General Fund		250,000
04.	Reserve for Civil Works & Small Watershed Projects	700,000	700,000
05.	Zoo Development-Completion of African Phase	201,500	7,117,100
06.	Underground Irrigation System-Claridge Nursery	108,000	
07.	Cone Drying Shed and Seed Extractary Equipment-Claridge Nursery	109,000	
08.	Chatham County Forestry Headquarters	55,000	
09.	Wanchese Harbor-Continued Development	1,000,000	
DEPARTMENT OF JUSTICE (TOTAL)		123,000	
01.	Renovations Garner Road Facility	123,000	
DEPARTMENT OF PUBLIC EDUCATION (TOTAL)		2,781,838	3,624,820
01.	Community Colleges-Capital Construction Grants	2,841,838	3,849,820
	Less Receipts-Federal	225,000	225,000
	Subtotal, General Fund	2,616,838	3,624,820
02.	Public Schools-Thermal Energy		

Storage Construction	165,000	
GRAND TOTAL GENERAL FUND		
APPROPRIATION	\$83,024,569	\$99,417,216
—HIGHWAY FUND APPROPRIATIONS/SCHEDULE OF CAPITAL IMPROVEMENTS		

**Sec. 5.** There is hereby appropriated out of the Highway Fund the sum of two million two hundred seven thousand two hundred eighty-two dollars (\$2,207,282) effective July 1, 1979, and two million seven hundred sixty-seven thousand one hundred forty-two dollars (\$2,767,142) effective July 1, 1980, for the use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

<u>Capital Improvements—Highway Fund</u>	<u>1979-80</u>	<u>1980-81</u>
DEPARTMENT OF TRANSPORTATION		
(TOTAL)	\$ 2,207,282	\$ 2,767,142
01. Equipment Shop at Charlotte	225,000	2,000,000
Less Receipts-Sale of Land		500,000
Subtotal, Highway Fund		1,500,000
02. Burner Replacement-Department of Motor Vehicle Building	30,000	
03. Roof Replacement at Six Locations	244,000	
04. Renovation and Construction Projects at Maintenance and Equipment Facilities-Division of Highways	708,282	267,142
05. Reserve for Ferry Maintenance Facility - Mann's Harbor	1,000,000	1,000,000
GRAND TOTAL HIGHWAY FUND		
APPROPRIATION	\$ 2,207,282	\$ 2,767,142
—UNIVERSITY SELF-LIQUIDATING PROJECTS		

**Sec. 6.** The purpose of this section is to authorize construction, by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed herein for each such institution, and to authorize the financing of the said capital improvements projects with funds available to said institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of such funds, but not including funds appropriated from the General Fund of the State.

G.S. 116-187 is amended by replacing the period at the end of that section with a comma, and adding after it the following phrase, "and for North Carolina Memorial Hospital."

G.S. 116-189(4) is rewritten to read as follows:

"(4) The word 'institution' shall mean each of the institutions enumerated in G.S. 116-2 and North Carolina Memorial Hospital."

G.S. 116-189(5) is amended by deleting the word "and" which immediately precedes "(iv)" and by adding immediately following "(iv) revenue-producing parking decks and structures" the following phrase:

", and (v) education, research, patient care and community services at North Carolina Memorial Hospital,".



Prior to the execution of design contracts for the projects authorized herein, the Director of the Budget and the Advisory Budget Commission shall approve the method of funding such projects.

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 The University of North Carolina, Board of Governors, authorize an increase or decrease in the scope or a change in the method of funding of any project authorized by this section.

The projects hereby authorized to be constructed and financed as provided in this section are as follows:

1979-80

APPALACHIAN STATE UNIVERSITY

01. Parking Deck	\$ 2,570,000	
Less Self-Liquidating	2,570,000	\$ -0-

NORTH CAROLINA STATE UNIVERSITY

01. Improvements and Additions to Athletic Facilities	4,900,000	
Less Self-Liquidating	4,900,000	-0-
02. McKimmon Center Addition	1,300,000	
Less Self-Liquidating	1,300,000	-0-
03. Dining Facility	2,110,000	
Less Self-Liquidating	2,110,000	-0-
04. Renovations of Erdahl-Cloyd Wing	830,000	
Less Self-Liquidating	830,000	-0-

UNC-CHAPEL HILL

01. Student Athletic Center	21,077,000	
Less Self-Liquidating	21,077,000	-0-

UNC-CHARLOTTE

01. Cafeteria-Activities Building	1,490,000	
Less Self-Liquidating	1,490,000	-0-
02. 500 Dormitory Spaces	4,500,000	
Less Self-Liquidating	4,500,000	-0-

UNC-GREENSBORO

01. Parking Facilities	780,000	
Less Self-Liquidating	780,000	-0-

UNC-WILMINGTON

01. Dormitory Spaces and Student Cafeteria	4,441,000	
Less Self-Liquidating	4,441,000	-0-

WESTERN CAROLINA UNIVERSITY

01. Addition to Student Supply Store	888,000	
Less Self-Liquidating	888,000	-0-
02. Renovation of Robertson Hall	800,000	
Less Self-Liquidating	800,000	-0-

NORTH CAROLINA MEMORIAL HOSPITAL

01. Critical Patient Care/Support Facility	14,200,000	
Less Self-Liquidating	14,200,000	-0-
02. Primary Care Center	2,500,000	
Less Self-Liquidating	2,500,000	-0-

**GRAND TOTAL SELF-LIQUIDATING****AUTHORIZATIONS**

\$62,386,000

**—NORTH CAROLINA STATE UNIVERSITY/SCOPE INCREASE**

**Sec. 7.** Section 4 of the 1973 Session Laws Chapter 523, as amended by 1975 Session Laws, Chapter 918, and as amended by 1977 Session Laws, Chapter 195, is further amended by increasing the authorization for the North Carolina State University at Raleigh wholly self-liquidating residence hall on pages 769 and 770 of the 1973 Session Laws by seven hundred fifty thousand dollars (\$750,000) for a total authorization of four million five hundred thousand dollars (\$4,500,000).

**—NORTH CAROLINA CENTRAL UNIVERSITY/SCOPE INCREASE**

**Sec. 8.** Section 2 of 1975 Session Laws, Chapter 725, is amended by increasing the authorization for the North Carolina Central University wholly self-liquidating renovation of Chidley Hall on page 980 of the 1975 Session Laws by one million one hundred ten thousand dollars (\$1,110,000) for a total authorization of one million eight hundred thousand dollars (\$1,800,000).

**—ELIZABETH CITY STATE UNIVERSITY/SCOPE INCREASE**

**Sec. 9.** Section 4 of 1971 Session Laws, Chapter 693, as amended by 1973 Session Laws, Chapter 692, and as amended by 1977 Session Laws, Chapter 194, is further amended by increasing the authorization for the Elizabeth City State University wholly self-liquidating 200-student dormitory building project on page 699 of the 1971 Session Laws by two hundred thousand dollars (\$200,000) for a total authorization of one million eight hundred thousand dollars (\$1,800,000).

**—ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND**

**Sec. 10.** When each project appropriated in Section 4 of this act, other than those projects under the Department of Community Colleges and 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. Use of this project reserve fund shall be at the discretion of the Director of the Budget solely to allow for award of contracts where bids exceed appropriated funds, on condition that such projects supplemented shall have been designed within the physical scope intended by the applicable appropriation or any authorized change therein, and in the opinion of the Director of the Budget all means to award contracts within the appropriation shall have been reasonably attempted. The project reserve fund shall not be used in connection with any projects under The University of North Carolina Board of Governors or the Department 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. 11.** There is appropriated in Section 4 of this act a lump sum to The University of North Carolina Board of Governors. 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 this act, except where specifically excluded. Other lump sums designated as reserves appropriated in Sections 4 or 5 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, and any funds remaining in a project account following encumbrance of all construction and equipment costs and reasonable contingency shall revert to the respective reserve.

—SPECIAL RESERVE FOR THE HISTORICALLY BLACK INSTITUTIONS

**Sec. 12.** Funds appropriated in Section 4 of this act to the Board of Governors of The University of North Carolina include a special capital improvements reserve of forty million dollars (\$40,000,000) for the purchase of educational equipment and capital improvements projects at the historically black institutions of The University of North Carolina, which are Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, and Winston-Salem State University. From this reserve, an educational equipment fund of at least one million dollars (\$1,000,000) shall be distributed among the five institutions. The remainder of the special reserve shall be used to establish specific capital improvements projects designed to improve the campus environment at each of the institutions. The Board of Governors shall establish specific capital improvements projects at each of the historically black institutions to accomplish these purposes. The Board of Governors is authorized to make such transfers between these established projects as may be required to accomplish the purposes of this appropriation.

—GOVERNOR AND ADVISORY BUDGET

COMMISSION/POSTPONEMENT OF PROJECTS

**Sec. 13.** 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 and the Advisory Budget Commission are authorized and empowered to 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.

—ADVISORY BUDGET COMMISSION/APPROPRIATION MODIFICATIONS

**Sec. 14.** 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 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 or projects enumerated in this act may come from gifts, federal or private grants, excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, special fund receipts, or, from within the funds appropriated for capital improvements in this act to that department, agency, or institution. Further, the Director of the Budget is authorized to increase from the sources of funds referred to in this section the cost of a project or projects enumerated in this act, but solely to allow for award of contracts where bids exceed appropriated funds, and on condition that such projects supplemented shall have been designed within the size and physical scope intended by the applicable appropriation or any authorized changes therein, and in the opinion of the Director of the Budget all means to award contracts within the appropriation shall have been reasonably attempted.

The reserve for repairs and completion of previously authorized capital projects appropriated in 1979-80 to the Department of Administration in Section 4 of this act shall be allocated at the discretion of the Advisory Budget Commission.

—GOVERNOR AND ADVISORY BUDGET COMMISSION/NEW PROJECT

**Sec. 15.** 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.

—RECREATIONAL LAND AND ARMORIES CONSTRUCTION ADVANCES/ REIMBURSEMENT

**Sec. 16.** The Director of the Budget is authorized and empowered to advance from capital improvement appropriations funds necessary for the purchase of recreational land and for the construction of or addition to National Guard armories for which there is either no specific appropriation or only a partial appropriation, when reimbursement of such advance will be later effected by assured gifts, grants or federal funds.

—COMMUNITY COLLEGES/MOVABLE EQUIPMENT

**Sec. 17.** No construction contracts for capital improvements within the Department of Community Colleges shall be let until it has been clearly established to the Director of the Budget that funds are available for related movable equipment.

—TEXTILE EQUIPMENT FUNDS/NORTH CAROLINA STATE UNIVERSITY AT RALEIGH

**Sec. 18.** Funds appropriated in Section 4 of this act to the Board of Governors of The University of North Carolina to fund the Schedule of Priorities - Capital Improvements, include one million six hundred thousand dollars (\$1,600,000) in 1980-81 to update equipment for teaching laboratories of the School of Textiles at North Carolina State University at Raleigh. These funds shall be used exclusively for this purpose and shall be available only to the extent that they are matched by the textiles industry. Matching requirements will be met with cash and/or equipment contributions realized on or after January 1, 1978. The Board of Governors will be responsible for determining the value of any equipment donated pursuant to this section and for ensuring that the intent of this section is fulfilled.

—STATE ZOO CONSTRUCTION FUNDS

**Sec. 19.** The appropriations in Section 4 of this act to the Department of Natural Resources and Community Development for Zoo Development represent the final commitment of State funds for construction of physical facilities at the State Zoo, and it is the intent of the General Assembly that there will be no further General Fund appropriations for this purpose after completion of the African Phase of development.



—REPAIR OF MARINE RESOURCES CENTERS/SETTLEMENTS FROM ARCHITECTS OR CONTRACTORS

**Sec. 20.** Funds are appropriated to the Department of Administration in Section 4 of this act for the repair of the three Marine Resources Centers. If the State receives any settlement from architects or contractors involved in the construction of these centers, the funds received shall be used to reduce this appropriation, and an amount equal to the settlement shall revert to the General Fund.

—REVERT CAPITAL IMPROVEMENTS/REROOF TWO BUILDINGS AT THE EASTERN NORTH CAROLINA SCHOOL FOR THE DEAF

**Sec. 21.** Unexpended and unencumbered funds appropriated in Chapter 1136 of the 1977 Session Laws to the Department of Human Resources for renovations and air conditioning of the Caswell Annex at Cherry Hospital shall revert to the General Fund on July 1, 1979. Of these funds, five hundred one thousand five hundred dollars (\$501,500) are appropriated in Section 4 of this act to reroof the Vestal and McAdams Buildings at the Eastern North Carolina School for the Deaf.

—APPROPRIATIONS LIMITS/REVERSION OR LAPSE

**Sec. 22.** Subject to any transfers and changes between appropriations as permitted in previous sections of this act, the appropriations for capital improvements made in this act shall be expended only for specific projects set out in this act. Construction of all capital improvement projects enumerated in this act shall be commenced or self-liquidating indebtedness with respect thereto shall be incurred within 18 months following the first day of the fiscal year in which the funds are available. If construction contracts on such project or projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for such project or 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; provided, however, that this deadline with respect to both direct and self-liquidating appropriations may be extended 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. 23.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

H. B. 641

CHAPTER 732

AN ACT TO REQUIRE INSURERS TO PROVIDE TO POLICYHOLDERS NOTICE OF AND REASONS FOR CESSIONS OF AUTOMOBILE INSURANCE POLICIES TO THE MOTOR VEHICLE REINSURANCE EXCHANGE AND TO GRANT CERTAIN IMMUNITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-248.31 is amended by designating that section as subsection (a) and by adding two new subsections to read:

“(b) Each insurer will provide the same type of service to ceded business that it provides for its voluntary market. Records provided to agents and brokers will include an indication that the business is ceded. When an insurer cedes a

policy or renewal thereof to the Facility and the Facility premium for such policy is higher than the premium that the insurer would normally charge for such policy if retained by the insurer, the policyholder will be informed that (1) his policy is ceded, (2) the coverages are written at the Facility rate, which rate differential must be specified, (3) the reason or reasons for the cession to the Facility, (4) the specific reason or reasons for the cession to the Facility will be provided upon the written request of the policyholder to the insurer, and (5) the policyholder may seek insurance through other insurers who may elect not to cede his policy. If such policyholder obtains motor vehicle liability insurance through another insurer who elects not to cede his policy to the Facility and the policyholder cancels his ceded policy within 45 days of the effective date of such ceded policy, the earned premium for such ceded policy shall be calculated on the pro rata basis, except that the pro rata calculation shall not apply to a cancellation by any insurance premium finance company as provided in G.S. 58-60.

(c) Upon the written request of any eligible risk who has been notified pursuant to subsection (b) of this section that his motor vehicle insurance policy has been ceded to the Facility, the insurer ceding the insurance policy must provide in writing to that eligible risk the specific reason or reasons for the decision to cede that policy to the Facility. Proof of mailing of the written reason or reasons is sufficient proof of compliance with this obligation. With regard to any notice of cession or any written or oral communications specifying the reason or reasons for cession, there will be no liability on the part of, and no cause of action of any nature will arise against, (1) any insurer or its authorized representatives, agents, or employees, or (2) any licensed agent, broker, or persons who furnish to the insurer information as to the reason or reasons for the cession, for any communications or statements made by them, unless the communications or statements are shown to have been made in bad faith with malice in fact."

**Sec. 2.** This act will become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 858

## CHAPTER 733

### AN ACT TO AMEND THE PURPOSE, DUTIES AND MEMBERSHIP OF THE EDENTON HISTORICAL COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-95 is amended to read:

"§ 143B-95. *Edenton Historical Commission; creation, purposes, and powers.*—There is hereby recreated the Edenton Historical Commission. The purposes of the Commission are to effect and encourage preservation, restoration, and appropriate presentation of the Town of Edenton and Chowan County, as a historic, educational, and aesthetic place, to the benefit of the citizens of the place and the State and of visitors. To accomplish its purposes, the Commission has the following powers and responsibilities:

- (1) to acquire, hold, and dispose of title to or interests in historic properties in the Town of Edenton and County of Chowan and to repair, restore, and otherwise improve the properties, and to maintain them;

- (2) to acquire, hold, and dispose of title to or interests in other land there, upon which historic structures have been or shall be relocated, and to improve the land and maintain it;
- (3) to acquire, hold, and dispose of suitable furnishings for the historic properties, and to provide and maintain suitable gardens for them;
- (4) to develop and maintain one or more collections of historic objects and things pertinent to the history of the town and county, to acquire, hold, and dispose of the items, and to preserve and display them;
- (5) to develop and conduct appropriate programs, under the name 'Historic Edenton' or otherwise, for the convenient presentation and interpretation of the properties and collections to citizens and visitors, as places and things of historic, educational, and aesthetic value;
- (6) to conduct programs for the fostering of research, for the encouragement of preservation, and for the increase of knowledge available to the local citizens and the visitors in matters pertaining to the history of the town and county;
- (7) to cooperate with the Secretary and Department of Cultural Resources and with appropriate associations, governments, governmental agencies, persons, and other entities, and to assist and advise them, toward the furtherance of the Commission's purposes;
- (8) to solicit gifts and grants toward the furtherance of these purposes and the exercise of these powers;
- (9) to conduct other programs and do other things appropriate and reasonably necessary to the accomplishment of the purposes and the exercise of the powers; and
- (10) to adopt and enforce any bylaws and rules that the Commission deems beneficial and proper."

**Sec. 2.** G.S. 143B-98 is amended to read:

"§ 143B-98. *Edenton Historical Commission; members, selection, compensation, quorum.*— The Edenton Historical Commission shall consist of 33 members, 18 appointed by the Governor to serve at his pleasure, 12 elected by the Commission from time to time according to the procedure it adopts, and, ex officio, the Mayor of the Town of Edenton, the Chairman of the Board of Commissioners of Chowan County, and the Secretary of Cultural Resources or his designee.

All the present members of the Commission may continue to serve, at the pleasure of the Governor, until the end of his present term of office. The Commission shall elect its own officers, and the members of the Commission shall serve without pay and without expense allowance from State funds. The Commission shall determine its requirements for a quorum."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

H. B. 1002

**CHAPTER 734**

AN ACT TO DEFINE BOARDING KENNELS UNDER THE ANIMAL WELFARE ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 19A-23 is amended by adding a new subdivision (6) as follows, and renumbering subdivisions (6) through (16), as they appear in the 1978 Interim Supplement to the General Statutes, as (7) through (17):

“(6) ‘Boarding kennel’ means a facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats.”

**Sec. 2.** G.S. 19A-39 is rewritten to read:

“Nothing in this Article shall apply to those kennels or establishments operated primarily for the purpose of boarding or training hunting dogs.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

H. B. 1099

**CHAPTER 735**

AN ACT TO RAISE THE MAXIMUM AMOUNT OF APPROPRIATIONS A COUNTY MAY MAKE TO TAKE CARE OF CEMETERIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 65-2 is amended on line 9 by deleting the word “required” and substituting therefor the word “authorized”, and is further amended on lines 11 and 12 by deleting the language “fifteen dollars (\$15.00)” and substituting therefor the language “fifty dollars (\$50.00)”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

H. B. 1185

**CHAPTER 736**

AN ACT TO EXTEND THE LIFE OF THE DAM SAFETY LAW OF 1967.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-34.11 is amended by deleting line 33 of the section which reads:

“Chapter 143, Article 21, Part 3, entitled ‘Dam Safety’.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.



## H. B. 1202

## CHAPTER 737

AN ACT TO ESTABLISH A FISHING LICENSE TO COVER ALL PERSONS FISHING AS TEMPORARY GUESTS OF A RESIDENT OR PROPERTY OWNER ON INLAND WATERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-271, hook-and-line licenses in inland fishing waters, is hereby amended by adding a new subsection (e) as follows:

“(e) A special guest fishing license, to be sold for an annual fee of twenty-five dollars (\$25.00) upon application to the Wildlife Resources Commission in the form which they may require, may be purchased by the owner or lessee of private property bordering inland or joint fishing waters entitling persons to fish from such waterfront property and any pier or dock originating on such property without any additional inland fishing license. This license is applicable only to private property and private docks and piers and is not valid for any property, pier, or dock operated for any commercial purpose whatsoever. The guest fishing license shall not be in force unless displayed on the premises of the property and only entitles fishing without additional license to persons fishing from the licensed property and then only within the private property lines of the site of posting. The guest fishing license is not transferable as to person or location.”

**Sec. 2.** These provisions shall not apply to residents of the Cherokee Indian Reservation.

**Sec. 3.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 568

## CHAPTER 738

AN ACT TO PROTECT EMPLOYEES FROM BEING DISCHARGED BECAUSE THEY HAVE FILED A WORKMEN'S COMPENSATION CLAIM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 97 of the General Statutes is amended by adding a new section to read:

“§ 97-6.1. *Protection of claimants from discharge or demotion by employers.*—(a) No employer may discharge or demote any employee because the employee has instituted or caused to be instituted, in good faith, any proceeding under the North Carolina Workmen's Compensation Act, or has testified or is about to testify in any such proceeding.

(b) Any employer who violates any provision of this section shall be liable in a civil action for reasonable damages suffered by an employee as a result of the violation, and an employee discharged or demoted in violation of this section shall be entitled to be reinstated to his former position. The burden of proof shall be upon the employee.

(c) Any employer shall have as an affirmative defense to this section the following: willful or habitual tardiness or absence from work or being disorderly or intoxicated while at work, or destructive of an employer's property; or for failure to meet employer work standards not related to the Workmen's Compensation Claim; or malingering; or embezzlement or larceny of employer's

property; or for violating specific written company policy of which the employee has been previously warned and for which the action is a stated remedy of such violation.

(d) The General Court of Justice shall have jurisdiction of actions under this section.

(e) The failure of an employer to continue to employ, either in employment or at the employee's previous level of employment, an employee who receives compensation for permanent disability, total or partial, shall in no manner be deemed a violation of this section.

(f) The statute of limitations for actions under this section shall be six months as set out in General Statute 1-55."

**Sec. 2.** General Statute 1-55 is amended by adding a new subsection (3) to read as follows:

"(3) For wrongful discharge or demotion because of proceedings under the North Carolina Workmen's Compensation Act as prohibited by G.S. 97-6.1."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 1180

## CHAPTER 739

### AN ACT TO REQUIRE THAT CERTAIN INFORMATION REGARDING AN ADOPTION BE DISCLOSED.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new subsection is added to G.S. 48-25 to read:

"(d) Notwithstanding the provisions of G.S. 48-26 or any other provision of law, any medical record or other information concerning the physical or mental health of the adopted child which is contained in the records of the county department of social services or a licensed child placing agency shall be revealed upon written request of the adopted child who has reached majority, or of the adoptive parents, provided that any information which serves to identify the natural parents of the adopted child, including but not limited to any information identifying physicians or other medical personnel, medical facilities or geographical locations, shall be excised from these medical records or other information. For purposes of this subsection, 'other information concerning the physical or mental health of the adopted child' includes any medical background of his natural parents which would have a substantial bearing on the child's health."

**Sec. 2.** G.S. 48-25(b) is amended by inserting between the words "in" and "G.S. 48-26" the words and punctuation as follows:

"subsection (d) of this section,".

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 1186

## CHAPTER 740

## AN ACT TO EXTEND THE LIFE OF THE NORTH CAROLINA MINING COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-34.11 is amended by deleting from the section lines 34 and 35 which read as follows:

“Chapter 143B, Article 7, Part 6, entitled ‘North Carolina Mining Commission.’”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 1199

## CHAPTER 741

## AN ACT TO REWRITE ARTICLE 19B OF CHAPTER 14, THE CREDIT CARD CRIME ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 19B of Chapter 14 of the General Statutes is rewritten to read as follows:

“ARTICLE 19B.

“Financial Transaction Card Crime Act.

“§ 14-113.8. *Definitions.*—The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) Automated banking device. ‘Automated banking device’ means any machine which when properly activated by a financial transaction card and/or personal identification code may be used for any of the purposes for which a financial transaction card may be used.

(2) Cardholder. ‘Cardholder’ means the person or organization named on the face of a financial transaction card to whom or for whose benefit the financial transaction card is issued by an issuer.

(3) Expired financial transaction card. ‘Expired financial transaction card’ means a financial transaction card which is no longer valid because the term shown on it has elapsed.

(4) Financial transaction card. ‘Financial transaction card’ or ‘FTC’ means any instrument or device whether known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder:

- a. in obtaining money, goods, services, or anything else of value on credit; or
- b. in certifying or guaranteeing to a person or business the availability to the cardholder of funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such person or business; or
- c. in providing the cardholder access to a demand deposit account or time deposit account for the purpose of:
  1. making deposits of money or checks therein; or
  2. withdrawing funds in the form of money, money orders, or traveler’s checks therefrom; or

3. transferring funds from any demand deposit account or time deposit account to any other demand deposit account or time deposit account; or
  4. transferring funds from any demand deposit account or time deposit account to any credit card accounts, overdraft privilege accounts, loan accounts, or any other credit accounts in full or partial satisfaction of any outstanding balance owed existing therein; or
  5. for the purchase of goods, services or anything else of value; or
  6. obtaining information pertaining to any demand deposit account or time deposit account;
- d. but shall not include a telephone number, credit number, or other credit device which is covered by the provisions of Article 19A of this Chapter.

(5) Issuer. 'Issuer' means the business organization or financial institution or its duly authorized agent which issues a financial transaction card.

(6) Personal identification code. 'Personal identification code' means a numeric and/or alphabetical code assigned to the cardholder of a financial transaction card by the issuer to permit authorized electronic use of that FTC.

(7) Presenting. 'Presenting' means, as used herein, those actions taken by a cardholder or any person to introduce a financial transaction card into an automated banking device, including utilization of a personal identification code, or merely displaying or showing a financial transaction card to the issuer, or to any person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud.

(8) Receives. 'Receives' or 'receiving' means acquiring possession or control or accepting a financial transaction card as security for a loan.

(9) Revoked financial transaction card. 'Revoked financial transaction card' means a financial transaction card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

"§ 14-113.9. *Financial transaction card theft.*—(a) A person is guilty of financial transaction card theft when:

- (1) He takes, obtains or withholds a financial transaction card from the person, possession, custody or control of another without the cardholder's consent and with the intent to use it; or who, with knowledge that it has been so taken, obtained or withheld, receives the financial transaction card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder; or
- (2) He receives a financial transaction card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder; or
- (3) He, not being the issuer, sells a financial transaction card or buys a financial transaction card from a person other than the issuer; or
- (4) He, not being the issuer, during any 12-month period, receives financial transaction cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute a violation of G.S. 14-113.13(a)(3) and subdivision (3) of subsection (a) of this section.

(b) Taking, obtaining or withholding a financial transaction card without consent is included in conduct defined in G.S. 14-75 as larceny.



Conviction of financial transaction card theft is punishable as provided in G.S. 14-113.17(b).

“§ 14-113.10. *Prima facie evidence of theft.*—When a person has in his possession or under his control financial transaction cards issued in the names of two or more other persons other than members of his immediate family, such possession shall be *prima facie* evidence that such financial transaction cards have been obtained in violation of G.S. 14-113.9(a).

“§ 14-113.11. *Forgery of financial transaction card.*—(a) A person is guilty of financial transaction card forgery when:

- (1) With intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he falsely makes or falsely embosses a purported financial transaction card or utters such a financial transaction card; or
- (2) With intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he falsely encodes, duplicates or alters existing encoded information on a financial transaction card or utters such a financial transaction card; or
- (3) He, not being the cardholder or a person authorized by him, with intent to defraud the issuer, or a person or organization providing money, goods, services or anything else of value, or any other person, signs a financial transaction card.

(b) A person falsely makes a financial transaction card when he makes or draws, in whole or in part, a device or instrument which purports to be the financial transaction card of a named issuer but which is not such a financial transaction card because the issuer did not authorize the making or drawing, or alters a financial transaction card which was validly issued.

(c) A person falsely embosses a financial transaction card when, without authorization of the named issuer, he completes a financial transaction card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the financial transaction card before it can be used by a cardholder.

(d) A person falsely encodes a financial transaction card when, without authorization of the purported issuer, he records magnetically, electronically, electro-magnetically or by any other means whatsoever, information on a financial transaction card which will permit acceptance of that card by any automated banking device. Conviction of financial transaction card forgery shall be punishable as provided in G.S. 14-113.17(b).

“§ 14-113.12. *Prima facie evidence of forgery.*—(a) When a person, other than the purported issuer, possesses two or more financial transaction cards which are falsely made or falsely embossed, such possession shall be *prima facie* evidence that said cards were obtained in violation of G.S. 14-113.11(a)(1) or G.S. 14-113.11(a)(2).

(b) When a person, other than the cardholder or a person authorized by him possesses two or more financial transaction cards which are signed, such possession shall be *prima facie* evidence that said cards were obtained in violation of G.S. 14-113.11(a)(3).

“§ 14-113.13. *Financial transaction card fraud.*—(a) A person is guilty of financial transaction card fraud when, with intent to defraud the issuer, a

person or organization providing money, goods, services or anything else of value, or any other person, he

(1) uses for the purpose of obtaining money, goods, services or anything else of value a financial transaction card obtained or retained, or which was received with knowledge that it was obtained or retained, in violation of G.S. 14-113.9 or G.S. 14-113.11 or a financial transaction card which he knows is forged, altered, expired, revoked or was obtained as a result of a fraudulent application in violation of G.S. 14-113.13(c); or

(2) obtains money, goods, services, or anything else of value by:

a. representing without the consent of the cardholder that he is the holder of a specified card; or

b. presenting the financial transaction card without the authorization or permission of the cardholder; or

c. representing that he is the holder of a card and such card has not in fact been issued; or

d. using a financial transaction card to knowingly and willfully exceed:

1. the actual balance of a demand deposit account or time deposit account; or

2. an authorized credit line in an amount which exceeds such authorized credit line in the amount of five hundred dollars (\$500.00), or fifty percent (50%) of such authorized credit line, whichever is greater; or

(3) obtains control over a financial transaction card as security for debt; or

(4) deposits into his account or any account, by means of an automated banking device, a false, fictitious, forged, altered or counterfeit check, draft, money order, or any other such document not his lawful or legal property; or

(5) receives money, goods, services or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered or counterfeit or that the above deposited item was not his lawful or legal property.

(b) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employee of such person is guilty of a financial transaction card fraud when, with intent to defraud the issuer or the cardholder, he

(1) furnishes money, goods, services or anything else of value upon presentation of a financial transaction card obtained or retained in violation of G.S. 14-113.9, or a financial transaction card which he knows is forged, expired or revoked; or

(2) fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished.

Conviction of financial transaction card fraud as provided in subsections (a) or (b) of this section is punishable as provided in G.S. 14-113.17(a) if the value of all money, goods, services and other things of value furnished in violation of this section, or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this

section, does not exceed five hundred dollars (\$500.00) in any six-month period. Conviction of financial transaction card fraud as provided in subsections (a) or (b) of this section is punishable as provided in G.S. 14-113.17(b) if such value exceeds five hundred dollars (\$500.00) in any six-month period.

(c) A person is guilty of financial transaction card fraud when, upon application for a financial transaction card to an issuer, he knowingly makes or causes to be made a false statement or report relative to his name, occupation, financial condition, assets, or liabilities; or willfully and substantially overvalues any assets, or willfully omits or substantially undervalues any indebtedness for the purpose of influencing the issuer to issue a financial transaction card. Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(d) A cardholder is guilty of financial transaction card fraud when he willfully, knowingly, and with an intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, submits, verbally or in writing, to the issuer or any other person, any false notice or report of the theft, loss, disappearance, or nonreceipt of his financial transaction card. Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(e) In any prosecution for violation of Section 14-113.13, the State is not required to establish and it is no defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.

(f) For purposes of this section, revocation shall be construed to include either notice given in person or notice given in writing to the person to whom the financial transaction card and/or personal identification code was issued. Notice of revocation shall be immediate when notice is given in person.

The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last address known to the issuer, shall be *prima facie* evidence that such notice was duly received after seven days from the date of the deposit in the mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received 10 days after mailing by registered or certified mail.

“§ 14-113.14. *Criminal possession of financial transaction card forgery devices.*—(a) A person is guilty of criminal possession of financial transaction card forgery devices when:

- (1) he is a person other than the cardholder and possesses two or more incomplete financial transaction cards, with intent to complete them without the consent of the issuer; or
- (2) he possesses, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments purporting to be financial transaction cards of an issuer who has not consented to the preparation of such financial transaction cards.

(b) A financial transaction card is incomplete if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the financial transaction card before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, encoded or written upon it.

Conviction of criminal possession of financial transaction card forgery devices is punishable as provided in G.S. 14-113.17(b).

“§ 14-113.15. *Criminal receipt of goods and services fraudulently obtained.*—A person is guilty of criminally receiving goods and services fraudulently obtained when he receives money, goods, services or anything else of value obtained in violation of G.S. 14-113.13(a) with the knowledge or belief that the same were obtained in violation of G.S. 14-113.13(a). Conviction of criminal receipt of goods and services fraudulently obtained is punishable as provided in G.S. 14-113.17(a) if the value of all the money, goods, services and anything else of value, obtained in violation of this section, does not exceed five hundred dollars (\$500.00) in any six-month period; conviction of criminal receipt of goods and services fraudulently obtained is punishable as provided in G.S. 14-113.17(b) if such value exceeds five hundred dollars (\$500.00) in any six-month period.

“§ 14-113.16. *Presumption of criminal receipt of goods and services fraudulently obtained.*—A person who obtains at a discount price a ticket issued by an airline, railroad, steamship or other transportation company from other than an authorized agent of such company which was acquired in violation of G.S. 14-113.13(a) without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it shall be presumed to know that such ticket was acquired under circumstances constituting a violation of G.S. 14-113.13(a).

“§ 14-113.17. *Punishment and penalties.*—(a) A person who is subject to the punishment and penalties of this subsection shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year, or both.

(b) A crime punishable under this subsection is a felony and shall be punishable by a fine of not more than three thousand dollars (\$3,000) or imprisonment for not more than three years, or both.”

**Sec. 2.** This act shall become effective August 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 1254

## CHAPTER 742

AN ACT TO AMEND CHAPTER 146 OF THE GENERAL STATUTES TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION TO PAY REWARDS FOR INFORMATION LEADING TO THE RECLAMATION OF CERTAIN STATE LANDS OR MONETARY RECOVERIES FROM PERSONS WRONGFULLY CUTTING STATE TIMBER.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3, Chapter 146 of the General Statutes is hereby amended by inserting a new section following G.S. 146-17 to be designated as G.S. 146-17.1 to read as follows:

“§ 146-17.1. *Rewards, reclamation of certain State lands, wrongful removal of timber from State lands.*—(a) The Department of Administration, acting on behalf of the State, for the purpose of discovering State lands, may, with the approval of the Governor and Council of State, pay any person, firm or corporation who shall provide information that leads to the successful reclamation of any swamplands or vacant and unappropriated lands of the State, a reward equal to one percent (1%) of the appraised value of the reclaimed land, or one thousand dollars (\$1,000), whichever sum is less. All expenses



incurred by the Department pursuant to this subsection shall be paid from the State Land Fund, unless otherwise provided by the General Assembly.

(b) The Department of Administration, acting on behalf of the State, may, with the approval of the Governor and Council of State, pay any person, firm or corporation who shall provide information that leads to a successful monetary recovery by the State from any person, firm or corporation who wrongfully cuts or removes timber from State lands, a reward equal to one percent (1%) of the amount of said monetary recovery, or one thousand dollars (\$1,000), whichever sum is less. All expenses incurred by the Department pursuant to this subsection shall be paid from said monetary recovery, unless otherwise provided by the General Assembly.

(c) No State employee or official, or other public employee or official, shall be eligible for a reward pursuant to Subsections (a) or (b) or this section for providing any information obtained in the normal course of his or her official duties."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 1263

## CHAPTER 743

AN ACT TO AUTHORIZE CITIES AND COUNTIES TO CREATE  
PURCHASE MONEY SECURITY INTERESTS IN REAL AND  
PERSONAL PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 160A of the General Statutes is hereby amended by inserting a new section 160A-20 to read:

"§ 160A-20. *Purchase money security interests.*—Cities and counties are authorized to purchase real or personal property by installment contracts which create in the property purchased a security interest to secure payment of the purchase money. A contract entered into under this section is subject to the applicable provisions of Article 8 of Chapter 159 of the General Statutes. No deficiency judgment may be rendered against any city or county in any action for breach of a contractual obligation authorized by this section, and the taxing power of a city or county is not and may not be pledged directly or indirectly to secure any moneys due to the seller. Any contract made or entered into by a city or county before the effective date of this act which would have been valid hereunder is hereby validated, ratified and confirmed."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 1345

## CHAPTER 744

AN ACT TO AMEND ARTICLE 1.1 OF CHAPTER 143 OF THE GENERAL STATUTES TO RESCHEDULE THE TERMINATION DATES OF CERTAIN AGENCIES AND PROGRAMS, TO EMPOWER THE GOVERNMENTAL EVALUATION COMMISSION TO RESCHEDULE REVIEWS OF AGENCIES AND PROGRAMS, AND TO INCREASE THE MEMBERSHIP OF THAT COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The following language is deleted from G.S. 143-34.11 and is inserted at the end of G.S. 143-34.12:

“Chapter 84, Article 4, entitled ‘North Carolina State Bar’.

Chapter 85C, entitled ‘Bail Bondsmen and Runners’.

Chapter 90A, Article 2, entitled ‘Water Treatment Facility Operators’.

Chapter 90A, Article 3, entitled ‘Wastewater Treatment Plant Operators’.

Chapter 93, entitled ‘Public Accountants’.

Chapter 78A, Article 5, entitled ‘Registration of Dealers and Salesmen’ (of securities).

Chapter 81A, Article 5, entitled ‘Public Weightmasters’.

Chapter 95, Article 15, entitled ‘Passenger Tramways’.

Chapter 74, Article 7, entitled ‘The Mining Act of 1971’.

Chapter 113A, Article 4, entitled ‘Sedimentation Pollution Control Act of 1973’.

Chapter 143B, Article 7, Part 8, entitled ‘Sedimentation Control Commission’.

Chapter 143B, Article 7, Part 9, entitled ‘Wastewater Treatment Plant Operators Certification Commission’.

G.S. 76-1 through 76-12, relating to a board of commissioners of navigation and pilotage for the Cape Fear River and Bar.

Chapter 76, Article 6, entitled ‘Morehead City Navigation and Pilotage Commission’.” Sec. 2. There is hereby deleted from G.S. 143-34.11 the reference to the Article in G.S. Chapter 90A concerning sanitarians, and there is hereby added to G.S. 143-34.12 the clause, “The Article in G.S. Chapter 90A concerning sanitarians”, it being the intention of this section to transfer from 1979 to 1981 the scheduled termination of the Article concerning sanitarians, whether or not House Bill 367 (1979) is enacted. Sec. 3. There is hereby deleted from G.S. 143-34.11 the clause, “Chapter 71, Article 2, entitled ‘North Carolina Commission on Indian Affairs’”, and there is hereby added to G.S. 143-34.12 the clause, “Chapter 143B, Article 9, Part 15, entitled ‘North Carolina State Commission on Indian Affairs’”. Sec. 4. The following language is deleted from G.S. 143-34.12 and inserted at the end of G.S. 143-34.13: “Chapter 113A, Article 7, entitled ‘Coastal Area Management’”. Sec. 5. G.S. 143-34.16 is amended by adding two new subsections as follows:

“(d) The Commission may change from one biennium to another the scheduled review of any statute enumerated in G.S. 143-34.11, G.S. 143-34.12, or G.S. 143-34.13 in order to facilitate the coordinated review of related programs, or to permit an earlier review of any program than is now scheduled pursuant to those sections. The Commission shall report any such schedule change to the

ensuing General Assembly and shall recommend that the change be reflected by appropriate amendments to this Article.

(e) The Commission may make such further reports to the General Assembly as it deems appropriate."

**Sec. 6.** Subsection (a) of G.S. 143-34.15 is amended by deleting from lines 3 and 4 the phrase "10 members, six to be appointed by the Governor, and two" and by inserting in lieu thereof the phrase "12 members, six to be appointed by the Governor, and three".

**Sec. 7.** G.S. 143-34.19(b) is hereby amended by deleting from line 2 the words and punctuation "shall consider the evaluation elements listed in G.S. 143-34.17:".

**Sec. 8.** Chapter 116, Article 24, entitled "Learning Institute of North Carolina" is hereby repealed.

**Sec. 9.** Section 8 is effective January 1, 1980, and the remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 1405

## CHAPTER 745

AN ACT TO ALLOW LOCAL GOVERNMENTS TO ENACT ORDINANCES  
BANNING VEHICLES IN PRIVATE PARKING LOTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Chapter 153A of the General Statutes to read:

"§ 153A-139. *Regulation of traffic at parking areas and driveways.*—The governing body of any county may, by ordinance, regulate the stopping, standing, or parking of vehicles in specified areas of any parking areas or driveways of a hospital, shopping center, apartment house, condominium complex, or commercial office complex or any other privately owned public vehicular area, or prohibit such stopping, standing, or parking during any specified hours, provided the owner or person in general charge of the operation and control of that area requests in writing that such an ordinance be adopted. 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.** A new subsection is added to G.S. 160A-301 to read:

"(d) The governing body of any city may, by ordinance, regulate the stopping, standing, or parking of vehicles in specified areas of any parking areas or driveways of a hospital, shopping center, apartment house, condominium complex, or commercial office complex, or any other privately owned public vehicular area, or prohibit such stopping, standing, or parking during any specified hours, provided the owner or person in general charge of the operation and control of that area requests in writing that such an ordinance be adopted. 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. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

H. B. 1456

**CHAPTER 746**

AN ACT TO AMEND G.S. 20-81.5 RELATING TO CIVIL AIR PATROL PLATES, TO CONFORM IT TO CHAPTER 193, SESSION LAWS OF 1979.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-81.5 is amended by striking the words and figures "five dollars (\$5.00)" appearing at the end of line 14.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

S. B. 651

**CHAPTER 747**

AN ACT TO BE CALLED HISTORIC PRESERVATION AND CONSERVATION AGREEMENTS ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The title of this act shall be known as the Historic Preservation and Conservation Agreements Act.

**Sec. 2.** Definitions. Subject to any additional definitions contained in this act, or unless the context otherwise requires:

(1) A "preservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant, condition or otherwise, in any deed, will or other instrument executed by or on behalf of the owner of the land or any improvement thereon, or in any other of taking, appropriate to preservation of a structure or site historically significant for its architecture, archeology or historical associations, to forbid or limit any or all (a) alteration, (b) alterations in exterior or interior features of the structure, (c) changes in appearance or condition of the site, (d) uses not historically appropriate, or (e) other acts or uses supportive of or detrimental to appropriate preservation of the structure or site.

(2) A "conservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all (a) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (b) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (c) removal or destruction of trees, shrubs or other vegetation, (d) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (e) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (f) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (g) other acts or uses detrimental to such retention of land or water areas.



(3) "Holder" means any public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision or municipal or public corporation, or any instrumentality of any of the foregoing, any nonprofit corporation or trust, or any private corporation or business entity whose purposes include any of those stated in (1) and (2) above, covering the purposes of preservation and conservation agreements.

**Sec. 3. Applicability.** (a) This act shall apply to all conservation and preservation agreements falling within its terms and conditions. (b) This act shall not be construed to make unenforceable any restriction, easement, covenant or condition which does not comply with the requirements of this act. (c) This act shall not be construed to diminish the powers of any public entity, agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent domain or otherwise and to use property of any kind for public purposes.

**Sec. 4. Acquisition and Approval of Conservation and Preservation Agreements.** Subject to the conditions stated in this act, any holder may, in any manner, acquire, receive or become a party of a conservation agreement or a preservation agreement.

**Sec. 5. Validity of Agreements.** (a) No conservation or preservation agreement shall be unenforceable because of (1) lack of privity of estate or contract, or (2) lack of benefit to particular land or person, or (3) the assignability of the benefit to another holder as defined in this act. (b) Such agreements are interests in land and may be acquired by any holder in the same manner as it may acquire other interests in land. (c) Such agreements may be effective perpetually or for shorter stipulated periods of time. (d) Such agreements may impose present, future, or continuing obligations on either party to the agreement, or their successors, in furtherance of the purposes of the agreement.

**Sec. 6. Enforceability of Agreements.** (a) Conservation or preservation agreements may be enforced by the holder by injunction and other appropriate equitable relief administered or afforded by the courts of this State. Where appropriate under the agreement, damages, or other monetary relief may also be awarded either to the holder or creator of the agreement or either of their successors for breach of any obligations undertaken by either. (b) Such agreements shall entitle representatives of the holder to enter the involved land or improvement in a reasonable manner and at reasonable times to assure compliance.

**Sec. 7. Assessment of Land or Improvements Subject to Agreement.** For purposes of taxation, land and improvements subject to a conservation or preservation agreement shall be assessed on the basis of the true value of the land and improvement less any reduction in value caused by the agreement.

**Sec. 8. Public Recording of Agreements.** (a) Conservation agreements shall be recorded in the office of the Register of Deeds of the county or counties in which the subject land or improvement is located, in the same manner as deeds are now recorded. (b) Releases or terminations of such agreements shall be recorded in the same waiver. Releases or terminations, or the recording entry, shall appropriately identify by date, parties, and book and pages of recording, the agreement which is the subject of the release or termination.

**Sec. 9. Short Title.** This act shall be known and may be cited as Uniform Conservation and Historic Preservation Agreement Act.

**Sec. 10.** This act is effective upon ratification and applies only to agreements executed, created or entered into after that date.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

S. B. 778

## CHAPTER 748

### AN ACT TO INCREASE THE FEES FOR HUNTING AND FISHING LICENSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-95 is amended by rewriting the schedule of license fees at the end of the first paragraph thereof to read:

#### "License Fees

Nonresident hunting license	\$31.00
Nonresident six-day hunting license	25.00
Resident State hunting license	9.50
Resident combination hunting and fishing license	12.50
Resident county hunting license	4.50."

**Sec. 2.** G.S. 113-95.2 is amended by rewriting the first sentence to read:

"In addition to such hunting licenses as are required by G.S. 113-95, no one may hunt any species of big game without first having procured a big-game hunting license which shall be issued to a resident of this State upon payment of a license fee in the sum of four dollars and twenty-five cents (\$4.25) plus twenty-five cents (25¢) for the issuing agent, and to a nonresident of this State upon payment of a license fee in the sum of eighteen dollars (\$18.00) plus fifty cents (50¢) for the issuing agent."

**Sec. 3.** G.S. 113-95.5, as the same appears in the 1978 Replacement Volume 3A, Part II, of the General Statutes, is amended by deleting from the first sentence thereof the words and figures "four dollars and fifty cents (\$4.50)" and by substituting in lieu thereof the words and figures "five dollars and fifty cents (\$5.50)."

**Sec. 4.** G.S. 113-95.6 is amended by rewriting the last sentence thereof to read:

"The sportsman's combination license authorized by this section shall be issued upon payment of a license fee in the sum of thirty dollars and fifty cents (\$30.50) by a resident of this State, or in the sum of sixty-one dollars and fifty cents (\$61.50) by a nonresident, plus fifty cents (50¢) for the issuing agent."

**Sec. 5.** G.S. 113-96.1 is amended to read:

"§ 113-96.1. *Schedule of licenses.*—The several hunting and trapping licenses required and authorized by G.S. 113-95, 113-95.2, 113-95.3, 113-95.5, 113-95.6 and 113-96 are summarized and tabulated as follows:

Nonresident hunting license	\$ 31.00
Nonresident six-day hunting license	25.00
Nonresident landowner's county hunting license	10.00
Resident State hunting license	9.50
Resident combination hunting and fishing license	12.50
Resident county hunting license	4.50
Controlled shooting preserve hunting license	10.00
Resident big-game hunting license	4.50
Nonresident big-game hunting license	18.50

Primitive weapons hunting license	6.00
Resident sportsman's combination license	31.00
Nonresident sportsman's combination license	62.00
Nonresident trapping license	60.00
Resident State trapping license	10.00
Resident county trapping license	5.00
Lifetime combination licenses:	
Resident fifty percent (50%) or more disabled veteran	7.50
Resident 65 years old	10.00
Resident 70 years old	(No Charge)."

**Sec. 6.** G.S. 113-271(d) is rewritten to read:

"(d) The hook-and-line fishing licenses are granted upon such terms and for such prices as set out below. The amount stated in parentheses following the total price of each license indicates the fee to be kept by a license agent when selling such license, out of the amount collected.

- (1) Resident State license, \$9.50 (50¢). This license is valid only for use by an individual resident of the State.
- (2) Resident State combination hunting-fishing license, \$12.50 (50¢). This license is valid only for use by an individual resident of the State. It is valid during the period set for annual hunting licenses in G.S. 113-97.
- (3) Resident county license, \$4.50 (25¢). This license is valid only for use by an individual resident of the State within the county in which he lives. The provisions of this section shall apply only to those fishing with artificial bait.
- (4) Resident daily license, \$1.25 (25¢). This license is valid only for use during the day indicated by an individual resident of the State.
- (5) Nonresident State license, \$15.50 (50¢). This license is valid for use by an individual within the State.
- (6) Nonresident State daily license, \$2.25 (25¢). This license is valid only for use during the day indicated by an individual within the State."

**Sec. 7.** G.S. 113-272(d) is amended as follows:

- (1) in subdivision (1) by deleting the figures "\$3.25(25¢)" and by inserting in lieu thereof the figures "\$4.50 (25¢)"; and
- (2) in subdivision (2) by deleting the figures "\$6.25" and by inserting in lieu thereof the figures "\$8.00".

**Sec. 8.** G.S. 113-272.1 is amended as follows:

- (1) in subdivision (1) by deleting the figures "\$25.00" and by inserting in lieu thereof the figures "\$31.00"; and
- (2) in subdivision (2) by deleting the figures "\$50.00" and by inserting in lieu thereof the figures "\$62.00".

**Sec. 9.** This act shall become effective on August 1, 1979, except that Sections 6 (excluding subsection (d)(2)) and 7 of this act shall become effective on January 1, 1980; provided further that in order to allow adequate time for the printing and distribution of hunting licenses and combination hunting and fishing licenses incorporating the amended fees, the 1978-79 hunting licenses and combination hunting and fishing licenses which are scheduled to expire on August 1, 1979, are valid through September 1, 1979.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

## H. B. 159

## CHAPTER 749

AN ACT TO MAKE AMENDMENTS TO THE LAWS RELATING TO  
CRIMINAL PROCEDURE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-1344(c) is amended by adding after the second sentence therein the following:

"In cases where the probation is revoked in a county other than the county of original conviction, the clerk in such county revoking probation shall file the Order of Revocation, which shall constitute sufficient permanent record of the proceedings in that court, and shall send one copy of the order revoking probation to the North Carolina Department of Correction to serve as a temporary commitment, and shall send the original order revoking probation and all other papers pertaining thereto, to the county of original conviction to be filed with the original records; the clerk of the county of original conviction shall then issue a formal commitment to the North Carolina Department of Correction."

**Sec. 2.** G.S. 15A-1344(d) is amended by adding after the first sentence therein the following:

"The probation period shall be tolled if the probationer shall have pending against him criminal charges in any court of competent jurisdiction, which, upon conviction, could result in revocation proceedings against him for violation of the terms of this probation."

**Sec. 3.** G.S. 15A-1344(e) is amended by inserting after the second sentence therein the following:

"In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order."

**Sec. 4.** G.S. 15A-1345(c) is amended by deleting the word "five", as it appears in the third line therein, and substituting in lieu thereof the word "seven".

**Sec. 5.** G.S. 15A-1351(a) is amended by inserting after the second sentence therein the following:

"In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order."

**Sec. 6.** G.S. 15A-1351(b) is amended by adding at the end of the second sentence the following:

"The fact that the punishment provision for any crime defined by the General Statutes may prescribe a minimum and maximum period within which the court, if imposing an active sentence, must sentence to imprisonment for a violation of that provision of the General Statutes shall not prevent the imposition by the court of only a maximum sentence in those instances."



**Sec. 7.** G.S. 15A-1351(c) is hereby repealed, and subsequent subsections re-designated accordingly.

**Sec. 8.** G.S. 15A-1355(c) is hereby amended by adding at the end of the first sentence therein the following:

“Provided, that one serving a period or periods of imprisonment as a condition of special probation shall serve his term of imprisonment day for day, without any credits toward service of his term by any provisions of any Rules and Regulations made by the Department of Correction.”

**Sec. 9.** G.S. 15A-1371(a) is hereby amended by repealing the last sentence therein.

**Sec. 10.** G.S. 15A-1371(g) is hereby deleted, and the following substituted in lieu thereof:

“Notwithstanding the provisions of Subsection (a), a prisoner serving a sentence of not less than 30 days nor as great as 18 months for a felony or a misdemeanor may be released on parole when he completes service of one-third of his maximum sentence unless the Parole Commission finds in writing that:

(1) There is a substantial risk that he will not conform to reasonable conditions of parole; or

(2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or

(3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or

(4) There is a substantial risk that he would engage in further criminal conduct.

If a prisoner is released on parole by operation of this subsection, the term of parole is the unserved portion of the sentence to imprisonment, and the conditions of parole, unless otherwise specified by the Parole Commission, are those authorized in G.S. 15A-1374(b)(4) through (10).

In order that the Parole Commission may have an adequate opportunity to make a determination whether parole under this section should be denied, no prisoner eligible for parole under this section shall be released from confinement prior to the fifth full working day after he shall have been placed in the custody of the Secretary of Correction or the custodian of a local confinement facility.”

**Sec. 11.** G.S. 15A-1374(b) is amended by re-designating Subsection 12 as Subsection 13, and writing a new Subsection 12 as follows:

“(12) Make restitution or reparation to an aggrieved party as provided in G.S. 148-57.1.”

**Sec. 12.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 486

## CHAPTER 750

AN ACT TO POSTPONE UNTIL JULY 1, 1981, THE EFFECTIVE DATE OF THE REPEAL OF G.S. CHAPTER 93, ENTITLED "PUBLIC ACCOUNTANTS", AND TO MAKE CERTAIN AMENDMENTS THERETO.

Whereas, the Governmental Evaluation Commission created by Chapter 712 of the 1977 Session Laws has been unable to complete its work and make its recommendations to the General Assembly regarding all of the statutes assigned to said commission, and in particular, G.S. Chapter 93, entitled "Public Accountants" prior to the expiration date of that Chapter which was designated as July 1, 1979; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 712 Session Laws of 1977, is amended by deleting the words "G.S. Chapter 93, entitled 'Public Accountants'".

**Sec. 2.** Section 3 of Chapter 712, Session Laws of 1977, is amended by adding at the end thereof the words "G.S. Chapter 93, entitled 'Public Accountants'".

**Sec. 3.** G.S. 93-1(a)(3) is rewritten to read:

"(3) A 'certified public accountant' is a person engaged in the practice of accountancy who holds a certificate as a certified public accountant issued to him under the provisions of this Chapter."

**Sec. 4.** G.S. 93-2 is amended by deleting the number "21", and inserting in lieu thereof the number "18".

**Sec. 5.** G.S. 93-4 is amended by changing the period at the end to a semicolon and adding the following language at the end:

"provided, however, that the Board may exempt those persons who do not actually practice in or reside in the State of North Carolina from registering and receiving a certificate of qualification under this section."

**Sec. 6.** G.S. 93-12 is amended by rewriting the second sentence to read:

"Said Board is created as an agency of the State of North Carolina and shall consist of five persons to be appointed by the Governor, four persons to be holders of valid and unrevoked certificates as certified public accountants issued under the provisions of this Chapter, and one person who shall not be engaged in the practice of accounting in any manner."

**Sec. 7.** G.S. 93-12(5) is rewritten to read:

"(5) To issue certificates of qualification admitting to practice as certified public accountants, each applicant who, having the qualifications herein specified, shall have passed an examination to the satisfaction of the Board, in 'accounting theory', 'accounting practice', 'auditing', 'business law', and other related subjects.

From and after July 1, 1961, any person shall be eligible to take the examination given by the Board who is a citizen of the United States or has declared his intention of becoming such a citizen or is a resident alien, and has resided for at least four months within the State of North Carolina, is 18 years of age or over, and is of good moral character, and submits evidence satisfactory to the Board that:

- a. he holds a Bachelor's degree from a college or university accredited by one of the regional accrediting associations or from a college or

- university determined by the Board to have standards substantially equivalent to a regionally accredited institution, and
- b. his degree studies included a concentration in accounting as defined by the Board or that he supplemented his degree studies with courses that the Board determines to be substantially equivalent to a concentration in accounting, and
  - c. satisfactory evidence of the completion of two years in an accredited college or university or its equivalent with a concentration in accounting as defined by the Board and two years experience in the practice of public accountancy under the direct supervision of a certified public accountant, in addition to other experience requirements in this section, may be substituted for a Bachelor's degree.

Provided, however, the Board may, in its discretion, waive the education requirement of any candidate if the Board is satisfied from the result of a special written examination given the candidate by the Board to test his educational qualifications that he is as well equipped, educationally, as if he met the education requirements specified above. The Board may provide by regulation for the general scope of such examinations and may obtain such advice and assistance as it deems appropriate to assist it in preparing, administering and grading such special examinations.

Such applicant, in addition to passing satisfactorily the examination given by the Board, shall have the endorsement of three certified public accountants as to his eligibility, and shall have had either:

- a. two years experience in the field of accounting under the direct supervision of a certified public accountant; or
- b. five years experience teaching accounting in a four-year college or university accredited by one of the regional accrediting associations or in a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution; or
- c. five years experience in the field of accounting; or five years experience teaching college transfer accounting courses at a community college or technical institute accredited by one of the regional accrediting associations; or
- d. any combination of such experience determined by the Board to be substantially equivalent to the foregoing.

A Master's or more advanced degree in accounting, tax law, economics or business administration from an accredited college or university may be substituted for one year of experience. The Board may permit persons otherwise eligible to take its examinations and withhold certificates until such person shall have had the required experience."

**Sec. 8.** G.S. 93-12(6) is amended by deleting the words "one year" in lines 12 and 14 and inserting in lieu thereof in each place the words "four months".

**Sec. 9.** G.S. 93-12(7) is amended by deleting the words "fifty dollars (\$50.00)", and inserting in lieu thereof the words "seventy-five dollars (\$75.00)".

**Sec. 10.** G.S. 93-12 is amended by renumbering subdivisions (9) through (15) as (11) through (17) respectively, and by adding the following new subdivisions:

"(9) To require the registration of certified public accountant firms which have offices both within and outside of North Carolina, and the payment by

such firms of an annual registration fee based on the total number of partners in each such firm, but not to exceed two thousand five hundred dollars (\$2,500) per firm per year.

“(10) To formulate rules and regulations for the continuing professional education of all persons holding the certificate of certified public accountant, subject to the following provisions:

- a. After January 1, 1983, any person desiring to obtain or renew a certificate as a certified public accountant must offer evidence satisfactory to the Board that such person has complied with the continuing professional education requirement approved by the Board. The Board may grant a conditional license for not more than 12 months for persons who are being licensed for the first time, or moving into North Carolina, or for other good cause, in order that such person may comply with the continuing professional education requirement.
- b. The Board shall promulgate rules and regulations for the administration of the continuing professional education requirement with a minimum number of hours of 20 and a maximum number of hours of 40 per year, and the Board may exempt persons who are retired or inactive from said continuing professional education requirement. The Board may also permit any certified public accountant to accumulate hours of continuing professional education in any calendar year of as much as two additional years annual requirement in advance of or subsequent to the required calendar year.
- c. Any applicant who offers satisfactory evidence on forms promulgated by the Board that he has participated in a continuing professional education program of the type required by the Board shall be deemed to have complied with this section.”

**Sec. 11.** Chapter 93 of the General Statutes is amended by adding a new Section 93-12.1 to read:

“§ 93-12.1. *Effect of new requirements.*—Any person who applies to the Board of Certified Public Accountant Examiners before July 1, 1983, to take the examination, who meets the educational requirement as it existed prior to the effective date of this section and complies with any of the experience requirements of this Chapter shall be deemed to have met the prerequisites to taking such examination.”

**Sec. 12.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 549

## CHAPTER 751

AN ACT TO MAKE CHANGES IN G.S. CHAPTER 35, ARTICLE 1A, AND OTHER LAWS CONCERNING GUARDIANSHIP OF INCOMPETENT ADULTS.



*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 35-1.7 is amended by adding the following subsections:

“(27) The term ‘autism’ refers to a person who has a physical disorder of the brain that includes disturbance in the developmental rate of physical, social, and language skills, abnormal responses to sensations, absence or delay in speech or language, or abnormal ways of relating to people, objects, and events, and that occurs sometimes by itself and sometimes in connection with other brain-functioning disorders. Autism is (a) a syndrome consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances, and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; and (b) mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

(28) The term ‘cerebral palsy’ refers to a person who has a muscle dysfunction, characterized by impairment of movement, often combined with speech impairment, and caused by abnormality of, or damage to, the brain. Cerebral palsy is a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, or incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty, and behavioral disorders.

(29) The term ‘epilepsy’ refers to a person who is subject to convulsive attacks and during these attacks usually loses consciousness or is subject to convulsive seizures. Epilepsy is a clinical disorder characterized by single or recurring attacks of loss of consciousness, convulsive movements, or disturbances of feeling or behavior. These transient episodes are associated with excessive neuronal discharges occurring diffusely or focally in the brain. The sites of neuronal discharge determine the clinical manifestations of the seizure.

(30) The term ‘mental illness’ refers to a person who has an illness that so lessens the capacity of the person to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care supervision, guidance, or control.

(31) The term ‘mental retardation’ refers to a person who has significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.”

**Sec. 2.** G.S. 35-1.8(a) is amended by striking the second sentence and inserting in lieu thereof the following as a new second sentence:

“Venue for such proceedings is in the county where the respondent resides, where he has real property, where either or both of his parents or next of kin reside, or where he is present, or if the respondent is an inpatient or resident of a treatment facility, venue is also in the county in which he resided when admitted to the facility.”

**Sec. 3.** G.S. 35-1.8(b) is amended by adding the following after the last sentence thereof:

“If a petition for adjudication of incompetency has been filed against the respondent, alleging him to be mentally ill, under the provisions of G.S. Chapter 35, Article 2 and the petition has been dismissed after a hearing on the merits, the clerk on his own motion may dismiss a petition filed under this Article against the same person, alleging him to be mentally ill, unless the petition alleges substantially new facts, not previously alleged in the Article 2

proceeding, tending to prove he is an incompetent adult, as defined in this Article, because of mental illness.

This Article does not apply to persons who are senile or have senile dementia unless they also are mentally ill, mentally retarded, epileptic, cerebral palsied, or autistic adults."

**Sec. 4.** Section 35-1.10 is amended in the first sentence by striking the words "the appointment of a guardian for" and inserting in lieu thereof the words "the adjudication of incompetence of".

**Sec. 5.** G.S. 35-1.11 is rewritten to read as follows:

"§ 35-1.11. *Costs in action.*—Costs shall be assessed as in special proceedings and shall be taxed against the respondent unless in the clerk's opinion the petitioner did not have reasonable grounds to bring the proceedings, in which case they shall be taxed to the petitioner. If the respondent is indigent, the costs shall be borne by the Administrative Office of the Courts."

**Sec. 6.** G.S. 35-1.12 is amended by repealing subparagraph (6) and in subparagraph (4) by striking the words "the appointment of a guardian is sought" and inserting in lieu thereof the words "the adjudication of incompetence is sought."

**Sec. 7.** G.S. 35-1.13 is rewritten to read as follows:

"§ 35-1.13. *Service of petition.*—A copy of the petition and the written notice of the time, date, and place set for a hearing on the petition shall be served on the respondent and on his guardian ad litem or counsel appointed by the clerk, if any. The petitioner shall mail, by first-class mail, a copy of the petition and the written notice to the person or persons designated in G.S. 35-1.12(5). The clerk, on his own motion, may order notice to be served on any other person pursuant to Rule 4 or the clerk may mail, by first-class mail, a copy of the petition and the written notice to any other person. The sheriff shall serve notice on the designated persons without demanding his fees in advance. Service shall be made as provided by G.S. 1A-1, Rules of Civil Procedure, Rule 4."

**Sec. 8.** G.S. 35-1.14 is amended by adding the words "to the parties" after the word "notices" and before the words "shall be served".

**Sec. 9.** G.S. 35-1.15(b) is rewritten to read as follows:

"(b) The petition shall set forth facts tending to show that there is reasonable cause to believe that the respondent is an incompetent adult and that he is in a condition that, unless appropriate intervention is provided by way of the appointment of a guardian to consent on the respondent's behalf to intervention, constitutes or reasonably appears to constitute an imminent or foreseeable danger to his physical well-being."

**Sec. 10.** G.S. 35-1.15(c) is amended by adding a new second sentence to read as follows:

"If the petition does not allege that the respondent is indigent, the clerk nevertheless may appoint counsel or a guardian ad litem to represent him, in which case the fees of the court-appointed counsel or guardian ad litem shall be a proper charge against the respondent."

**Sec. 11.** G.S. 35-1.15(c) is further amended by adding a new last sentence to read as follows:

"The hearing may be held earlier and in all cases shall be held as early as possible after the petition is filed."

**Sec. 12.** G.S. 35-1.15(d) is amended by deleting the next-to-last sentence and by rewriting the two first sentences to read as follows:

"If at the hearing the clerk finds that there is reasonable cause to believe that the respondent is an incompetent adult and that he is in a condition that, unless appropriate intervention is provided by way of the appointment of an interim guardian to consent on the respondent's behalf to intervention, constitutes or reasonably appears to constitute an imminent or foreseeable danger to his physical well-being, he shall immediately appoint an interim guardian, make specific findings of fact to support his conclusions, and set forth the guardian's powers and duties. The powers and duties of the interim guardian shall extend only so far as necessary to meet the emergency and in any event not more than 45 days, but the clerk may for good cause shown extend the period of interim guardianship for another 45 days."

**Sec. 13.** G.S. 35-1.15 is further amended by adding the following subsections:

"(e) The petitioner seeking an interim guardianship must also simultaneously file a petition under G.S. 35-1.10 for the adjudication of incompetence and may voluntarily dismiss the petition for adjudication of incompetence and for interim guardianship only before the hearing on the petition for interim guardianship.

(f) After entering his order on the petition for adjudication of incompetency, the clerk shall dismiss the petition for interim guardianship.

(g) The guardian ad litem appointed to represent the respondent in a petition for interim guardianship may waive his right to notice under G.S. 1A-1, Rules of Civil Procedure, Rule 17."

**Sec. 14.** G.S. 35-1.16(a) is amended in the first paragraph by striking the words "if he is indigent" and inserting in lieu thereof the words "or guardian ad litem", in the second paragraph by striking the words "unless the clerk has reason to believe he is not indigent" and inserting in lieu thereof the words "or if it is not alleged that the respondent is indigent and he fails to employ counsel before the hearing, the clerk shall immediately appoint counsel or guardian ad litem to represent him," and in the fourth paragraph by striking the period at the end of the paragraph and adding the words "unless the clerk finds that the respondent is incompetent and not indigent, in which case the fees of court-appointed counsel or guardian ad litem shall be a proper charge against the respondent."

**Sec. 15.** G.S. 35-1.16(b) is amended by adding to the first paragraph a new last sentence to read as follows: "Upon a motion of the respondent or on his own motion, the clerk may for good cause deny the petitioner's request for a multidisciplinary evaluation.", by repealing and rewriting the eighth paragraph to read as follows: "If no multidisciplinary evaluation has been requested, the clerk shall proceed with the hearing as set out in the original notice of hearing issued by him pursuant to G.S. 35-1.13.", and by adding the following after the last paragraph thereof:

"If a multidisciplinary evaluation does not contain medical, psychological, or social work evaluations, the designated agency nevertheless shall file it with the clerk and send copies to the petitioner and respondent and, in its report or in a transmittal letter, explain why the evaluation does not contain medical, psychological, or social work evaluations.

The clerk may not issue an order requiring that the respondent be taken into custody for the purpose of being evaluated.”

**Sec. 16.** G.S. 35-1.16(c) is rewritten to read as follows:

“(c) Right to jury trial. At the hearing, the respondent has a right, upon request by him, his counsel, or the guardian ad litem, to trial by jury. The respondent, his counsel, or the guardian ad litem may waive the right to trial by jury by written notice filed with the clerk. If none of them request trial by jury, the clerk may nevertheless require trial by jury under G.S. Chapter 1-A, Rules of Civil Procedure, Rule 39(b) by entering an order for trial by jury on his own motion. The jury shall be composed of 12 persons chosen from the jury list of the county in accordance with the provisions of Chapter 9 of the General Statutes.”

**Sec. 17.** G.S. 35-1.16(f) is amended by adding the words “pursuant to G.S. 35-1.17” after the words in the first sentence “appoint a guardian.”

**Sec. 18.** G.S. 35-1.17 is rewritten to read as follows:

“§ 35-1.17. *Hearing before clerks on appointment of guardian.*—(a) For the purposes of determining who the guardian or guardians shall be, the clerk shall receive whatever testimony is offered at the conclusion of the adjudication of incompetency proceeding. For good cause shown, the clerk may transfer the appointment of a guardian and the guardianship to any county identified in G.S. 35-1.8. Upon transfer, the transferring clerk shall enter a written order authorizing the same. The order shall further state the appropriate person to be appointed guardian as determined at the aforesaid hearing. This order along with a certified copy of the adjudication papers shall be sent to the clerk of the transferee county and set up in the estates division as a basis for the guardian’s application, appointment, and qualification.

**Sec. 19.** G.S. 35-1.19 is amended by repealing the last paragraph thereof and inserting in lieu thereof the following:

“In all cases in which the clerk appoints a general guardian or a guardian of the estate, the clerk shall require the guardian to post a bond as provided by Chapter 33, Article 2. The clerk shall not require a guardian of the person to post a bond.”

**Sec. 20.** G.S. 35-1.31 is rewritten to read as follows:

“§ 35-1.31. *Status reports.*—(a) Within six months after he is appointed, the general guardian or guardian of the person shall file an initial status report with the designated agency, if an agency has been appointed. The general guardian or guardian of the person shall file his second status report with the designated agency one year after he is appointed, and he shall file all subsequent reports with the designated agency annually thereafter.

(b) The general guardian or guardian of the person shall file each status report under his oath or affirmation that the report is complete and accurate so far as he is informed and can determine.

(c) The designated agency shall not make the status reports available to any one other than the guardian, the ward, or State or local human resource agencies providing services to the ward.”

**Sec. 21.** G.S. 35-1.32(a) is amended by striking the words “either a financial or” and the words “from a guardian”.

**Sec. 22.** G.S. 35-1.32(b)(6) is amended by striking the words “pursuant to G.S. 35-1.38” and inserting in their place the words “pursuant to G.S. 35-1.39”.



**Sec. 23.** G.S. 35-1.34(a)(4) is amended by adding the following sentence:

“He may not, however, consent to the sterilization of a mentally ill or mentally retarded ward, which sterilization may be performed legally only after compliance with G.S. Chapter 35, Article 7.”

**Sec. 24.** G.S. 35-1.35 is amended by adding a new last sentence, to read as follows:

“A general guardian or a guardian of the estate shall file his inventories, accounts, and financial reports with the clerk who appointed him at the times and in the manner required by G.S. 33-36, G.S. 33-39, and G.S. 33-41, and the clerk shall file those reports in the appropriate estate file.”

**Sec. 25.** G.S. 35-1.36 is rewritten to read as follows:

“§ 35-1.36. *Guardian's financial reports' costs.*—The cost of filing financial reports shall be a proper charge against the ward's estate but, if the ward has no estate or has an estate with a value of less than two thousand dollars (\$2,000) at the time a guardian files a report, the clerk may waive the cost of filing.”

**Sec. 26.** G.S. 35-1.38 is rewritten to read as follows:

“§ 35-1.38. *Clerk's continuing jurisdiction over proceedings.*—(a) Any interested person may petition the clerk in the county where the guardian was appointed for modification of his order or for consideration of any matter pertaining to the guardianship.

(b) The clerk may order a multidisciplinary evaluation or other evaluation to be made upon the filing of a petition for subsequent proceedings.

(c) The clerk shall treat all petitions for subsequent proceedings filed under this section as motions in the cause.

(d) The petitioner shall obtain from the clerk a time, date, and place for a hearing on the petition, and shall notify the appropriate persons of the hearing on the petition by mailing a copy of the notice and petition at least 10 days prior to the date of the hearing.

(e) If an emergency exists that threatens the physical well-being of the ward, the clerk may enter ex parte an appropriate order pending disposition of the matter at the hearing.”

**Sec. 27.** G.S. 35-1.39 is rewritten to read as follows:

“§ 35-1.39. *Proceedings to restore ward to competency.*—(a) The guardian, ward, or any other interested person may file a petition with the clerk who appointed the guardian for the restoration of the ward to competency.

(b) Upon receipt of the petition, the clerk shall set a time, date, and place for a hearing. The petitioner shall cause notice to be served on the guardian and ward (unless one of them is the petitioner) and any other parties to the adjudication proceedings. Notice shall be served in accordance with the provisions of Rule 4.

(c) The clerk shall treat the petition for restoration to competency as a special proceeding.

(d) At the hearing on the petition, the ward shall be entitled pursuant to G.S. 35-1.16(a) to be represented by counsel or a guardian ad litem and the clerk shall appoint counsel or a guardian ad litem if the ward is indigent, upon request shall be entitled pursuant to G.S. 35-1.16(b) to a multidisciplinary evaluation, upon request shall be entitled pursuant to G.S. 35-1.16(c) to trial by jury except that the jury shall be a jury of six persons selected in accordance with the provisions of G.S. Chapter 9, shall be entitled pursuant to G.S. 35-1.16(d) to an

open hearing, and shall be entitled pursuant to G.S. 35-1.20 to appeal the clerk's decision to the superior court de novo.

(e) If the clerk or jury shall find that the ward is not an incompetent adult, the clerk shall enter an order adjudicating that the ward is restored to competency and, upon the clerk's receipt and approval of a proper final account from the guardian, discharge the guardian."

**Sec. 28.** G.S. 122-36(e) is rewritten to read as follows:

"(e) The words 'mentally retarded' refer to a person who has significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during his developmental period."

**Sec. 29.** G.S. 35-1.1 is amended by repealing and rewriting the second paragraph to read as follows:

"A 'mentally retarded' person refers to a person who has significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during his developmental period."

**Sec. 30.** Chapter 35 of the General Statutes is amended by deleting the words "mental defective," or "a mental defective," or "mentally defective" wherever such words appear and inserting in lieu thereof the words "mentally retarded".

**Sec. 31.** Chapter 35, Article 1A is amended by striking the words "proposed ward" wherever they appear and inserting in their place the word "respondent" and by striking the word "ward" as it appears before the words "is indigent" in G.S. 35-1.12(3) and inserting in its place the word "respondent".

**Sec. 32.** G.S. 35-2 is amended by adding a new last paragraph, to read as follows:

"If a petition for adjudication of incompetency has been filed against the respondent, alleging him to be mentally ill, under the provisions of G.S. 35, Article 1A, and the petition has been dismissed after a hearing on the merits, the clerk on his own motion may dismiss a petition filed under this Article or this section against the same person, alleging him to be mentally ill, unless the petition alleges substantially new facts, not previously alleged in the Article 1A proceeding, tending to prove that he is incompetent, as defined in this Article, because of mental illness."

**Sec. 33.** The third paragraph of G.S. 35-2 is rewritten to read as follows:

"The jury shall make return of their proceedings under their hands to the clerk, who shall file and record the same; and he shall proceed to appoint a guardian of any person so found to be inebriate or incompetent by inquisition of a jury as in cases of orphans. Provided, where the person is found to be incompetent from want of understanding to manage his affairs, by reason of physical and mental weakness on account of old age and/or disease and/or other like infirmities, the clerk may appoint a trustee instead of guardian for said person. The trustee or guardian administering an estate for any person shall be subject to all the laws governing the administration of estates of minors and incompetents. The clerks of superior courts who have heretofore appointed guardians for persons described in this proviso are hereby authorized and empowered to change said appointment from guardian to trustee. The sheriffs of the several counties to whom a process is directed under the provisions of this section shall serve the same without demanding their fees in advance. And the juries of the several counties upon whom a process is served under the

provisions of this section shall serve and make their returns without demanding their fees in advance.”

**Sec. 34.** G.S. 35-4 is amended on line 14 by deleting the words “six freeholders” and inserting in lieu thereof the words “six people chosen in accordance with the provisions of G.S. Chapter 9”.

**Sec. 35.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 557

## CHAPTER 752

AN ACT TO CHANGE THE DEFINITION OF A “DEVELOPMENTAL DISABILITY” AND THE MEMBERSHIP OF THE COUNCIL ON DEVELOPMENTAL DISABILITIES SO AS TO CONFORM TO FEDERAL LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-178 is amended by rewriting subsection (1) to read as follows:

“(1) The term ‘developmental disability’ means a severe, chronic disability of a person which:

- a. is attributable to a mental or physical impairment or combination of mental and physical impairments;
- b. is manifested before the person attains age 22;
- c. is likely to continue indefinitely;
- d. results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and
- e. reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.”

**Sec. 2.** G.S. 143B-179 is amended by renumbering “36” to read “32” on line 2, and by rewriting subsections (1) through (3) to read as follows:

“(1) Eleven members from the General Assembly and State government agencies as follows: One person who is a member of the Senate, one person who is a member of the House of Representatives, one representative of the Department of Public Instruction, one representative of the Department of Correction, and seven representatives of the Department of Human Resources to include the Secretary or his designee.

(2) Sixteen members designated as consumers of services for the developmentally disabled. A consumer of services for the developmentally disabled is a person who (1) has a developmental disability or is the parent or guardian of such a person, or (2) is an immediate relative or guardian of a person with mentally impairing developmental disability, and (3) is not an employee of a State agency that receives funds or provides services under the provisions of Part A, Title 1, P.L. 90-170, as amended, ‘Mental Retardation Facilities and Community Health Centers Construction Act of 1963’, is not a managing employee (as defined in Section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under such Part, and is not a

person with an ownership or control interest (within the meaning of Section 1124(a)(3) of the Social Security Act) with respect to such an entity. Of these 16 members, at least one third shall be persons with developmental disabilities and at least another one third shall be the immediate relatives or guardians of persons with mentally impairing developmental disabilities, of whom at least one shall be an immediate relative or guardian of an institutionalized developmentally disabled person.

(3) Five members at large. The five at-large members shall be chosen from local agencies, nongovernmental agencies and groups concerned with services to persons with developmental disabilities, and higher education training facilities in North Carolina, or from the interested public at large."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 651

## CHAPTER 753

AN ACT TO REVISE THE CARRBORO TOWN CHARTER TO AUTHORIZE THE CARRBORO BOARD OF ALDERMEN TO MAKE ASSESSMENTS FOR STREET AND SIDEWALK IMPROVEMENTS WITHOUT A PETITION FROM ABUTTING PROPERTY OWNERS, TO MAKE ASSESSMENTS FOR SIDEWALK IMPROVEMENTS WITHOUT A PETITION FROM ABUTTING PROPERTY OWNERS ON CERTAIN STREETS WITHIN THE TOWN'S BUSINESS AND INDUSTRIAL ZONES AND TO CHANGE THE MEMBERSHIP AND VOTING REQUIREMENTS FOR THE BOARD OF ADJUSTMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 660 of the Session Laws of 1969 (The Carrboro Town Charter) is hereby amended by adding a new Section 6.02 as follows:

"Section 6.02. Street Improvements Special Assessments. (a) Under the circumstances specified in subsection (b), the board of aldermen may levy special assessments for street and sidewalk improvements without regard for the petition requirements of G.S. 160A-217. However, except as modified expressly or by necessary implication by this section, all of the other provisions of Article 10 of Chapter 160A (including the preliminary resolution notice and hearing requirements) shall be applicable to assessments made without a petition.

(b) The board of aldermen may exercise the authority granted in subsection (a) with respect to the following types of streets located within the town:

- (1) unpaved streets that connect two paved streets;
- (2) unpaved extensions of streets that are partially paved; and
- (3) unpaved streets where the board receives a petition for the improvements signed by at least a majority in number of the owners of property to be assessed who reside on that street, who must represent at least a majority of all the lineal feet of frontage on the street to be improved that is owned by persons who reside on that street.

(c) To utilize the authority granted in subsection (a), the assessment resolution passed by the board of aldermen in accordance with G.S. 160A-225 shall include a finding that the proposed project is necessary to protect the



public health, safety, or welfare and cannot await a petition filed in accordance with G.S. 160A-217.

(d) Whenever the authority granted in subsection (a) is used, the board of aldermen shall assess to abutting property owners the same percentage of the cost of the project that, by formally adopted town policy, would be assessed if the project were undertaken pursuant to procedures of G.S. 160A-217. Until amended by ordinance or resolution of the board of aldermen, sixty percent (60%) of the costs shall be assessed to abutting property owners.

(e) No member of the board of aldermen may vote to exercise the power granted in subsection (a) with respect to a particular project unless he or she has personally inspected the site of the proposed improvements."

**Sec. 2.** Chapter 660 of the Session Laws of 1969 (The Carrboro Town Charter) is hereby amended by adding a new Section 6.03 as follows:

"Section 6.03. Sidewalk Improvements Assessments in Business Areas. (a) Under the circumstances specified in subsection (b), the board of aldermen may levy special assessments for sidewalk improvements without regard for the petition requirements of G.S. 160A-217. However, except as modified expressly or by necessary implication by this section, all of the other provisions of Article 10 of Chapter 160A (including the preliminary resolution notice and hearing requirements) shall be applicable to assessments made without a petition.

(b) The board of aldermen may exercise the authority granted in subsection (a) with respect to those portions of the following streets that are located within the town's business or industrial zoning districts: Main Street, Weaver Street, Greensboro Street and Merritt Mill Road.

(c) To utilize the authority granted in subsection (a), the assessment resolution passed by the board of aldermen in accordance with G.S. 160A-225 shall include a finding that the proposed project is necessary to protect the public health, safety, or welfare and cannot await a petition filed in accordance with G.S. 160A-217.

(d) Whenever the authority granted in subsection (a) is used the board of aldermen shall assess to abutting property owners the same percentage of the cost of the project that, by formally adopted town policy, would be assessed if the project were undertaken by ordinance or resolution of the board of aldermen. Until amended by ordinance or resolution of the board of aldermen, sixty percent (60%) of the costs shall be assessed to abutting property owners.

(e) No member of the board of aldermen may vote to exercise the power granted in subsection (a) with respect to a particular project unless he or she has personally inspected the site of the proposed improvements."

**Sec. 3.** Chapter 660 of the Session Laws of 1969 (The Carrboro Town Charter) is hereby amended by rewriting Section 5.84 to read as follows:

"Section 5.84. Zoning Board of Adjustment. The board of aldermen may create a board of adjustment in accordance with the provisions of Article 19 of Chapter 160A of the North Carolina General Statutes. Such board shall be subject to all the provisions of general law except that the board of aldermen may authorize the board of adjustment to decide any matter before it upon a vote of a majority of the members present at a meeting and not excused from voting, so long as a quorum consisting of at least six members is present."

**Sec. 4.** Section 1 of Chapter 302 of the Session Laws of 1979 is repealed.

**Sec. 5.** The last three sentences of Section 4 of Chapter 365, Session Laws of 1967 are repealed.

**Sec. 6.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

H. B. 662

## CHAPTER 754

### AN ACT TO MAKE CONDITIONALLY PERMANENT THE EXEMPTION FOR PAMLICO COUNTY DEALING WITH HOME HEALTH SERVICES.

Whereas, the Health Department of Pamlico County is currently furnishing an equivalent home health service to clients as provided by G.S. 130-170.2; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 1184, Session Laws of 1977 (Second Session, 1978) is amended by adding the following new language:

“After December 31, 1979, the provisions of this act shall not apply to Pamlico County as long as it continues to furnish an equivalent home health service to clients as provided by G.S. 130-170.2.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

H. B. 707

## CHAPTER 755

### AN ACT TO PROVIDE FOR READABLE INSURANCE POLICIES AND TO PROVIDE FOR CONSUMERS' GUIDES FOR AUTOMOBILE AND HOMEOWNERS' INSURANCE LINES.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 58 is amended by adding a new Article to read:

#### “ARTICLE 33.

##### “Readable Insurance Policies.

“§ 58-360. *Title.*—This Article is known and may be cited as the ‘Readable Insurance Policies Act’.

“§ 58-361. *Purpose.*—The purpose of this Article is to provide that insurance policies and contracts be readable by a person of average intelligence, experience, and education. All insurers are required by this Article to use policy and contract forms and, where applicable, benefit booklets that are written in simple and commonly used language, that are logically and clearly arranged, and that are printed in a legible format.

“§ 58-362. *Scope of application.*—(a) Except as provided in subsection (b) of this section, the provisions of this Article apply to the policies and contracts of direct insurance that are described in G.S. 58-367(a).

(b) Nothing in this Article applies to:

- (1) any policy that is a security subject to federal jurisdiction;
- (2) any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy, nor any group policy delivered or issued for delivery outside of this State; however, this does not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this State;

- (3) any group annuity contract that serves as a funding vehicle for pension, profit-sharing, or deferred compensation plans;
- (4) any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the dates such forms must be approved under this Article;
- (5) the renewal of a policy delivered or issued for delivery prior to the date such policy must be approved under this Article; nor
- (6) insurers who issue benefit booklets on group and nongroup bases for the policies described in G.S. 58-367(a)(2). In such cases, the provisions of this Article apply to the benefit booklets furnished to the persons insured.

(c) No other provision of the General Statutes setting language simplification standards shall apply to any policy forms covered by this Article.

(d) Any non-English language policy delivered or issued for delivery in this State shall be deemed to be in compliance with this Article if the insurer certifies that such policy is translated from an English language policy which does comply with this Article.

“§ 58-363. *Definitions.*—As used in this Article, unless the context clearly indicates otherwise:

(1) ‘Benefit booklet’ means any written explanation of insurance coverages or benefits issued by an insurer and which is supplemental to and not a part of an insurance policy or contract.

(2) ‘Commissioner’ means the Commissioner of Insurance.

(3) ‘Flesch scale analysis readability score’ means a measurement of the ease of readability of an insurance policy or contract made pursuant to the procedures described in G.S. 58-367.

(4) ‘Insurance policy or contract’ or ‘policy’ means an agreement as defined by G.S. 58-3.

(5) ‘Insurer’ means every person entering insurance policies or contracts as a principal, as described in G.S. 58-2(2).

(6) ‘Person’ means any individual, corporation, partnership, association, business trust, or voluntary organization.

“§ 58-364. *Format requirements.*—(a) All insurance policies and contracts covered by G.S. 58-367 must be printed in a typeface at least as large as 10 point modern type, one point leaded, be written in a logical and clear order and form, and contain the following items:

- (1) on the cover, first, or insert page of the policy a statement that the policy is a legal contract between the policy owner and the insurer and the statement, printed in larger or other contrasting type or color, ‘Read your policy carefully’;
- (2) an index of the major provisions of the policy, which may include the following items:
  - a. the person or persons insured by the policy;
  - b. the applicable events, occurrences, conditions, losses, or damages covered by the policy;
  - c. the limitations or conditions on the coverage of the policy;
  - d. definitional sections of the policy;
  - e. provisions governing the procedure for filing a claim under the policy;

- f. provisions governing cancellation, renewal, or amendment of the policy by either the insurer or the policyholder;
- g. any options under the policy; and
- h. provisions governing the insurer's duties and powers in the event that suit is filed against the insured.

(b) In determining whether or not a policy is written in a logical and clear order and form the Commissioner must consider the following factors:

- (1) the extent to which sections or provisions are set off and clearly identified by titles, headings, or margin notations;
- (2) the use of a more readable format, such as narrative or outline forms;
- (3) margin size and the amount and use of space to separate sections of the policy; and
- (4) contrast and legibility of the colors of the ink and paper and the use of contrasting titles or headings for sections.

"§ 58-365. *Flesch scale analysis readability score, procedures.*—(a) A Flesch scale analysis readability score will be measured as provided in this section.

(b) For policies containing 10,000 words or less of text, the entire policy must be analyzed. For policies containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed in lieu of the entire policy. The samples must be separated by at least 20 printed lines. For the purposes of this subsection a word will be counted as five printed characters or spaces between characters.

(c) The number of words and sentences in the text must be counted and the total number of words divided by the total number of sentences. The figure obtained must be multiplied by a factor of 1.015. The total number of syllables must be counted and divided by the total number of words. The figure obtained must be multiplied by a factor of 84.6. The sum of the figures computed under this subsection subtracted from 206.835 equals the Flesch scale analysis readability score for the policy.

(d) For the purposes of subsection (c) of this section the following procedures must be used:

- (1) a contraction, hyphenated word, or numbers and letters, when separated by spaces, will be counted as one word;
- (2) a unit of words ending with a period, semicolon, or colon, but excluding headings and captions, will be counted as a sentence; and
- (3) a syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(e) The term 'text' as used in this section includes all printed matter except the following:

- (1) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and
- (2) Any policy language that is drafted to conform to the requirements of any law, regulation, or agency interpretation of any state or the federal government; any policy language required by any collectively bargained agreement; any medical terminology; and any words that are defined in the policy: Provided, however, that the insurer submits with his filing



under G.S. 58-366 a certified document identifying the language or terminology that is entitled to be excepted by this subdivision.

“§ 58-366. *Filing requirements, duties of the Commissioner.*—(a) No insurer may make, issue, amend, or renew any insurance policy or contract after the dates specified in G.S. 58-367 for the applicable type of insurance unless the policy is in compliance with the provisions of G.S. 58-364 and G.S. 58-365 and unless the policy is filed with the Commissioner for his approval. The policy will be deemed approved 90 days after filing unless disapproved within the 90-day period. The Commissioner may not unreasonably withhold his approval. Any disapproval must be delivered to the insurer in writing and must state the grounds for disapproval. Any policy filed with the Commissioner must be accompanied by a certified Flesch scale readability analysis and test score and by the insurer's certification that the policy is, in the insurer's judgment, readable based on the factors specified in G.S. 58-364 and G.S. 58-365.

(b) The Commissioner must disapprove any policy covered by subsection (a) of this section if he finds that:

(1) it is not accompanied by a certified Flesch scale analysis readability score as follows:

- a. as to policies covered by G.S. 58-367(a)(1): after July 1, 1980, but before July 1, 1981, a score of 40 or more, and after June 30, 1981, a score of 50 or more;
- b. as to policies covered by G.S. 58-367(a)(2): after July 1, 1981, but before July 1, 1982, a score of 40 or more, and after June 30, 1982, a score of 50 or more.

(2) it is not accompanied by the insurer's certification that the policy is, in the judgment of the insurer, readable under the standards of this Article; or

(3) it does not comply with the format requirements of G.S. 58-364.

“§ 58-367. *Application to policies, dates, duties of the Commissioner.*—(a) The filing requirements of G.S. 58-366 apply as follows:

(1) as described in Article 12B of this Chapter, to all policies of private passenger nonfleet motor vehicle insurance, to all policies of insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof and valuable interest therein, and other insurance coverages written in connection with the sale of such property insurance, that are made, issued, amended, or renewed after July 1, 1980; and

(2) to all policies of life insurance as described in Article 22 of this Chapter, to all benefit certificates issued by fraternal orders and societies as described in Subchapter VII of this Chapter, to all policies of accident and health insurance as described in Subchapter VI of this Chapter, to all subscribers' contracts of hospital, medical, and dental service corporations as described in General Statutes Chapter 57, and to all health maintenance organization evidences of coverage as described in General Statutes Chapter 57A, that are made, issued, amended, or renewed after July 1, 1981; and

(b) The Commissioner must make the following reports to the Legislative Research Commission and the General Assembly:

(1) on or before March 31, 1980, a report detailing and evaluating the efforts made by the Commissioner and insurers to implement the

provisions of subdivision (a)(1) of this section, and particularly examining the feasibility and practicality of requiring accident and health and life insurance policies to comply with the provisions of this Article and in the time prescribed;

(2) on or before March 31, 1981, a report detailing and evaluating:

a. the operation of and the extent of compliance with the provisions of this Article;

b. the efforts made by the Commissioner and insurers to implement the provisions of subdivision (a)(2) of this section; and

(3) the Commissioner's recommendations regarding the extension of the application of the provisions of this Article to other lines and types of insurance and his reasons therefor.

“§ 58-368. *Construction.*—(a) The provisions of this Article will not operate to relieve any insurer from any provision of law regulating the contents or provisions of insurance policies or contracts nor operate to reduce an insured's or beneficiary's rights or protection granted under any statute or provision of law.

(b) The provisions of this Article shall not be construed to mandate, require, or allow alteration of the legal effect of any provision of any insurance policy or contract.

(c) In any action brought by a policyholder or claimant arising out of a policy approved pursuant to this Article, the policyholder or claimant may base such an action on either or both (1) the substantive language prescribed by such other statute or provision of law or (2) the wording of the approved policy.”

**Sec. 2.** G.S. 58-176(b) is amended by rewriting lines 4 through 6 to read: “thereof, on any property in this State, unless it conforms in substance with all of the provisions, stipulations, agreements, and conditions of the policy form in subsection (c) of this section”.

**Sec. 3.** G.S. 58-176(b) is further amended by striking the fourth paragraph, which begins with the words, “No provision” and ends with the words, “of this section.”

**Sec. 4.** G.S. 58-176(c), as found in the 1977 Cumulative Supplement to Volume 2B, is amended in line 7 by inserting the words, “in substance” between the words, “shall be” and “as follows”.

**Sec. 5.** G.S. 58-177 is amended by rewriting lines 4 and 5 to read: “property in this State other than those of the substance of the standard form as set forth in G.S. 58-176 except as follows:”.

**Sec. 6.** G.S. 58-177(6) is amended in line 10 by inserting the words, “substance of the” between the words, “the” and “form”.

**Sec. 7.** G.S. 58-177(7) is amended in line 3 by inserting the words, “substance of” between the words, “the” and “provisions”.

**Sec. 8.** G.S. 58-250(a)(4) is rewritten to read:

“(4) The style, arrangement, and overall appearance of the policy, any endorsements, or attached papers give no undue prominence to any portion of the text. For the purpose of this subdivision, ‘text’ includes all printed matter except the name and address of the insurer, the name or title of the policy, and captions and subcaptions.”

**Sec. 9.** G.S. 58-251.1(a) is amended by rewriting lines 4 through 8 to read: “provisions specified in this subsection in the substance of the words that appear in this section. Such provisions shall be preceded”.

**Sec. 10.** G.S. 58-251.1(a)(1) through G.S. 58-251.1(a)(12) are amended by rewriting the words in the first line of each of those subdivisions to read: "A provision in the substance of the following language:".

**Sec. 11.** G.S. 58-251.1(b) is amended by rewriting lines 4 through 7 to read: "are in the substance of the words that appear in this section. Any".

**Sec. 12.** G.S. 58-251.1(b)(1) through G.S. 58-251.1(b)(11) are amended by rewriting the words in the first line of each of those subdivisions to read: "A provision in the substance of the following language:".

**Sec. 13.** G.S. 58-251.2 is amended in line 5 by inserting the words, "in substance" between the words, "include" and "the".

**Sec. 14.** G.S. 58-254.2 is amended in line 2 by inserting the words, "the substance of" between the words, "contain the" and "provisions".

**Sec. 15.** G.S. 58-254.7 is amended in lines 9 and 11 by substituting the number, "90" for the number, "30".

**Sec. 16.** G.S. 58-347(b), as found in the 1977 Cumulative Supplement to Volume 2B, is amended in lines 1 and 6 by substituting the number "90" for the number "30"; and in line 4 by inserting after the word, "Article" the following: ", Article 33 of this Chapter,".

**Sec. 17.** G.S. 57-3 is amended in line 18 by inserting the words, "in substance" after the word, "contain".

**Sec. 18.** G.S. 57A-8(c), as found in the 1977 Cumulative Supplement to Volume 2B, is amended in line 8 by substituting the number, "90" for the number, "30".

**Sec. 19.** G.S. 58-9 is amended by adding a new subsection to read:

"(8) Compile and make available to the public such lists of rates charged, including deviations, and such explanations of coverages that are provided by insurers for and in connection with contracts or policies of (1) insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance and (2) private passenger (nonfleet) motor vehicle liability, physical damage, theft, medical payments, uninsured motorists, and other insurance coverages written in connection with the sale of such insurance, as may be advisable to inform the public of insurance premium differentials and of the nature and types of coverages provided. The explanations of coverages provided for in this section must comply with the provisions of Article 33 of this Chapter."

**Sec. 20.** If any provision of this act or its application to any person or circumstances is held invalid by any court of competent jurisdiction, the invalidity will 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 severable.

**Sec. 21.** Sections 2 through 7 of this act will become effective on July 1, 1980.

**Sec. 22.** Sections 8 through 18 of this act will become effective on July 1, 1981.

**Sec. 23.** The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 728

## CHAPTER 756

AN ACT TO EXTEND THE TOWN LIMITS OF THE TOWN OF  
HIGHLANDS IN MACON COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The town limits of Highlands in Macon County are hereby extended by the incorporation within the said town limits of the following described property:

BEGINNING on Corner 2 of U.S. National Forest Exchange Tract N-590, which is in the line between Corners 91 and 92 of U.S. National Forest Tract 1M-1 and being situated N 88° 25' W 0.76 chains from the said Corner 91, the said Beginning corner is located approximately S 1,650 feet more or less from the southwest corner of the present incorporate town limits of the Town of Highlands, North Carolina, runs thence with the boundary lines of Tract 1M-1, N 88° 25' W 19.84 chains Corner 92; thence, N 42° 12' W 19.58 chains Corner 93; thence, N 88° W 9.10 chains Corners 94, 860-4 and identical to Corner 6 of U.S. National Forest Exchange Tract N-470; thence, with the boundary line of Tract N-470, N 86° 59' W 11.82 chains Corner 5, which is identical to the 3rd described corner of the land described in the deed recorded in Deed Book A-9, page 121; thence, with the boundary lines of the same, the following two (2) courses and distances: N 12° 03' E 42.2 feet to an iron pipe; and, N 43° 57' W 339 feet to an iron pipe; thence N 43° 30' W 33 feet to a 12" black oak, the 5th described Corner in Deed Book I-7 at Page 316; thence, with the boundary lines described in Deed Book I-7 at Page 316, N 50° 30' W 300 feet to an iron pipe, the southeast corner described in Deed Book Z-7 at Page 228; thence, with 2 lines of the boundary lines described in Deed Book Z-7, page 228, N 19° 30' W 169.8 feet to an iron pipe; thence N 87° 20' W 100 feet to an iron pipe, the same being also the southeast corner of the land described in Deed Book B-8 at Page 82; thence N 02° 40' E 60 feet to an iron pipe, the northeast corner described in Deed Book B-8 at Page 82 and the southeast corner described in Deed Book V-10 at Page 167; thence with the east lines of the land described in Deed Book V-10 at Page 167 the next three (3) calls:

N 05° 34' E 232 feet to a fence corner;

N 46° E 48' to a locust post;

N 50° 17' E 934 feet to a 20" white oak, the northeast corner of the land described in Deed Book V-10 at Page 167 and the extreme south corner of the land described in Deed Book A-10 at Page 179; thence, with 5 lines of the land described in Deed Book A-10 at Page 179, N 29° 30' W 593 feet to a planted stone; thence S 59° W 589 feet to a mound of stones; thence N 21° W 429 feet to a planted stone, the southeast corner of the land described in Deed Book Q-6 at Page 292; thence N 45° 15' E 100 feet to a stake; thence N 07° W 462 feet to a planted stone, the northwest corner of the land described in Deed Book A-10 at Page 179; thence, with 4 lines of the land described in Deed Book Q-9 at Page 19, N 05° 59' 30" W 231.69 feet to an iron pipe; thence N 63° 22' E 97.53 feet to an iron pipe; thence N 09° 02' 15" E 120.05 feet to an iron pipe; thence N 08° 35' 30" E 441.69 feet to an iron pipe, which is also the southeast corner of the land described in Deed Book M-5 at Page 366; thence with 2 lines of the land described in Deed Book M-5 at Page 366, N 85° W 250 feet to an iron pipe; thence S 69° 10' W, passing the southwest corner of the land described in Deed Book M-5 at Page 366 at 365 feet, whole distance 385 feet, more or less, to the



center line of N. C. State Highway No. 106; thence, leaving the centerline of the said highway and in a northerly direction 230 feet to a point that is perpendicular to the said Highway No. 106; thence in an easterly direction parallel with and 230 feet north of the centerline of the said highway approximately 1,450 feet, more or less, to a point lying 215 feet west of and perpendicular to the centerline of Arnold Road (also known as Roberts Road); thence in a northerly direction parallel with and 215 feet west of the centerline of Arnold Road approximately 850 feet, more or less, to the centerline of a small branch; thence with the centerline of the said branch and in an easterly direction approximately 230 feet, more or less, to the west shore line of Lake Sequoyah (the shore line of Lake Sequoyah being defined as a contour line 1 foot above the top of the spillway of the dam which impounds Lake Sequoyah); thence with the meanders of the west shoreline of Lake Sequoyah in a northerly direction to where the said shore line intersects the south line of the proposed land exchange between the Town of Highlands, N. C., and the Highlands District of the Nantahala National Forest, the said proposed land exchange being designated as FPC Project No. 693; thence, with the south line of the said proposed land exchange N 88° 01' W to the southwest corner of the proposed land exchange; thence, with the west line of the proposed exchange, N 05° 15' W 4.40 chains (290.40 feet) to the northwest corner of said proposal; thence, with a portion of the north line of said proposal, S 77° 24' E 5.60 chains (369.60 feet) to U. S. National Forest Service Corner 1 of Tract No. 534a; thence N 00° 31' E 7.42 chains (489.72 feet) to corner 2 of Tract No. 534a; thence N 69° 53' E 10.87 chains (717.42 feet) to corner 3 of Tract No. 534a, this is also the northwest corner of Lot No. 11 of Laurel Heights Subdivision as shown in Plat Book 1, page 146; thence, with the said subdivision boundary, N 66° 51' E 550 feet to the extreme north corner of Lot No. 8 of the said subdivision and a point in the south line of the 1st Tract of land described in Deed Book V-6 at Page 329; thence, with 3 lines of the lands described in Deed Book V-6 at Page 329; N 61° 15' W passing the southwest corner of the 1st Tract at 165 feet whole distance 377 feet to the southwest corner of the 2nd Tract; thence N 18° 30' E 208 feet to a stake, the northwest corner of the 2nd Tract; thence S 61° 15' E 212 feet to an iron pipe the northeast corner of the 2nd Tract, the northwest corner of the 1st Tract and the southwest corner of the land described in Deed Book D-8 at Page 111; thence with one line of the land described in Deed Book D-8 at Page 111, North 03° E 70 feet to a stake, the same being also the southeast corner of Lot No. 7 of the above mentioned Laurel Heights Subdivision; thence with the boundary lines of the said Subdivision the following six (6) courses and distances:

N 77° 45' W 132 feet to an iron pipe; thence

S 84° 44' W 193 feet to an iron pipe; thence

N 32° 24' E 844 feet to a white pine; thence

N 55° E 110 feet to a white pine; thence

S 01° 45' W 495 feet to a locust post; thence

S 88° 41' E 948 feet to a point in the center line of Big Creek, the northeast corner of Lot No. 12 of Laurel Heights Subdivision and the eastern terminus of the agreement described in Deed Book X-6 at Page 460; thence, with the center line of Big Creek, S 10° E 57.3 feet to a point the southwest corner of the land described in Deed Book J-7 at Page 326 and the northwest corner of the land described in Deed Book T-9 at Page 32; thence with the boundary lines of the

land described in Deed Book T-9 at Page 32 the following 37 courses and distances: down and with the center line of Big Creek S 09° W 168 feet to a point at the intersection thereof with Moonshine Creek; thence leaving Big Creek up and with the center line of Moonshine Creek, S 21° 36' E 44 feet, S 37° 40' E 32 feet, S 22° 46' E 39 feet, S 11° 56' E 99 feet, S 09° W 82 feet, S 04° 35' E 112 feet, S 18° 28' E 57 feet, S 06° 48' W 35 feet, S 60° E 74 feet, S 82° 50' E 70 feet, S 72° 04' E 96 feet, N 79° 28' E 28 feet, S 43° E 33 feet, S 64° 15' E 44.2 feet, S 83° 31' E 126 feet, N 83° 14' E 31 feet, N 69° 54' E 69 feet, S 70° 10' E 35 feet, N 84° 48' E 22 feet, N 57° 45' E 59.8 feet, N 60° 46' E 15.2 feet, N 88° 10' E 78 feet, N 56° 08' E 28 feet, N 20° 48' E 34 feet, N 34° 13' E 78 feet, N 08° 48' E 59 feet, and N 29° E 50 feet; thence leaving Moonshine Creek, S 09° 10' E 335 feet to an iron pipe; thence S 46° 25' W 154.2 feet to an iron pipe on the north margin of Hickory Hills Road (N.C. State Road No. 1548); thence with the north margin of said road S 60° 29' E 31.5 feet to an iron pipe; thence leaving the said road N 46° 25' E 90 feet to an iron pipe; thence N 82° E 113 feet to an iron pipe; thence S 08° E 200 feet to an iron pipe; thence N 82° E 324.4 feet to an iron pipe; thence S 00° 48' W 193 feet to an iron pipe, the Beginning Corner of the land described in Deed Book T-9 at Page 32; thence, continuing with the boundary of the land described in Deed Book T-9 at Page 32, S 85° E 1055.2 feet to an iron pipe the 2nd described corner in Deed Book T-9, page 32 and the southwest corner of the land described in Deed Book S-9 at Page 87; thence with the south line of the land described in Deed Book S-9, page 87, S 85° E 200 feet to an iron pipe the southeast corner of the land in Deed Book S-9 at Page 87 and the southwest corner of the land described in Deed Book B-6 at Page 628; thence S 85° E 374 feet to a 10" white oak the southeast and Beginning Corner of the 2nd Tract described in Deed Book T-9 at Page 32, the same being also located in the west line of Lot No. 27 of the subdivision of the W. T. Potts Estate as shown on a map thereof and recorded in Plat Book No. 1, at page 91; thence, with the west line of the said Lot No. 27 S 16° 30' E 58 feet, more or less, to the center line of N. C. State Road 1546, the southwest corner of the said Lot No. 27 and the northwest corner of Lot No. 28 of the said Subdivision of the W. T. Potts Estate; thence, leaving the centerline of the said State Road No. 1546 in a northeasterly direction 230 feet to a point that is perpendicular to the said State Road No. 1546; thence in a southeasterly direction parallel with and 230 feet north of the centerline of State Road No. 1546 to a point in the centerline of N. C. State Road No. 1545; thence, leaving the centerline of State Road No. 1545, in a straight line and in a southeasterly direction approximately 75 feet, more or less, to the mouth of a small branch entering the north shore line of Mirror Lake (the shore line of Mirror Lake being defined as a contour line 1 foot above the top of the spillway of the dam which impounds Mirror Lake); thence with the meander of the said contour line following the north shore line of Mirror Lake in an easterly direction 2500 feet, more or less, to the mouth of Creek; thence in a straight line crossing Mirror Lake in a southerly direction approximately 170 feet, more or less, to a point, the said point being situated 210 feet north of and perpendicular to the northeast corner of Lot No. 37 of the Laurel Terrace Subdivision as shown on a plat thereof and recorded in Plat Book 1 at Page 134 (the northeast corner of Lot No. 37 being a point in the centerline of a 20' access road); thence in an easterly direction parallel with and 210 feet north of the centerline of the said access road approximately 2,200 feet, more or less, to a point in the centerline of U. S. Highway No. 64; thence,

leaving the said highway, in a straight line and in a southerly direction approximately 450 feet, more or less, to the northeast corner of the land described in Deed Book B-7 at Page 118, the said corner is the northeast corner of Lot No. 28 and the northwest corner of Lot No. 27 of Greenwood Forest Development (there is no recorded map of this development); thence, with 3 lines of the Greenwood Forest Development, due East 205 feet the northeast corner of Lot No. 27 as described in the deed recorded in Deed Book K-6 at Page 88 and the northwest corner of Lot No. 26 as described in the deed recorded in Deed Book I-6 at Page 472; thence S 75° E 208 feet to the northeast corner of Lot No. 26 and the northwest corner of Lot No. 25 as described in the deed recorded in Deed Book H-6 at Page 182; thence S 59° E 249 feet to the northeast corner of Lot No. 25; thence in a straight line and in an easterly direction approximately 575 feet, more or less, to the southwest corner of the land described in the deed recorded in Deed Book J-11 at Page 92; thence with the boundary lines of the land described in Deed Book J-11 at Page 92 as follows: S 79° E 270 feet, more or less, to the north margin of Gap Road as shown on a plat of Bearpen Mountain Home Development Co., Subdivision No. 1, and recorded in Plat Book No. 1, page 33; thence with the north margin of said road in an easterly direction approximately 200 feet to the southwest corner of Lot No. 95 of the aforesaid Bearpen Mountain Home Development Co., Subdivision No. 1; thence with two lines of Lot No. 95 N 03° E 200 feet to the northwest corner of said lot; thence S 39° 15' E 35 feet to a point in the north line of the said Lot No. 95; thence leaving the boundary line of the said Lot No. 95, in a northeasterly direction parallel with and 230 feet northwest of the centerline of Summit Drive approximately 550 feet, more or less, to a point; thence, continuing in a northeasterly direction, parallel with and 230 feet northwest of the centerline of Cook Road to the northwest corner of the land described in Deed Book O-8 at Page 61 and being also a corner of the land described in Deed Book J-11 at Page 92; thence with the land described in Deed Book J-11 at Page 92 the following three (3) courses and distances:

N 17° 35' E 206.3 feet to an iron pipe; thence

N 10° 04' E 106 feet to an iron pipe; thence, continuing,

N 10° 04' E 210 feet, more or less, to the northeast corner of the land described in Deed Book J-11 at Page 92 and also being a point in the outside boundary of the aforesaid Bearpen Mountain Home Development Co. Subdivision No. 1 lands; thence, with the said boundary N 85° 19' E 150 feet, more or less, to the northwest corner of the land described in Deed Book O-9 at Page 17; thence with the west boundary of the land described in Deed Book O-9 at Page 17 the following 15 courses and distances: S 36° 58' E 113 feet to an iron pipe; S 02° 15' W 103 feet to an iron pipe; thence S 17° 30' E 366.5 feet to an iron pipe; thence S 03° 32' E 174 feet to an iron pipe; thence S 47° 51' W 131 feet to an iron pipe; thence S 47° 09' E 427.5 feet to an iron pipe; thence S 01° 04' E 602 feet to an iron pipe; thence S 02° W 215.5 feet to an iron pipe; thence S 23° 54' W 228.4 feet to an iron pipe; thence S 11° 52' E 177 feet to an iron pipe; thence S 34° 47' W 32 feet to an iron pipe; thence S 02° 52' W 44 feet to an iron pipe; thence S 52° 50' E 51 feet to an iron pipe; thence S 10° 28' E 75 feet to an iron pipe; thence N 86° 38' E 15 feet to an iron pipe the same being also corner No. 17 of the aforementioned Bearpen Mountain Home Development Co. Subdivision No. 1; thence, with the boundary of the same, and as shown on the plat recorded in Plat Book No. 1, page 33, N 82° 28' E 330 to Corner #18;



thence, N 85° 29' E 577.5 feet to Corner #19 and being also the northeast corner of the land described in Deed Book J-4 at page 354 and a point in the west boundary of the land described in Deed Book P-5, page 502; thence with the west boundary of the land described in Deed Book P-5, page 502 N 01° 30' W 501.8 feet to an iron pipe, the southwest corner of the land described in Deed Book I-9, page 286; thence with the South boundary of the land described in Deed Book I-9, page 286 due east 1,424 feet to an iron pipe in the center line of Salt Rock Branch, the southeast corner of the land described in Deed Book I-9 page 286 and the extreme south corner of the land described in Deed Book K-9, page 301; thence, with the East boundary of the land described in Deed Book K-9, page 301, N 36° 04' E 2,149 feet to an iron pipe the northeast corner of the land described in Deed Book K-9, page 301 and being also a point in the north boundary of the land described in Deed Book L-5, page 214; thence, with the North boundary of the land described in Deed Book L-5, page 214, S 87° E 3,413 feet to a poplar, U.S. National Forest Land Corner 16 of Tract S-9B; thence, with the boundary lines of the said U.S. National Forest Tract S-9B, S 86° 45' East 26.92 chains Corner 17; thence S 16° 30' W 28.95 chains Corner 18; thence, continuing with said Tract S-9B, N 86° 31' E 1,122 feet to U.S. National Forest Land Corner E-8, of Tract S-11; thence, with the boundary of said Tract S-11, S 46° W 34.16 chains to Corner E-7 which is also Corner 6 of the U.S. National Forest Tract S-1 Ma; thence, with the boundary lines of the said Tract S-1 Ma, the following four (4) courses and distances:

S 89° 02' W 4.78 chains to a point;

N 51° 09' W 7.59 chains to Corner 7;

S 53° 17' W 2.56 chains to Corner 8;

S 06° 32' W 28.10 chains to Corner 9;

N 86° 11' W 4.24 chains to Corner 2 of U.S. National Forest Exchange Tract 538-a; thence with the boundary lines of Tract 538-a, S 45° W 6.75 chains to Corner 3; thence N 73° 13' W 22.65 chains to Corner 1, which is identical to Corner 10 of the aforesaid Tract S-1 Ma and being also Corner 4 of U.S. National Forest Exchange Tract 538; thence with the south boundary of Tract 538 N 67° 40' W 21.16 chains to Corner 1 of Tract 538; thence S 45° 10' W 4.76 chains to Corner 13 of the said Tract S-1 Ma; thence, continuing with the boundary lines of Tract S-1 Ma, N 87° 33' W 23.42 chains to Corner 14; thence N 03° 04' E 9.60 chains to Corner 15, which is also the western most corner of the land described in the deed recorded in Deed Book K-7, page 225; thence leaving the U.S. National Forest boundary and running with the boundary of the land described in Deed Book K-7, page 225 the following 3 courses and distances:

S 76° 30' E 1.00 chain;

N 76° 30' E 0.50 chain; and,

N 30° E 0.70 chain to a point in a sharp turn in Horse Cove Road, which is N.C. State Road 1604;

thence, leaving the boundary line of the land described in Deed Book K-7, page 225 and running with the centerline of Horse Cove Road first a northwesterly direction and continuing a westerly direction, then a southwesterly direction and finally a westerly direction a total distance of 3,200 feet more or less to a point at the intersection thereof with the East boundary of the present incorporate Town Limits of the Town of Highlands, NC; thence, with the east boundary of the present incorporate Town Limits of the Town of Highlands,



NC, due south approximately 4,150 feet more or less to the present southeast corner of the said Town Limits; thence, with the present south boundary of the present incorporate Town Limits of the Town of Highlands, NC, due west approximately 5,350 feet, more or less, to a point that is situated due east 250 feet from the centerline of N.C. State Highway 28; thence, in a southerly direction parallel with and 250 feet east of the centerline of the said Highway 28 approximately 4,000 feet, more or less to a point that is 250 feet east of and perpendicular to the centerline of N.C. State Highway 28 at its junction with N.C. State Road 1613; thence due west 250 feet to the centerline of N.C. State Highway 28 at the junction thereof with N.C. State Road 1613; thence leaving N.C. State Highway 28 and running with the centerline of N.C. State Road 1613 approximately 2,500 feet, more or less, to a point at the intersection thereof with the boundary line of U.S. National Forest Tract 1-M1 on line between Corners 77 and 78; thence, leaving the centerline of the said road and running with the boundary lines of U.S. National Forest Tract 1 M1, N 52° 32' W 1,650 feet, more or less, to Corner 78; thence, N 09° 05' E 4.06 chains to Corner 79; which is identical to Corner 1 of U.S. National Forest Exchange Tract N-590; thence, with the west boundary of Tract N-590, N 09° 57' W 13.88 chains to the BEGINNING. LESS AND EXCEPT all of the existing playing surfaces (viz, the tees, fairways, greens, roughs practice areas and water hazards) of the Highlands Country Club Golf Course which are located within the following described tract of realty:

BEGINNING at a stake, the Beginning corner of the land described in the deed recorded in Deed Book I-4, page 340, runs thence, S 45° W 527 feet to a stake in the west boundary of State Grant #7999; thence, S 326 feet to a stake; thence S 52° 30' E 511 feet to a 10" black oak; thence, S 40° E 34 feet to an iron pipe in concrete, the 5th and westernmost corner of the land described in Deed Book A-9, page 121; thence with the boundary lines of the land described in Deed Book A-9, page 121 the following 28 courses and distances:

N 40° 53' E 127.4 feet;  
S 48° 03' E 249 feet;  
N 88° 54' E 97.6 feet;  
N 42° 31' E 314 feet;  
N 22° 14' E 88.5 feet;  
N 08° 40' E 366.4 feet;  
S 62° 48' E 30 feet;  
N 01° 41' W 105.8 feet;  
N 58° 32' W 160 feet;  
N 33° 12' E 30.2 feet; thence, continuing,  
N 33° 12' E 162.8 feet;  
S 08° 22' E 76.2 feet;  
S 84° 45' E 30.2 feet;  
S 88° 48' E 135.1 feet;  
N 18° 10' E 316.6 feet;  
N 01° 30' W 224.4 feet;  
N 09° 32' E 123.4 feet; thence, continuing,  
N 09° 32' E 2.6 feet;  
N 75° 41' E 200 feet;  
S 79° 35' E 139 feet;

S 78° 05' E 205.9 feet;  
S 46° 30' E 117.4 feet;  
S 51° E 123.8 feet;  
S 63° 04' E 166.7 feet;  
S 70° 34' E 161 feet;  
S 01° 24' E 1,020.3 feet;  
S 33° 52' W 194.7 feet; and,  
S 36° 20' W 453.8 feet, which is Corner 93 of U.S. National Forest Tract 1M-1;

thence, with the boundary line of Tract 1M-1, S 42° 12' E 1,292.28 feet to Corner 92; thence S 88° 25' E 660 feet to the southeast corner of the land described in the deed recorded in Deed Book T-4, page 340 and being in line between Corners 92 and 91 of Tract 1M-1; thence, with the boundary lines of the land described in Deed Book T-4, page 340 as follows:

N 2,689 feet;  
E 409 feet;  
N 30° W 1,220 feet;  
E 350 feet;  
N 15° W 1,300 feet;  
N 80° W 260 feet;  
N 09° 30' E 935 feet;  
W 105 feet;  
N 16° 20' W 358 feet;  
N 18° E 625 feet;  
N 45° W 693 feet;  
N 528 feet;  
W 528 feet;  
N 44° W 969 feet;  
S 48° W 102 feet;  
S 54° 30' W 59 feet;  
S 48° W 49 feet;  
S 67° W 81 feet;  
N 50° W 57 feet;  
N 65° 30' W 65 feet;  
N 84° W 52 feet;  
S 77° W 152 feet;  
S 84° W 74 feet;  
S 08° 30' W 132 feet;  
S 14° E 231 feet;  
S 38 feet;  
S 40° W 165 feet;  
S 04° W 180 feet;  
S 35° 20' E 95 feet;  
S 05° W 145 feet;  
N 86° 30' W 83 feet;  
S 39° 30' W 116 feet;  
S 01° 20' W 97 feet;  
S 20° 20' W 73 feet;  
S 14° E 45 feet;  
S 02° 30' W 410 feet;

S 10° E 290 feet;  
S 07° 30' W 180 feet;  
S 05° E 235 feet;  
S 75° 30' W 260 feet;  
S 590 feet;  
E 330 feet;  
S 297 feet;  
W 330 feet;  
S 30° E 83 feet;  
S 19° E 100 feet;  
S 23° 30' W 976 feet;  
S 1,440 feet; and,  
S 50° W 474 feet to the point of BEGINNING.

**Sec. 2.** Real and personal property in the territories annexed pursuant to this act are subject to municipal taxes according to the provisions of G.S. 160A-58.10.

**Sec. 3.** This act shall become effective July 1, 1980.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 908

## CHAPTER 757

AN ACT TO CLARIFY WHO MAY ADMINISTER OATHS IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 11-7.1(a)(1) is rewritten to read as follows:

"(1) A justice, judge, magistrate, clerk, assistant clerk, or deputy clerk of the General Court of Justice, a retired justice of the General Court of Justice, or any member of the federal judiciary;"

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 1231

## CHAPTER 758

AN ACT TO CLARIFY THAT DEFENDANTS APPEALING FOR TRIAL DE NOVO IN SUPERIOR COURT BE HELD IN LOCAL CONFINEMENT FACILITIES IF THE DEFENDANT CANNOT COMPLY WITH CONDITIONS OF PRETRIAL RELEASE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-1353(c), as it appears in the 1978 Replacement Volume 1C, is hereby amended by rewriting the section to read as follows:

"(c) Unless a later time is directed in the order of commitment, or the defendant has been released from custody pursuant to Article 26, Bail, or the defendant is appealing from a judgment of the district court to the superior court for a trial de novo, the sheriff must cause the defendant to be placed in the custody of the agency specified in the judgment on the day service of sentence is to begin or as soon thereafter as practicable."

**Sec. 2.** G.S. 15A-1431(f), as it appears in the 1978 Replacement Volume 1C, is hereby amended by adding the following sentence to the end thereof:

"If the defendant cannot comply with conditions of pretrial release, the judge may order confinement in a local confinement facility pending the trial de novo in superior court."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## H. B. 1474

## CHAPTER 759

AN ACT TO ALLOW LOCAL COMMUNITY NONPROFIT SHELTERED WORKSHOPS AND CENTERS TO USE THE SERVICES OF THE DIVISION OF PURCHASE AND CONTRACT OF THE STATE DEPARTMENT OF ADMINISTRATION IN PURCHASING MATERIALS, SUPPLIES AND EQUIPMENT UNDER STATE CONTRACT.

Whereas, local community nonprofit workshops and centers minister to the physically and mentally handicapped, socially deprived, developmentally disabled citizens; and

Whereas, many workshops are assisting public school systems in training under-achievers; and

Whereas, the workshops provide evaluation and adjustment training to all vocational rehabilitation clients; and

Whereas, the workshops provide sheltered employment and training for the mentally retarded and severely handicapped; and

Whereas, a number of the sheltered workshops are sponsored by county boards of education and other Mental Health/Mental Retardation Centers and have the privilege of purchasing through the Division of Purchase and Contract; and

Whereas, a substantial amount of the financial support of local nonprofit sheltered workshops and centers comes from the State, and the State would save money if these workshops and centers were allowed to purchase materials, supplies and equipment under State contracts made by the Division of Purchase and Contract of the State Department of Administration; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Subdivision (6) of G.S. 143-49 is amended by inserting in line 2 of the subdivision, immediately following the word "hospitals," the phrase:

"to local nonprofit community sheltered workshops or centers that meet standards established by the Division of Vocational Rehabilitation of the Department of Human Resources,".

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.



## S. B. 560

## CHAPTER 760

## AN ACT TO ESTABLISH A FAIR SENTENCING SYSTEM IN NORTH CAROLINA CRIMINAL COURTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-2 is amended by adding the following at the end:

“This section shall not apply to persons convicted of felonies that occur on or after the effective date of Article 81A of Chapter 15A of the General Statutes, but G.S. 14-1.1 shall apply to such persons.”

Article 1 of Chapter 14 of the General Statutes is amended by adding the following section:

“§ 14-1.1. *Maximum punishment for felonies.*—(a) For felonies that occur on or after the effective date of Article 81A of Chapter 15A of the General Statutes, the following maximum punishments shall be applicable:

- (1) a Class A felony shall be punishable by death or life imprisonment as provided by Article 100 of Chapter 15A of the General Statutes;
- (2) a Class B felony shall be punishable by life imprisonment;
- (3) a Class C felony shall be punishable by imprisonment up to 50 years or fine up to twenty-five thousand dollars (\$25,000) or both;
- (4) a Class D felony shall be punishable by imprisonment up to 40 years or fine up to twenty thousand dollars (\$20,000) or both;
- (5) a Class E felony shall be punishable by imprisonment up to 30 years or fine up to fifteen thousand dollars (\$15,000) or both;
- (6) a Class F felony shall be punishable by imprisonment up to 20 years or fine up to ten thousand dollars (\$10,000) or both;
- (7) a Class G felony shall be punishable by imprisonment up to 15 years or fine up to seven thousand five hundred dollars (\$7,500) or both;
- (8) a Class H felony shall be punishable by imprisonment up to 10 years or fine up to five thousand dollars (\$5,000) or both;
- (9) a Class I felony shall be punishable by imprisonment up to five years or fine up to two thousand five hundred dollars (\$2,500) or both;
- (10) a Class J felony shall be punishable by imprisonment up to three years or fine up to one thousand dollars (\$1,000) or both.

(b) A felony not assigned by statute to any felony class shall be punishable as a Class J felony.”

**Sec. 2.** Chapter 15A of the General Statutes of North Carolina is amended to add a new Article as follows:

“Article 81A.

“Sentencing Persons Convicted of Felonies.

“§ 15A-1340.1. *Applicability of Article 81A; life sentence.*—(a) This Article shall apply to the sentencing of persons convicted of felonies, as defined by G.S. 14-1.1, that occur on or after the effective date of the Article. Persons sentenced to life imprisonment under Article 100, Capital Punishment, for Class A felonies, and persons sentenced under G.S. 14-1.1(a)(2) for Class B felonies that occur on or after the effective date of this Article shall not be subject to the provisions of this Article, but shall be subject to the same provisions of law as those persons convicted of felonies that occur before the effective date of the Article, notwithstanding any provision in this act to the contrary.

(b) Persons to whom this Article applies, as provided by subsection (a), shall be subject to the provisions of Article 81. They shall also be subject to the

provisions of Article 83 regarding imprisonment, commitment to the Department of Correction or a local confinement facility, order of commitment, release pending appeal, concurrent and consecutive terms of imprisonment, and calculation of terms of imprisonment, but not to the provisions of G.S. 15A-1351(b), (c), and (d) regarding minimum terms of imprisonment.

“§ 15A-1340.2. *Definitions.*—The following definitions apply in this Article.

(1) **Convicted.** For the purpose of imposing sentence, a person has been convicted when he has been adjudged guilty or has entered a plea of guilty or no contest.

(2) **Jail.** A jail is a local confinement facility maintained by a county as provided by G.S. 153A-218 or a district confinement facility maintained by two or more units of local government as provided by G.S. 153A-219.

(3) **Jailer.** A jailer is the sheriff or other person having the care and custody of a jail as provided by G.S. 162-22 or the administrator of a district confinement facility as provided by G.S. 153A-219.

(4) **Prior conviction.** A person has received a prior conviction when he has been adjudged guilty of or has entered a plea of guilty or no contest to a criminal charge, and judgment has been entered thereon.

(5) **Prison term.** A prison term is a period of imprisonment to be served either in the custody of the Department of Correction or a jail.

“§ 15A-1340.3. *Purposes of sentencing.*—The primary purposes of sentencing a person convicted of a crime are to impose a punishment commensurate with the injury the offense has caused, taking into account factors that may diminish or increase the offender’s culpability; to protect the public by restraining offenders who have demonstrated a propensity to commit further crimes; to assist the offender toward rehabilitation and restoration to the community as a lawful citizen; and to provide a general deterrent to criminal behavior.

“§ 15A-1340.4. *Presumptive punishment for felony other than Class A or Class B felony, prior felony convictions, consideration of aggravating and mitigating factors, written findings.*—(a) If the sentencing judge imposes a prison term on a person convicted of a felony other than a Class A or Class B felony, he may suspend the sentence and place the convicted felon on probation as provided by Article 82 of this Chapter. If the convicted felon is under 21 years of age at the time of conviction and the sentencing judge elects to impose an active prison term, the judge must either sentence the felon as a committed youthful offender in accordance with Article 3B of Chapter 148 of the General Statutes and subject to the limit on the prison term provided by G.S. 148-49.14, or make a ‘no benefit’ finding as provided by G.S. 148-49.14 and impose a regular prison term. 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, the judge must impose the presumptive prison term provided by subsection (f) of this section unless he decides to impose a longer or shorter term after consideration of aggravating and mitigating factors. In imposing a prison term on a person convicted of a felony, the sentencing judge may consider any aggravating and mitigating factors that are reasonably related to the purposes of sentencing as provided by G.S. 15A-1340.3, and must consider each of the following aggravating and mitigating factors.

## (1) Aggravating factors.

- (a) In committing the offense, the defendant inflicted bodily injury on another person substantially in excess of the minimum amount necessary to prove the offense.
- (b) In committing the offense, the defendant inflicted property loss or damage substantially in excess of the minimum amount necessary to prove the offense.
- (c) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants in its commission.

## (2) Mitigating factors.

- (a) The defendant has either no record of criminal convictions or a record consisting solely of misdemeanors punishable by not more than 60 days imprisonment.
- (b) In committing the offense, the defendant inflicted only the minimum amount of bodily injury on another person necessary to prove the offense.
- (c) In committing the offense, the defendant inflicted only the minimum amount of property damage or loss necessary to prove the offense.
- (d) The defendant committed the offense under duress, coercion, threat, or compulsion which was insufficient to constitute a defense but significantly reduced his culpability for the offense.
- (e) The defendant was a passive participant or played a minor role in the commission of the offense.
- (f) The defendant was suffering from a mental or physical condition which was insufficient to constitute a defense but significantly reduced his culpability for the offense.
- (g) The defendant, because of his age or limited mental capacity, was substantially lacking in sound judgment in committing the offense.
- (h) The defendant has made partial or full restitution to the victim of his offense.
- (i) A negotiated plea and any circumstance arising from the evidence which the court deems to have mitigating value.

(b) If the judge imposes a prison term for a felony that differs from the presumptive term provided by 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 enter on the record findings of fact regarding all aggravating and mitigating factors on which he bases his sentence.

(c) Whether or not the sentencing judge imposes a prison term on a person convicted of a felony other than a Class A felony, he may impose a fine in accordance with G.S. 15A-1340.6.

(d) In imposing a sentence for a felony, if the sentencing judge finds a longer presumptive prison term is applicable to the defendant under subsection (f) of this section because of his prior felony convictions, the judge must enter on the record a finding as to how many and what class of prior felony convictions the defendant has received and the evidence on which his finding is based. For the purpose of determining the applicable presumptive prison term under subsection (f), prior conviction of a felony is defined as any prior conviction of a felony by a North Carolina State court or a criminal offense under the law of any other state, the District of Columbia, or the United States, that would be

punishable as a felony under North Carolina law if subject to the jurisdiction of North Carolina State courts. Prior conviction of a felony shall not include any felony that is joinable, pursuant to G.S. 15A-926(a), with the felony for which the defendant is currently being sentenced, nor shall it include any prior conviction that did not occur or lead to imprisonment, probation, suspended sentence, or parole from which the offender's final discharge occurred within the 10 years immediately preceding the conviction for which the defendant is currently being sentenced.

(e) Prior convictions may be proven at the sentencing hearing. If the State introduces proof of prior convictions for sentencing purposes and does not give the defendant reasonable notice of the date and nature of such convictions before the sentencing hearing, and the defendant contests the accuracy or validity of the convictions as applied to him, he is entitled to a continuance of the sentencing hearing.

(f) Unless otherwise specified by statute, presumptive prison terms are as follows for felonies classified according to G.S. 14-1.1 and specific penalty provisions of the General Statutes. Prior felony convictions in jurisdictions other than North Carolina shall be considered Class J felonies for the purpose of this subsection.

Sec. 1. For a Class C felony, imprisonment for 20 years if the person convicted has no prior felony convictions, imprisonment for 22 years if he has one prior conviction of a Class D, E, F, G, H, I, or J felony, and imprisonment for 24 years if he has one prior conviction of a Class B or C felony or two or more prior convictions of Class D, E, F, G, H, I, or J felonies.

Sec. 2. For a Class D felony, imprisonment for 16 years if the person convicted has no prior felony convictions, imprisonment for 18 years if he has one prior conviction of a Class E, F, G, H, I, or J felony, and imprisonment for 20 years if he has one prior conviction of a Class B, C, or D felony or two or more prior convictions of Class E, F, G, H, I, or J felonies.

Sec. 3. For a Class E felony, imprisonment for 12 years if the person convicted has no prior felony convictions, imprisonment for 14 years if he has one prior conviction of a Class F, G, H, I, or J felony, and imprisonment for 16 years if he has one prior conviction of a Class B, C, D, or E felony or two or more prior convictions of Class F, G, H, I, or J felonies.

Sec. 4. For a Class F felony, imprisonment for eight years if the person convicted has no prior felony convictions, imprisonment for 10 years if he has one prior conviction of a Class G, H, I, or J felony, and imprisonment for 12 years if he has one prior conviction of a Class B, C, D, E, or F felony or two or more prior convictions of Class G, H, I, or J felonies.

Sec. 5. For a Class G felony, imprisonment for six years if the person convicted has no prior felony convictions, imprisonment for seven years if he has one prior conviction of a Class H, I, or J felony, and imprisonment for eight years if he has one prior conviction of a Class B, C, D, E, F, or G felony or two or more prior convictions of Class H, I, or J felonies.



Sec. 6. For a Class H felony, imprisonment for three years six months if the person convicted has no prior felony convictions, imprisonment for five years if he has one prior conviction of a Class I or J felony, and imprisonment for six years if he has one prior conviction of a Class B, C, D, E, F, G, or H felony or two or more prior convictions of Class H, I, or J felonies.

Sec. 7. For a Class I felony, imprisonment for two years if the person convicted has no prior felony convictions, imprisonment for 30 months if the person has one prior conviction of a Class J felony, and imprisonment for three years if he has one prior conviction of a Class B, C, D, E, F, G, H, or I felony or two or more prior convictions of Class J felonies.

Sec. 8. For a Class J felony, imprisonment for one year if the person convicted has no prior felony convictions, imprisonment for 18 months if the person has one prior conviction of a Class J felony, and imprisonment for two years if he has one prior conviction of a Class B, C, D, E, F, G, H, or I felony or two or more prior convictions of Class J felonies.

(g) For the purposes of subsection (f) of this section, felonies defined by laws now repealed shall be assigned to the class, as defined by G.S. 14-1.1, corresponding to the maximum prison terms authorized by law for those felonies when they occurred.

“§ 15A-1340.5. *Sentencing of person convicted of repeated felony using deadly weapon.*—Notwithstanding any other provision of law, any person who has been previously convicted in the courts of this State within seven years of a felony in which a deadly weapon was used, provided that the previous felony did not occur within 10 days of the second or subsequent felony, shall serve a term for the second or subsequent felony of not less than seven years in prison, excluding gain time granted under G.S. 148-13. Any person sentenced under this section 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 sentence a person sentenced under this section as a committed youthful offender and may not suspend the sentence and place the person sentenced on probation. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder.

“§ 15A-1340.6. *Fines.*—In sentencing a person convicted of a felony other than a Class A or Class B felony, the sentencing judge may in his discretion impose a fine up to the maximum authorized by G.S. 14-1.1, whether or not he imposes an active or suspended prison term as provided by Article 84 of this Chapter.

“§ 15A-1340.7. *Service of term of imprisonment; credit for good behavior; prisoner conduct rules; informing prisoner of release date; re-entry parole and committed youthful offender parole.*—(a) An active term of imprisonment imposed for a felony shall be served in the custody of the Department of Correction or a jail, subject to the provisions of G.S. 15A-1352. Credit toward service of the term shall be given for time already served as provided by Article 19A of Chapter 15 of the General Statutes, and good behavior in prison or jail as provided by subsection (b) of this section. Additional credit may be given by the

Department of Correction or jailer under regulations of the Secretary of Correction as provided by G.S. 148-13.

(b) A prisoner committed to the Department of Correction or a jail to serve a sentence for a felony shall receive credit for good behavior at the rate of one day deducted from his prison or jail term for each day he spends in custody without a major infraction of prisoner conduct rules. Prisoner conduct rules shall be issued by the Secretary of Correction with regard to all prisoners serving prison or jail terms for felony convictions. The rules shall clearly state types of forbidden conduct and a copy of the rules shall be given and read to each convicted prisoner upon entry into prison or jail. Infractions of the rules shall be of two types, major and minor infractions. Major infractions shall be punishable by forfeiture of specific amounts of accrued good behavior time, disciplinary segregation, loss of privileges for specific periods, demotion in custody grade, extra work duties, or reprimand. Minor infractions shall be punishable by loss of privileges for specific periods, demotion in custody grade, extra work duties, or reprimand, but not by loss of accrued good behavior time or disciplinary segregation. A prisoner charged with infraction of conduct rules shall receive notice of the charge and be afforded a hearing. The provisions of this section shall not apply to persons convicted of Class A or Class B felonies.

(c) Within 30 days of a convicted felon's entry into prison or jail to serve his sentence, the Department of Correction or jailer shall inform him in writing of the date on which he will be released if he receives the maximum amount of time off for good behavior under subsection (b) of this section, and of the date on which he will be released if he receives no such credit for good behavior.

(d) A prisoner committed to the Department of Correction or a jail to serve a sentence imposed for a felony is eligible for re-entry parole as provided by Article 85A of Chapter 15A of the General Statutes, and, if sentenced as a committed youthful offender, to parole as provided by Articles 3B and 4 of Chapter 148 of the General Statutes.

**Sec. 3.** G.S. 15A-1021(a), regarding plea negotiation, is amended by changing the period at the end of the first sentence to a comma, and adding the following language: "including a prison term different from the presumptive prison term applicable to the defendant, if convicted, under G.S. 15A-1340.4(f)."

G.S. 15A-1414(b), regarding grounds for motion for appropriate relief within 10 days of verdict, is amended by adding a new subsection (4) to read as follows:

"(4) The sentence imposed on the defendant is not supported by evidence introduced at the trial and sentencing hearing."

G.S. 15A-1442, regarding grounds for correction of error by appellate division, is amended by inserting a new subsection (5a) to read as follows:

"(5a) Insufficient basis for sentence. The sentence imposed on the defendant is not supported by evidence introduced at the trial and sentencing hearing."

G.S. 15A-1444, regarding when defendant may appeal or seek review by certiorari, is amended by inserting a new subsection (a1) after subsection (a) to read as follows:

"(a1) A defendant who has entered a plea of not guilty to a felony and who has been found guilty of 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; 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. 4.** The following statutes are amended or repealed as indicated for conformity with this act. Statutory references followed by “(1977)” are to the 1977 Cumulative Supplement of the General Statutes, and those followed by “(1978)” are to the 1978 Interim Supplement; all other references are to the current replacement volume.

G.S. 14-2.1 (1977), pertaining to sentencing repeat felonies using deadly weapons, shall be amended by adding the following language at the end:

“This section shall not apply to persons convicted of felonies that occur on or after the effective date of Article 81A of Chapter 15A of the General Statutes, but G.S. 15A-1340.5 shall apply to such persons.”

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.

G.S. 162-46(1978) and G.S. 14-263, regarding deductions of time for good behavior of prisoners serving sentences in jails, are repealed.

G.S. 148-13 is rewritten to read as follows:

“§ 148-13. *Regulations as to custody grades, privileges, gain time credit, etc.*—

(a) The Secretary of Correction may issue regulations regarding the grades of custody in which State prisoners are kept, the privileges and restrictions applicable to each custody grade, and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or parole.

(b) With respect to prisoners who are serving prison or jail terms either for felonies that occurred before the effective date of Article 81A of Chapter 15A of the General Statutes, or for misdemeanors regardless of the date of occurrence, the Secretary of Correction may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.

(c) With respect to all State prisoners serving prison terms for felonies that occurred on or after the effective date of Article 81A of Chapter 15A of the General Statutes, the Secretary of Correction must grant credit toward their terms for good behavior as required by G.S. 15A-1340.7. The provisions of this section shall not apply to persons convicted of Class A or Class B felonies.

(d) With respect to prisoners serving prison or jail terms for felonies that occurred on or after the effective date of Article 81A of Chapter 15A, the Secretary of Correction shall issue regulations authorizing gain time credit to be deducted from the terms of such prisoners, in addition to the good behavior credit authorized by G.S. 15A-1340.7. Gain time credit may be granted for meritorious conduct and shall be granted for performance of work inside or outside the prison or jail. Gain time credit earned pursuant to regulations issued under this subsection shall not be subject to forfeiture for misconduct. Gain time shall be administered to qualified prisoners as follows:

(1) Gained Time I. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform short-term work assignments (requiring a minimum of four hours of actual work per day) shall receive credit for work performed at the rate of two days per month.

(2) Gained Time II. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform job assignments requiring a

minimum of six hours work per day or who perform in part-time work release programs shall receive credit at the rate of four days per month.

- (3) Gained Time III. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform job assignments requiring a minimum of six hours per day with requirements for specialized skills or specialized responsibilities, as well as inmates participating in full-time work release shall receive credit at the rate of six days per month.

The Secretary of Correction may, in his discretion, grant gain time credit at a rate greater than the rates specified in this subsection for meritorious conduct or emergency work performed, provided, however, that the rate of gain time granted for emergency work performed shall not exceed 30 days per month, nor shall the rate of gain time granted for meritorious conduct exceed 30 days for each act of meritorious conduct.

(e) The Secretary's regulations concerning time deductions as authorized by subsection (b), gain time credit as authorized by subsection (d), and prisoner conduct as required by G.S. 15A-1340.7(b), shall be distributed to and followed by county and district jail administrators with regard to sentenced prisoners covered by subsection (b) and (d)."

G.S. 15A-1351(b), regarding maximum and minimum terms of imprisonment, is amended by deleting the first sentence and inserting in lieu thereof:

"Sentencing of a person convicted of a felony that occurred on or after the effective date of Article 81A of this Chapter is subject to that Article; a minimum term of imprisonment shall not be imposed on such a person. With regard to convicted persons not subject to Article 81A, a sentence to imprisonment must impose a maximum term and may impose a minimum term."

G.S. 15A-1351(c), regarding reduction of a minimum term of imprisonment, is amended by adding the following at the end:

"This subsection shall not apply to a person convicted of a felony that occurred on or after the effective date of Article 81A of this Chapter."

G.S. 15A-1351(d), regarding the alternative to a minimum term, is amended by adding the following at the end:

"This subsection shall not apply to a person convicted of a felony that occurred on or after the effective date of Article 81A of this Chapter."

G.S. 15A-1354(a), regarding concurrent and consecutive terms of imprisonment, is amended by adding the following at the end:

"With respect to a person convicted of a felony that occurred on or after the effective date of Article 81A of this Chapter, G.S. 15A-1340.8 shall apply in addition to this subsection."

G.S. 15A-1355(c) is rewritten to read as follows:

"(c) Credit for Good Behavior. The Department of Correction and jailers, as defined by G.S. 15A-1340.2, must give credit for good behavior toward service of a prison or jail term imposed for a felony that occurred on or after the effective date of Article 81A, as required by G.S. 15A-1340.7. The provisions of this section shall not apply to persons convicted of Class A or Class B felonies. The Department of Correction and jailers may give time credit toward service of other prison or jail terms imposed for a felony or misdemeanor, according to regulations issued by the Secretary of Correction as provided by G.S. 148-13."



Article 85 of Chapter 15A of the General Statutes, regarding parole, is amended by inserting the following section at the beginning:

“§ 15A-1370.1. *Applicability of Article 85.*—This Article shall be applicable to all sentenced prisoners except convicted felons who are not committed youthful offenders and are not persons convicted of Class A or Class B felonies and are subject to Article 85A of this Chapter.”

Chapter 15A of the General Statutes is amended to add a new Article as follows:

“Article 85A.

“Parole of Convicted Felons.

“§ 15A-1380.1. *Eligibility of felons for parole.*—A prisoner who is not a committed youthful offender and has been convicted of a felony other than a Class A or a Class B felony and is serving a prison or jail term imposed for a felony that occurred on or after the effective date of this Article is not eligible for parole except as provided by this Article. For the purposes of this Article, a life sentence shall be equivalent to 80 years.

“§ 15A-1380.2. *Re-entry parole of felons.*—(a) The Parole Commission shall parole each prisoner serving a prison or jail term of 18 months or more for a felony 90 days before the expiration of his term, less credit for time already served as provided by Article 19A of Chapter 15 of the General Statutes, credit for good behavior as required by G.S. 15A-1340.7, and additional gain time credit that he may receive pursuant to the regulations of the Secretary of Correction issued under G.S. 148-13. The provisions of this section shall not apply to persons convicted of Class A or Class B felonies.

(b) The purpose of the parole established by this section is to facilitate the re-entry of the felony prisoner into the free community. The Department of Correction shall provide such services as may be helpful for this purpose.

(c) The term of parole for a prisoner paroled under this section shall be 90 days.

(d) The provisions of G.S. 15A-1373, G.S. 15A-1375, and G.S. 15A-1376 regarding incidents of parole, commencement of parole, and arrest and hearing on parole violation, shall be applicable to re-entry parole of felons, except that G.S. 15A-1373(d) regarding the effect of violation shall not apply. The only conditions of re-entry parole shall be those provided by G.S. 15A-1374(b)(6), (7), (8), (9), and (10).

(e) If the parolee remains in compliance with conditions of parole during the 90 days of his re-entry parole, he shall be unconditionally discharged from prison or jail at the end of the 90 days.

(f) If the parolee violates parole conditions before the end of his 90-day parole term, the Parole Commission may revoke his re-entry parole. If re-entry parole is revoked, the prisoner shall be returned to prison or jail where he shall serve 90 days, but shall continue to receive credit for good behavior required by G.S. 15A-1340.7(b), and any additional gain time credit to which he may be entitled pursuant to the regulations of the Secretary of Correction under G.S. 148-13, and shall be unconditionally discharged at the end of 90 days less any such credit received.

(g) Each prisoner eligible for re-entry parole may refuse to accept such parole, in which case he shall remain in prison, but shall not lose accrued credit pursuant to G.S. 15A-1340.7 or G.S. 148-13, and shall continue to receive credit to which he may be entitled under those statutes.”

**Sec. 5.** The following statutes pertaining to punishments for felonies are amended as indicated. All statutory references are to the current replacement volume of the General Statutes, unless “(1977)” appears, in which case the reference is to the 1977 Cumulative Supplement.

G.S. 14-3(b) is rewritten to read as follows:

“(b) A misdemeanor offense committed in secrecy and malice, or with deceit and intent to defraud, shall, if no specific punishment is provided by statute, be punishable as a Class H felony. An attempt to commit burglary, crime against nature, or any felony where the attempt is made in secrecy or malice, or with deceit and intent to defraud, shall, if no specific punishment is otherwise provided by statute, be punishable as a Class H felony.”

G.S. 14-6 is amended by deleting the phrase “shall be imprisoned for life in the State’s prison” and inserting in lieu thereof “shall be punished as a Class C felon”; by deleting the phrase “shall be imprisoned in the State’s prison for not less than five nor more than 20 years, in the discretion of the court” and inserting in lieu thereof “shall be punished as a Class F felon”; and by deleting the phrase “by imprisonment in the State prison or county jail for not more than 10 years, or may be fined in the discretion of the court” and inserting in lieu thereof “as a Class H felon”.

G.S. 14-7 is amended by deleting the phrase “by imprisonment in the State’s prison or county jail for not less than four months nor more than 10 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “as a Class H felon”.

G.S. 14-8 is amended by deleting the phrase “and, shall be punished by imprisonment in the State’s prison for not more than 15 years and by a fine of not more than ten thousand dollars (\$10,000)” and inserting in lieu thereof “and shall be punished as a Class G felon”.

G.S. 14-9 is amended by deleting the phrase “guilty of a felony and shall be imprisoned not more than ten years in the State’s prison and be fined not exceeding five thousand dollars (\$5,000)” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-12 is amended by deleting the phrase “guilty of a felony and punished accordingly” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-12.1 is amended by deleting in lines 18, 19, and 20, the phrase “guilty of a felony and upon conviction shall be fined or imprisoned, or both, in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”; and by deleting in lines 25 and 26 the phrase “guilty of a felony and punishable by a fine or imprisonment, or both in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-12.15 is amended by deleting the phrase “guilty of a felony and shall be punished by confinement in the State prison for not less than one nor more than five years” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-13 is amended by deleting the phrase “guilty of a felony, and shall be punished by imprisonment in the State’s prison or county jail for not less than four months nor more than ten years” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-14 is amended by deleting the phrase “imprisoned in the State’s prison or county jail not less than four months nor more than ten years, or be

fined not more than five hundred dollars (\$500.00)” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-17 (1977) is amended by deleting the phrase “by imprisonment for a term of not less than two years nor more than life imprisonment in the State’s prison” and inserting in lieu thereof “as a Class D felony”.

G.S. 14-18 is rewritten to read as follows: “Voluntary manslaughter shall be punishable as a Class F felony, and involuntary manslaughter shall be punishable as a Class H felony.”

G.S. 14-19 pertaining to punishment for second offense of manslaughter is repealed.

G.S. 14-20 is amended by deleting the phrase “by imprisonment for life in the State’s prison” and inserting in lieu thereof “as a Class C felon”.

G.S. 14-21(1)(a) (1977) is amended by deleting the phrase “the punishment shall be death” and inserting in lieu thereof “that person shall be punished as a Class B felon”.

G.S. 14-21(1)(b) (1977) is amended by deleting the phrase “the punishment shall be death” and inserting in lieu thereof “that person shall be punished as a Class B felon”.

G.S. 14-21(2) (1977) is amended by deleting the phrase “by imprisonment in the State’s prison for life, or for a term of years, in the discretion of the court” and inserting in lieu thereof “as a Class C felony”.

G.S. 14-22 is amended by deleting the phrase “imprisoned in the State’s prison not less than one nor more than fifteen years” and inserting in lieu thereof “punished as a Class G felon”.

G.S. 14-26 is amended by deleting the phrase “guilty of a felony and shall be fined or imprisoned in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-28 is amended by deleting the phrase “suffer imprisonment in the State’s prison for not less than five nor more than sixty years” and inserting in lieu thereof “be punished as a Class D felon”.

G.S. 14-29 is amended by deleting the phrase “imprisoned in the county jail or State’s prison not less than six months nor more than ten years and fined, in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-30 is amended by deleting the phrase “shall, for the first offense, be punished by imprisonment in the State’s prison or county jail not less than four months nor more than ten years, and be fined, in the discretion of the court; and for the second offense shall be imprisoned in the State’s prison not less than five nor more than sixty years” and inserting in lieu thereof “shall be punished as a Class H felon”.

G.S. 14-30.1 is amended by deleting the phrase “guilty of a felony and shall be punished by imprisonment in the State prison for a term of not less than four (4) months nor more than ten (10) years” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-31 is amended by deleting the phrase “guilty of a felony punishable by a fine or imprisonment for not less than one nor more than twenty years, or both such fine and imprisonment” and inserting in lieu thereof “punished as a Class F felon”.

G.S. 14-32(a) (1977) is amended by deleting the phrase “is guilty of a felony punishable by a fine, imprisonment for not more than 20 years, or both such

fine and imprisonment” and inserting in lieu thereof “shall be punished as a Class F felon”.

G.S. 14-32(b) (1977) is amended by deleting the phrase “is guilty of a felony punishable by a fine, imprisonment for not more than 10 years, or both such fine and imprisonment” and inserting in lieu thereof “shall be punished as a Class H felon.”

G.S. 14-32(c) (1977) is amended by deleting the phrase “is guilty of a felony punishable by a fine, imprisonment for not more than 10 years, or both such fine and imprisonment” and inserting in lieu thereof “shall be punished as a Class H felon”.

G.S. 14-34.1 is amended by deleting the phrase “guilty of a felony punishable as provided in G.S. 14-2” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-34.2 (1977) is amended by deleting the phrase “guilty of a felony and shall be fined or imprisoned for a term not to exceed five years in the discretion of the court” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-39(b) (1977) is rewritten to read as follows:

“(b) There shall be two degrees of kidnapping as defined by subsection (a). If the person kidnapped either was not released by the defendant in a safe place or had been seriously injured or sexually assaulted, the offense is kidnapping in the first degree and is punishable as a Class D felony. If the person kidnapped was released in a safe place by the defendant and had not been seriously injured or sexually assaulted, the offense is kidnapping in the second degree and is punishable as a Class E felony.”

G.S. 14-41 is amended by deleting the phrase “guilty of a felony, and on conviction shall be fined or imprisoned in the State’s prison for a period not exceeding fifteen years” and inserting in lieu thereof “punished as a Class G felon”.

G.S. 14-42 is amended by deleting the phrase “guilty of a felony, and on conviction shall be punished as prescribed in that section” and inserting in lieu thereof “punished as a Class G felon”.

G.S. 14-43 is amended by deleting the phrase “guilty of a felony, and upon conviction shall be imprisoned not less than one year nor more than ten years” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-44 is amended by deleting the phrase “guilty of a felony, and shall be imprisoned in the State’s prison for not less than one year nor more than ten years, and be fined at the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-45 is amended by deleting the phrase “guilty of a felony and shall be imprisoned in the jail or State’s prison for not less than one year nor more than five years and shall be fined, at the discretion of the court” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-46 (1977) is amended by deleting the phrase “guilty of a felony and punished by fine or imprisonment, or both, in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-49(c) is amended by deleting the phrase “is punishable by imprisonment in the State’s prison for not less than five nor more than thirty years” and inserting in lieu thereof “shall be punished as a Class E felon”.



G.S. 14-49.1 is amended by deleting "by imprisonment in the State's prison for not less than ten years nor more than imprisonment for life" and inserting in lieu thereof "as a Class C felony".

G.S. 14-50(c) is amended by deleting the phrase "is punishable by imprisonment in the State's prison for not more than fifteen years" and inserting in lieu thereof "shall be punished as a Class G felon".

G.S. 14-52 (1977) is rewritten to read as follows:

"Burglary in the first degree shall be punishable as a Class C felony, and burglary in the second degree shall be punishable as a Class D felony. Notwithstanding any other provision of law, with the exception of persons sentenced as committed youthful offenders, a person convicted of a burglary in the first or second degree shall serve a term of not less than seven years in prison, excluding gain time granted under G.S. 148-13. A person convicted of a burglary in the first or second degree 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 pursuant to this section shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder."

G.S. 14-53 is amended by deleting the phrase "guilty of burglary" and inserting in lieu thereof "punished as a Class D felon".

G.S. 14-54(a) is amended by deleting the phrase "is guilty of a felony and is punishable under G.S. 14-2" and inserting in lieu thereof "shall be punished as a Class H felon".

G.S. 14-55 is amended by deleting the phrase "guilty of a felony and punished by fine or imprisonment in the State's prison, or both, in the discretion of the court" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-56 is amended by deleting the phrase "upon conviction be punished by confinement in the penitentiary in the discretion of the court for a term of years not exceeding five years" and inserting in lieu thereof "be punished as a Class I felon".

G.S. 14-56.1 (1977) is amended by deleting the phrase "guilty of a felony" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-56.3 (1977) is amended by deleting the phrase "guilty of a felony" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-57 is amended by deleting the phrase "as for burglary in the second degree, as provided in G.S. 14-52", and inserting in lieu thereof "as a Class E felon".

G.S. 14-58 (1977) is rewritten to read as follows:

"There shall be two degrees of arson as defined at the common law. If the dwelling burned was occupied at the time of the burning, the offense is arson in the first degree and is punishable as a Class C felony. If the dwelling burned was unoccupied at the time of the burning, the offense is arson in the second degree and is punishable as a Class D felony."

G.S. 14-58.2 (1977) is amended by deleting the period at the end of the section, and adding the following words: "in the first degree".

G.S. 14-59 (1977) is amended by deleting the phrase "guilty of a felony and shall, on conviction, be imprisoned in the State's prison for not less than two

nor more than 30 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class E felon”.

G.S. 14-60 (1977) is amended by deleting the phrase “guilty of a felony, and shall, on conviction, be imprisoned in the State’s prison for not less than two nor more than 30 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class E felon”.

G.S. 14-61 (1977) is amended by deleting the phrase “guilty of a felony, and shall, on conviction, be imprisoned in the State’s prison for not less than two nor more than 30 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class E felon”.

G.S. 14-62 (1977) is amended by deleting the phrase “guilty of a felony, and shall, on conviction, be imprisoned in the State’s prison for not less than two nor more than 30 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class E felon”.

G.S. 14-62.1 (1977) is amended by deleting the phrase “guilty of a felony, and shall, on conviction, be imprisoned in the State’s prison for not less than two nor more than 30 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class E felon”.

G.S. 14-63 (1977) is amended by deleting the phrase “guilty of a felony and shall, on conviction, be punished by imprisonment in the State’s prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-64 (1977) is amended by deleting the phrase “shall, on conviction, be imprisoned in the State’s prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “shall be punished as a Class H felon”.

G.S. 14-65 (1977) is amended by deleting the phrase “guilty of a felony, and shall, on conviction, be punished by imprisonment in the State’s prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-66 (1977) is amended by deleting the phrase “guilty of a felony and shall, on conviction, be imprisoned in the State’s prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-67 (1977) is amended by deleting the phrase “guilty of a felony, and shall, on conviction, be imprisoned in the State’s prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the Court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-67.1 (1977) is amended by deleting the phrase “guilty of a felony, and shall, on conviction, be imprisoned in the State’s prison for not less than four months nor more than 10 years, and may also be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-72(a) (1977) is rewritten to read as follows:

“(a) Larceny of goods of the value of more than four hundred dollars is a Class H felony. Receiving of stolen goods of the value of more than four hundred dollars, knowing or having reasonable grounds to believe them to be stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving of stolen goods as provided in subsection (c) of this

section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than four hundred dollars, is a misdemeanor punishable under G.S. 14-3(a). In all cases of doubt the jury shall, in the verdict, fix the value of the property stolen."

G.S. 14-72.2(b) (1977) is amended by deleting the phrase "felony punishable by a fine, imprisonment not to exceed five years, or both, in the discretion of the court" and inserting in lieu thereof "Class I felony".

G.S. 14-74 is amended by deleting the phrase "fined or imprisoned in the State prison or county jail not less than four months nor more than ten years, at the discretion of the court" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-75.1 is amended by deleting the phrase "guilty of a felony punishable by imprisonment not exceeding four years or by a fine not exceeding five thousand dollars (\$5,000), or by both" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-79 is amended by deleting the phrase "guilty of a felony, and shall be imprisoned not less than two years nor more than five years, in the discretion of the court" and inserting in lieu thereof "punished as a Class I felon".

G.S. 14-87(a) (1977) is amended by deleting the phrase "punished by imprisonment for not less than seven years nor more than life imprisonment in the State's prison" and inserting in lieu thereof "punished as a Class D felon".

G.S. 14-87 is further amended by deleting all of subsections (b) and (c) and inserting in lieu thereof the following new subsection (b):

"(b) Notwithstanding any other provision of law, with the exception of persons sentenced as committed youthful offenders, a person convicted of robbery with firearms or other dangerous weapons shall serve a term of not less than seven years in prison, excluding gain time granted under G.S. 148-13. A person convicted of robbery with firearms or other dangerous weapons 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 pursuant to this section shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder."

Article 17 of Chapter 14 of the General Statutes is amended by adding the following section:

"§ 14-87.1. *Punishment for common law robbery and attempted common law robbery.*—Robbery and attempted robbery as defined at common law, other than robbery with a firearm or other dangerous weapon as defined by G.S. 14-87, shall be punishable as a Class H felony."

G.S. 14-88 is amended by deleting the phrase "by imprisonment in the State's prison for not less than ten years nor more than twenty years" and inserting in lieu thereof "as a Class F felon".

G.S. 14-89 is amended by deleting the phrase "by confinement in the State's prison for not less than two years nor more than twenty years" and inserting in lieu thereof "as a Class F felon".

G.S. 14-89.1(c) (1977) is rewritten to read as follows: "Safecracking shall be punishable as a Class H felony".

G.S. 14-90 is amended by deleting the phrase "guilty of a felony, and shall be punished as in cases of larceny" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-91 is amended by deleting the phrase "guilty of a felony, and shall be fined not less than ten thousand dollars, or imprisoned in the State's prison not less than twenty years, or both, at the discretion of the court" and inserting in lieu thereof "punished as a Class F felon".

G.S. 14-92 is amended by deleting, in lines 7 and 8, the phrase "guilty of a felony, and shall be fined and imprisoned in the State's prison in the discretion of the court" and inserting in lieu thereof "punished as a Class H felon"; by deleting, in line 15, the phrase "shall be guilty of a felony" and inserting in lieu thereof "shall be punished as a Class H felon"; and by deleting the last sentence.

G.S. 14-94 is amended by deleting the phrase "imprisoned in the State's prison not less than three nor more than ten years, and fined not less than one thousand nor more than ten thousand dollars" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-95 is amended by deleting the phrase "imprisoned in the State's prison for not less than three nor more than ten years, and fined not less than one thousand nor more than ten thousand dollars" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-98 is amended by deleting the phrase "guilty of a felony, and upon conviction shall be punished by fine or imprisonment in the State's prison in the discretion of the court" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-99 is amended by deleting the phrase "may be punished by confinement in the State's prison not exceeding five years, at the discretion of the court" and inserting in lieu thereof "shall be punished as a Class I felon".

G.S. 14-100(a)(1977) is amended by deleting the phrase "imprisoned in the State's prison not less than four months nor more than 10 years, and fined, in the discretion of the court" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-101 is amended by deleting the phrase "punishable by fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000), or by imprisonment in the State's prison for a term of not less than one year nor more than five years, or both, at the discretion of the court" and inserting in lieu thereof "punished as a Class I felon".

G.S. 14-113.9(b) is deleted and rewritten to read as follows: "Credit card theft is punishable as provided by G.S. 14-113.17(b)."

G.S. 14-113.17(b) is amended by deleting the phrase "a felony and shall be punishable by a fine of not more than three thousand dollars (\$3,000) or imprisonment for not more than three years, or both" and inserting in lieu thereof "punishable as a Class J felony".

G.S. 14-118.4 (1977) is amended by deleting the phrase "upon conviction be guilty of a felony" and inserting in lieu thereof "be punished as a Class H felon".

G.S. 14-119 is amended by deleting the phrase "guilty of a felony and shall be punished by imprisonment in the State's prison or county jail for not less than four months nor more than ten years, or by a fine in the discretion of the court" and inserting in lieu thereof "punished as a Class I felon".



G.S. 14-120 is amended by deleting the phrase “by imprisonment in the county jail or State’s prison for not less than four months nor more than ten years” and inserting in lieu thereof “as a Class I felon”.

G.S. 14-121 (1977) is amended by deleting the phrase “by imprisonment in the State’s prison or county jail for not less than four months nor more than 10 years” and inserting in lieu thereof “as a Class I felon”.

G.S. 14-122 is amended by deleting the phrase “by imprisonment in the State’s prison or county jail not less than four months nor more than ten years, or fined in the discretion of the court” and inserting in lieu thereof “as a Class I felon”.

G.S. 14-123 is amended by deleting the phrase “guilty of a felony, and shall be fined not exceeding one thousand dollars, or imprisoned in the county jail or State’s prison not exceeding five years, or both, at the discretion of the court” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-124 is amended by deleting the phrase “imprisoned in the county jail or State’s prison not less than four months nor more than ten years” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-136 is amended by deleting the phrase “guilty of a felony, and shall, upon conviction, be punished by imprisonment in the State’s prison for not less than one nor more than five years” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-141 is amended by deleting the phrase “guilty of a felony, and shall be punished by imprisonment in the county jail or State’s prison for not less than four months nor more than five years” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-150 is amended by deleting the phrase “guilty of a felony, and upon conviction thereof shall be fined or imprisoned, or both, at the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-163 (1977) is amended by deleting the phrase “guilty of a felony punishable by imprisonment for not more than five years or by a fine in the discretion of the court, or both” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-177 is amended by deleting the phrase “guilty of a felony, and shall be fined or imprisoned in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-178 is amended by deleting the second sentence and rewriting it to read: “Every such offense is punishable as a Class G felony”.

G.S. 14-183 is amended by deleting the phrase “guilty of a felony, and shall be imprisoned in the State’s prison or county jail for any term not less than four months nor more than ten years” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-190.8 (1977) is amended by deleting the phrase “guilty of a felony and upon conviction shall be imprisoned in the State’s prison for not more than five years and shall be fined at the discretion of the court” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-202.1(b)(1977) is amended by deleting the phrase “a felony punishable by a fine, imprisonment for not more than 10 years, or both” and inserting in lieu thereof “punishable as a Class H felony”.

G.S. 14-209 is amended by deleting the phrase “guilty of a felony and shall be fined not exceeding one thousand dollars, and imprisoned in the county jail

or State's prison not less than four months nor more than ten years" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-211(1977) is amended by deleting the phrase "confined in the State's prison for the time prescribed by law for perjury" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-212 is amended by deleting the phrase "liable to the pains and penalties of perjury" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-214 (1977) is amended by deleting the phrase "guilty of a felony punishable by imprisonment for not more than five years or by a fine of not more than five thousand dollars (\$5,000), or by both such fine or imprisonment in the discretion of the court" and inserting in lieu thereof "punished as a Class I felon".

G.S. 14-217 is amended by deleting the phrase "guilty of a felony, and shall be punished by imprisonment in the State's prison for a term not exceeding five years, or fined not exceeding five thousand dollars, or both, in the discretion of the court" and inserting in lieu thereof "punished as a Class I felon".

G.S. 14-218 is amended by deleting the phrase "guilty of a felony, and shall be punished by imprisonment for a term not less than one year nor more than five years in the State's prison or county jail, in the discretion of the court" and inserting in lieu thereof "punished as a Class I felon".

G.S. 14-219 is amended by deleting the phrase "guilty of a felony, and shall be fined not exceeding double the amount so offered, promised or given, and imprisoned in the State's prison not exceeding five years" and inserting in lieu thereof "punished as a Class I felon".

G.S. 14-220 is amended by deleting the phrase "guilty of a felony, and shall be imprisoned in the State's prison or county jail not less than four months nor more than ten years" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-221 is amended by deleting the phrase "guilty of a felony, and upon conviction, or upon a plea of guilty, shall be fined not less than five hundred dollars, and imprisoned in the State's prison or the county jail not less than two nor more than fifteen years" and inserting in lieu thereof "punished as a Class G felon".

G.S. 14-221.1 (1977) is amended by deleting the phrase "guilty of a felony punishable by a fine not to exceed five thousand dollars (\$5,000), or imprisonment for not more than five years, or both" and inserting in lieu thereof "punished as a Class I felon".

G.S. 14-233 is amended by deleting the phrase "guilty of a felony, and on conviction thereof shall be imprisoned in the State prison for not less than four months nor more than ten years" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-254 (1977) is amended by deleting the phrase "guilty of a felony, and upon conviction shall be imprisoned in the State's prison for not less than four months nor more than 15 years, and likewise fined, at the discretion of the court" and inserting in lieu thereof "punished as a Class G felon".

G.S. 14-258 is amended by deleting the phrase "sentenced to not less than four years hard labor in the State's prison" and inserting in lieu thereof "punished as a Class H felon".

G.S. 14-258.1(a)(1977) is amended by deleting the phrase "guilty of a felony and upon conviction thereof shall be fined or imprisoned in the State's prison

for not more than 10 years in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-258.2 (1977) is amended by deleting the phrase “guilty of a felony punishable by a fine or imprisonment not to exceed 10 years” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-258.3 (1977) is amended by deleting the phrase “guilty of a felony and shall be punished as provided in G.S. 14-2” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 14-259 is amended by deleting the phrase “by imprisonment in the State prison not more than five years” and inserting in lieu thereof “shall be punished as a Class I felon”.

G.S. 14-278 is amended by deleting the phrase “guilty of a felony and shall be imprisoned in the State’s prison not less than four months nor more than 10 years, or fined, or both” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-288.2(c) is amended by deleting the phrase “felony punishable by a fine not to exceed ten thousand dollars (\$10,000) or imprisonment for not more than five years, or both such fine and imprisonment” and inserting in lieu thereof “Class I felony”.

G.S. 14-288.2(e) is amended by deleting the phrase “is guilty of a felony punishable as provided in G.S. 14-2” and inserting in lieu thereof “shall be punished as a Class H felon”.

G.S. 14-288.6(b) is amended by deleting the phrase “is punishable by a fine not to exceed ten thousand dollars (\$10,000) or imprisonment for not more than five years, or both such fine and imprisonment” and inserting in lieu thereof “shall be punished as a Class I felon”.

G.S. 14-288.9(c) is amended by deleting the phrase “is guilty of a felony punishable by a fine not to exceed ten thousand dollars (\$10,000) or imprisonment for not more than five years, or both such fine and imprisonment” and inserting in lieu thereof “shall be punished as a Class I felon”.

G.S. 14-320.1 is amended by deleting the second sentence and rewriting it to read as follows: “Such crime shall be punishable as a Class J felony.”

G.S. 14-322.1 is amended by deleting the phrase “shall, upon conviction thereof, be guilty of a felony and punished in the discretion of the court” and inserting in lieu thereof “shall be punished as a Class H felon”.

G.S. 14-329(a) is amended by deleting the phrase “guilty of a felony and shall be punished by imprisonment in the State’s prison for not less than five years, and may be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-329(b) is amended by deleting the phrase “guilty of the felony and shall be punished by imprisonment in the State’s prison for not less than twelve months, and may be fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-373 is amended by deleting the phrase “guilty of a felony, and, upon conviction shall be imprisoned in the State’s prison not less than one nor more than ten years, and shall be fined not less than three thousand dollars (\$3,000), nor more than ten thousand dollars (\$10,000)” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-374 is amended by deleting the phrase “guilty of a felony, and upon conviction shall be imprisoned in the State’s prison not less than one nor more than ten years, or fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-377 is amended by deleting the phrase “guilty of a felony and upon conviction shall be imprisoned in the State’s prison, not less than one nor more than ten years, or fined in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-398 is amended by deleting the phrase “guilty of a felony, and shall upon conviction be punished in accordance with the laws applicable thereto” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-401.11(b)(1)b (1977) is amended by deleting the phrase “guilty of a felony punishable in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-401.11(b)(2)(1977) is amended by deleting the phrase “guilty of a felony punishable by imprisonment in the Department of Correction for not less than two nor more than 10 years” and inserting in lieu thereof “punished as a Class H felon”.

G.S. 14-401.11(b)(3)(1977) is amended by deleting the phrase “guilty of a felony punishable by imprisonment in the Department of Correction for not less than five nor more than 40 years” and inserting in lieu thereof “punished as a Class D felon”.

G.S. 14-415.1(a)(1977) is amended by deleting the phrase “guilty of a felony and shall be imprisoned for not more than five years in the State’s prison or shall be fined an amount not exceeding five thousand dollars (\$5,000), or both” and inserting in lieu thereof, “punished as a Class I felon”.

G.S. 18A-56(b) is amended by deleting the phrase “a felony, punishable by imprisonment for not less than four months and not exceeding five years in the discretion of the court” and inserting in lieu thereof “punishable as a Class I felony”.

G.S. 20-106 is amended by deleting the phrase “is guilty of a felony” and inserting in lieu thereof “shall be punished as a Class I felon”.

G.S. 20-109(b) is amended by deleting the last sentence and rewriting it to read as follows: “A violation of this subsection shall be punishable as a Class I felony.”

G.S. 20-177 is amended by deleting “by imprisonment in the State prison for a term not less than one year nor more than five years, or by a fine of not less than five hundred dollars (\$500.00) nor more than five thousand dollars (\$5,000), or by both fine and imprisonment” and inserting in lieu thereof “as a Class I felon”.

G.S. 20-182 is amended by deleting the phrase “by imprisonment for not less than one nor more than five years, or in the State prison for not less than one nor more than five years, or by fine of not less than five hundred dollars (\$500.00) or by both such fine and imprisonment” and inserting in lieu thereof “as a Class I felony”.

G.S. 53-129 is amended by deleting the phrase “guilty of a felony and upon conviction thereof shall be fined not more than ten thousand dollars (\$10,000) or imprisoned in the State’s prison not more than 30 years, or both” and inserting in lieu thereof “punished as a Class E felon”.



G.S. 90-95(b)(1) is amended by deleting the phrase “shall be guilty of a felony and shall be sentenced to a term of imprisonment of not more than 10 years or fined not more than ten thousand dollars (\$10,000), or both in the discretion of the court” and inserting in lieu thereof “shall be punished as a Class H felon”.

G.S. 90-95(b)(2) is amended by deleting the phrase “guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 90-95(c) is amended by deleting the phrase “guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court” and inserting in lieu thereof “punished as a Class I felon”.

G.S. 90-95(d)(1)(1977) is amended by deleting the phrase “guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court” and by inserting in lieu thereof “punished as a Class I felon”.

G.S. 90-95(d)(2)(1977) is amended by deleting the phrase “a felony punishable by a term of imprisonment of not more than five years or a fine of not more than five thousand dollars (\$5,000), or both, in the discretion of the court” and inserting in lieu thereof “punishable as a Class I felony”.

G.S. 90-95(d)(4)(1977) is amended by deleting the phrase “a felony punishable by a term of imprisonment of not more than five years or a fine of not more than five thousand dollars (\$5,000), or both in the discretion of the court” and inserting in lieu thereof “punishable as a Class I felony”.

G.S. 90-95(e)(1977) is amended by deleting all of subsections (1) and (2); by renumbering subsections (3), (4), (5), and (6) as (1), (2), (3), and (4), respectively; by deleting in the present subsection (3) the phrase “guilty of a felony and shall be sentenced to a term of imprisonment of not more than five years or fined not more than five thousand dollars (\$5,000), or both in the discretion of the court” and inserting in lieu thereof “punished as a Class I felon”; and by deleting in present subsection (5) the phrase “guilty of a felony and shall be sentenced to a term of imprisonment of not less than five years nor more than 30 years” and inserting in lieu thereof “punished as a Class E felon”.

G.S. 90-95.1(a) is rewritten to read as follows:

“(a) Any person who engages in a continuing criminal enterprise shall be punished as a Class C felon and in addition shall be subject to the forfeiture prescribed in subsection (b) of this section.”

G.S. 90-95.1 is further amended by deleting subsection (d).

G.S. 90-98 is amended by adding the following sentence:

“If the offense the person attempts or conspires to commit is a felony, the attempt or conspiracy is punishable as a felony of the same class as that offense.”

G.S. 90-108(b) is amended by deleting the phrase “felony punishable by imprisonment for not less than one year nor more than five years and a fine of not more than five thousand dollars (\$5,000)” and inserting in lieu thereof “Class I felony”.

G.S. 130-69(c)(1977) is amended by deleting the phrase “upon conviction thereof be guilty of a felony and shall be punished by imprisonment in the State prison for a term not exceeding five years or fine not exceeding five thousand

dollars (\$5,000), or both, in the discretion of the court” and inserting in lieu thereof “be punished as a Class I felon”.

G.S. 148-45(b) is amended by deleting the phrase “shall for the first such offense, except as provided in subsection (g) of this section, be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than six months nor more than two years” and inserting in lieu thereof “shall, except as provided in subsection (g) of this section, be punished as a Class J felon”.

G.S. 148-45(c) pertaining to conviction for prison escape subsequent to another escape conviction is repealed.

G.S. 148-46.1 is amended by deleting the phrase “guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State’s prison for a term not exceeding 10 years in the discretion of the court” and inserting in lieu thereof “punished as a Class H felon”.

**Sec. 6.** This act shall become effective on July 1, 1980, and shall apply only to offenses committed on or after that date, unless specific language of the act indicates otherwise.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 564

## CHAPTER 761

### AN ACT TO AMEND G.S. 75A-5 WITH RESPECT TO THE NUMBERING OF MOTORBOATS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of G.S. 75A-5 is hereby amended by rewriting the second sentence thereof to read as follows: “The application shall be signed by the owner of the motorboat, or his agent, and shall be accompanied by a fee of five dollars and fifty cents (\$5.50) for a one-year period or by a fee of thirteen dollars (\$13.00) for a three-year period.”

**Sec. 2.** Subsection (c) of G.S. 75A-5 is hereby amended by deleting the words and figures “one dollar (\$1.00)” as they appear in the first and second sentences of said subsection and by inserting in lieu thereof, in each case, the words and figures “two dollars (\$2.00)”.

**Sec. 3.** Subsection (e) of G.S. 75A-5 is hereby amended by adding two new sentences at the end thereof to read as follows: “As compensation for his services any such agent shall be allowed to retain for his own use fifty cents (50¢). It is a misdemeanor punishable in the discretion of the court for any such agent to charge or accept any additional fee, remuneration, or other thing of value for such services.”

**Sec. 4.** Subsection (g) of G.S. 75A-5 is hereby rewritten to read as follows:

“(g) Each certificate of number awarded pursuant to this Chapter, unless sooner terminated or discontinued in accordance with the provisions of this Chapter, shall continue in full force and effect to and including the last day of the same month during which the same was awarded after the lapse of one year in the case of a one-year certificate or three years in the case of a three-year certificate. In addition to the year of expiration, the validation decal required by subsection (a) of this section shall indicate the last month during which the certificate is valid. No person shall willfully remove a validation decal from any vessel during the continuance of its validity or alter, counterfeit, or otherwise

tamper with a validation decal attached to any vessel for the purpose of changing or obscuring the indicated date of expiration of the certificate of number of such vessel.”

**Sec. 5.** Subsection (h) of G.S. 75A-5 is hereby rewritten to read as follows:

“(h) Each certificate of number awarded pursuant to this Chapter must be renewed on or before the first day of the month next succeeding that during which the same expires; otherwise, such certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Wildlife Resources Commission and shall be accompanied by a fee of five dollars and fifty cents (\$5.50) for a one-year period or by a fee of thirteen dollars (\$13.00) for a three-year period; provided, there shall be no fee required for renewal of certificates of number which have been previously issued to commercial fishing boats as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section.”

**Sec. 6.** Subsection (k) of G.S. 75A-5 is hereby amended by changing the period at the end thereof to a comma and by adding the following: “except the validation decal required by subsection (a) of this section.”

**Sec. 7.** G.S. 75A-5 is hereby further amended by adding at the end thereof a new subsection (l) reading as follows:

“(l) When certificates of number are to be issued by agents as provided by subsection (e) of this section, the Wildlife Resources Commission is authorized by regulation to establish the qualifications of such agents, including, but not limited to, their financial responsibility, the locations and types of business operated by them and their facilities for safekeeping of unused certificates of number, validation decals, and the monetary proceeds of certificates which have been issued; to prescribe the duties of such agents, including, but not limited to, the methods of issuing certificates of number and validation decals, the evidence of ownership of vessels to be numbered by applicants for number, the times and methods of making periodic and final reports of certificates and decals issued and remaining unissued and remittances of public moneys and unissued certificates and decals; to establish methods and procedures of ensuring accountability of such agents for the proceeds of certificates and decals issued and for certificates and decals remaining unissued; to require individual or blanket bonds of such agents in amounts sufficient to protect the State against loss of public moneys and unissued certificates and decals, the premiums for such bonds to be paid by the agents; to permit such agents to issue both original certificates of number and validation decals and renewals thereof or to limit such agents, or any of them, to the issuance of the originals only; to authorize some or all of such agents to issue temporary certificates of number for use during a limited time pending delivery of regular certificates of number and validation decals; to establish methods and procedures, including submission of the amounts and kinds of evidence which the commission may deem sufficient, whereby any such agent may be relieved of accountability for the value of unissued certificates and validation decals, or of the monetary proceeds of those which have been issued, which have been lost or destroyed as the result of any occurrence which is beyond the control of such agent; and to prescribe such other reasonable requirements and conditions as the commission may, in its discretion, deem necessary or desirable to expedite and control the issuance of certificates of number by such agents. In accordance with such

regulations, the executive director is authorized to prepare and distribute all forms necessary or convenient for application for and the appointment and bonding of such agents and for receipts, reports and remittances by such agents; to select and appoint such agents in areas most convenient to the boating public and to limit the number of such agents in any locality; to require prompt and accurate reporting and remission of public moneys and unissued certificates and decals by such agents, and to require periodic or special audits of their accounts; to revoke or terminate any such agency for failure to make timely reports and remittances or to comply with any administrative directive or regulation of the commission, or when he has reason to believe that State money or property is in jeopardy; and to require immediate surrender of all agency accounts, forms, certificates, decals and State moneys in the event of such revocation or termination of any such agency. The Administrative Procedure Act as contained in Chapter 150A of the General Statutes shall not apply in any case of revocation or termination of any agency to issue certificates of boat number and validation decals. Any violation of the regulations authorized by this subsection shall be a misdemeanor punishable in the discretion of the court. If any check or draft of any agent for the issuance of certificates of boat number shall be returned by the banking facility upon which the same is drawn for lack of funds, such agent shall be liable to the Wildlife Resources Commission for a penalty of five percent (5%) of the amount of such check or draft, but in no event shall such penalty be less than five dollars (\$5.00) or more than two hundred dollars (\$200.00)."

**Sec. 8.** Subsection (a) of G.S. 75A-18 is hereby amended by adding at the end thereof the following:

"The limitation prescribed by the preceding sentence shall not apply in any case where a more severe penalty may be prescribed in any of said sections."

**Sec. 9.** This act shall become effective on July 1, 1979, provided that nothing in this act shall have the effect of extending the date of termination of any certificate of boat number which has been issued prior to the effective date of this act.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 615

## CHAPTER 762

AN ACT TO DIRECT CLERKS OF THE SUPERIOR COURT TO PAY CLAIMS FOR DOMICILIARY CARE GIVEN TO DECEASED RECIPIENTS OF AWARDS TO THE BLIND AND RELATING TO THE DISPOSITION OF CHECKS IN PAYMENT OF AWARDS AND PUBLIC ASSISTANCE MADE PAYABLE TO BLIND DECEDENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 28A-25-6(f), as previously amended by Chapter 163 of the Session Laws of 1979, is further amended by inserting into the sentence which was added by said Chapter 163, after the words "pursuant to" and before the words "Part 6 of Article 2 of Chapter 108" the following: "G.S. 111-18 and".

**Sec. 2.** Chapter 111 of the General Statutes is amended by adding a new section as follows:

"§ 111-18.1. *Award and assistance checks payable to decedents.*—(a) In the event of the death of a recipient of an award made pursuant to G.S. 111-18



during or after the first day of the month for which the award was authorized to be paid, any check or checks in payment of such award made payable to the deceased recipient and not endorsed prior to the payee's death shall be delivered to the clerk of the superior court and be by him administered under the provisions of G.S. 28A-25-6.

(b) In the event of the death of a recipient of a cash payment service, as defined by regulation of the N. C. Commission for the Blind, which service was rendered as a part of a program of public assistance for the blind or visually handicapped, any check or checks issued for the payment of such service made payable to such recipient, but not endorsed prior to his death, shall be returned to the issuing agency and made void. The issuing agency shall then issue a check payable to the provider of such service for the sum remaining due for this service, not to exceed the amount of said returned and voided check or checks."

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 649

## CHAPTER 763

AN ACT TO REVISE CHAPTER 17A OF THE GENERAL STATUTES TO CREATE THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION AND TO REVISE CHAPTER 17B TO ESTABLISH BY STATUTE THE NORTH CAROLINA JUSTICE ACADEMY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 17A of the General Statutes is hereby rewritten to read as follows:

"North Carolina Criminal Justice Education and Training  
Standards Commission.

"§ 17A-1. *Findings and policy.*—The General Assembly finds that the administration of criminal justice is of statewide concern, and that proper administration is important to the health, safety and welfare of the people of the State and is of such nature as to require education and training of a professional nature. It is in the public interest that such education and training be made available to persons who seek to become criminal justice officers, persons who are serving as such officers in a temporary or probationary capacity, and persons already in regular service.

"§ 17A-2. *Definitions.*—Unless the context clearly otherwise requires, the following definitions apply in this Chapter:

(a) 'Commission' means the North Carolina Criminal Justice Education and Training Standards Commission;

(b) 'Criminal justice agencies' means the State and local law enforcement agencies, the State correctional agencies, the jails and other correctional agencies maintained by local governments, and the juvenile justice agencies;

(c) 'Criminal justice officer(s)' means and incorporates the administrative and subordinate personnel of all of the departments, agencies, units or entities comprising the 'criminal justice agencies,' as defined in subsection (a), who are sworn law enforcement officers, both State and local, with the power of arrest; State correctional officers; State probation and parole officers; or youth correctional officers. However, those individuals who are elected or appointed

to criminal justice offices created under the Constitution of North Carolina are expressly exempted from the application of any minimum qualification standards or position certification requirements developed under the provision of this Chapter. This exemption shall not apply to relevant subordinate personnel of these constituted officials.

(d) 'Entry level' means the initial appointment or employment of any person by a criminal justice agency, or any appointment or employment of a person previously employed by a criminal justice agency who has not been employed by a criminal justice agency for the 12-month period preceding this appointment or employment, or any appointment or employment of a previously certified criminal justice officer to a position which requires a different type of certification.

"§ 17A-3. *North Carolina Criminal Justice Education and Training Standards Commission established; members; terms; vacancies.*—(a) There is hereby established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called 'the Commission,' in the Department of Justice. The Commission shall be composed of 26 members as follows:

- (1) Sheriffs. Three sheriffs or other individuals serving in sheriffs' departments selected by the North Carolina Sheriffs' Association and one deputy sheriff selected by the North Carolina Law Enforcement Officer's Association.
- (2) Police Officers. One police official selected by the North Carolina Association of Police Executives, one police chief selected by the North Carolina Association of Chiefs of Police, one police chief appointed by the Governor, and one police officer selected by the North Carolina Law Enforcement Officers' Association.
- (3) Departments. The Attorney General of the State of North Carolina; the Secretary of the Department of Crime Control and Public Safety; the Secretary of the Department of Human Resources; and the Secretary of the Department of Correction.
- (4) At-large groups. One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one county commissioner selected by the North Carolina Association of County Commissioners; one law enforcement training officer selected by the North Carolina Law Enforcement Training Officers' Association; one criminal justice educator selected by the North Carolina Association of Criminal Justice Educators; one sworn law enforcement officer selected by the North State Law Enforcement Officers' Association; and one district attorney selected by the North Carolina Association of District Attorneys.
- (5) Citizens and others. One trial court judge selected by the Chief Justice of the North Carolina Supreme Court; one senator selected by the Lieutenant Governor; one member of the House of Representatives selected by the Speaker of the House; the President of The University of North Carolina; the Director of the Institute of Government; the Director of Law Enforcement Training of the Department of Community Colleges; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General.

(b) The members shall be appointed for staggered terms. The initial appointments shall be made prior to January 1, 1980, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: one member from subdivision (1) of subsection (a), serving as a deputy sheriff; one member from subdivision (2) of subsection (a), serving as a police officer; one member from subdivision (4), appointed by the North Carolina Law Enforcement Training Officers' Association; and two members from subdivision (5), one appointed by the Governor and one appointed by the Attorney General.

For the terms of two years: two members from subdivision (1) of subsection (a); one member from subdivision (2) of subsection (a), appointed by the North Carolina Association of Chiefs of Police; two members from subdivision (4), one appointed by the North Carolina League of Municipalities and one appointed by the North Carolina Association of District Attorneys; and one member from subdivision (5), appointed by the Chief Justice.

For the terms of three years: two members from subdivision (1) of subsection (a), two members from subdivision (2) of subsection (a); three members from subdivision (4), and two members from subsection division (5).

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

The Attorney General, the Secretary of the Department of Crime Control and Public Safety, the Secretary of the Department of Human Resources, the Secretary of the Department of Correction, the President of The University of North Carolina, the Director of the Institute of Government, and the Director of Law Enforcement Training of the Department of Community Colleges shall be continuing members of the Commission during their tenure. These members of the Commission shall serve ex officio and shall perform their duties on the Commission in addition to the other duties of their offices. The ex officio members may elect to serve personally at any or all meetings of the Commission or may designate, in writing, one member of their respective office, department, university or agency to represent and vote for them on the Commission at all meetings the ex officio members are unable to attend.

Vacancies in the Commission occurring for any reason shall be filled, for the unexpired term, by the authority making the original appointment of the person causing the vacancy.

“§ 17A-4. *Compensation.*—Members of the Commission who are State officers or employees shall receive no compensation for serving on the Commission, but may be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are full-time salaried public officers or employees other than State officers or employees shall receive no compensation for serving on the Commission, but may be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Commission may receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

“§ 17A-5. *Chairman; vice-chairman; other officers; meetings; reports.*—(a) The Attorney General shall designate one of the members of the Commission as chairman upon its creation, and shall appoint or reappoint a chairman each

July 1 thereafter. The ex officio members shall not be eligible for this appointment.

(b) The Commission shall select a vice-chairman and such other officers and committee chairmen from among its members as it deems desirable at the first regular meeting of the Commission after its creation and at the first regular meeting after July 1 of each year thereafter. Nothing in this subsection, however, shall prevent the creation or abolition of committees or offices of the Commission, other than the office of vice-chairman, as the need may arise at any time during the year.

(c) The Commission shall hold at least four regular meetings per year upon the call of the chairman. Special meetings shall be held upon the call of the chairman or the vice-chairman, or upon the written request of five members of the Commission. Such special meetings must be held within 30 days.

(d) The Commission shall present regular and special reports and recommendations to the Attorney General or the General Assembly, or both, as the need may arise or as the Attorney General or General Assembly may request.

“§ 17A-6. *Powers of Commission.*—(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17A-10:

- (1) promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any criminal justice agency of information with respect to the employment, education, and training of its criminal justice officers, and (ii) the submission by any criminal justice training school of information with respect to its criminal justice training programs that are required by this Chapter;
- (2) establish minimum educational and training standards that must be met in order to qualify for entry level employment as a criminal justice officer in temporary or probationary status or in a permanent position;
- (3) certify, pursuant to the standards that it has established for the purpose, persons as qualified under the provisions of this Chapter to be employed at entry level as criminal justice officers;
- (4) establish minimum standards for the certification of criminal justice training schools and programs or courses of instruction that are required by this Chapter;
- (5) certify, pursuant to the standards that it has established for the purpose, criminal justice training schools and programs or courses of instruction that are required by this Chapter;
- (6) establish minimum standards and levels of education or equivalent experience for all criminal justice teachers who participate in programs or courses of instruction that are required by this Chapter;
- (7) certify, pursuant to the standards that it has established for the purpose, criminal justice teachers who participate in programs or courses of instruction that are required by this Chapter;
- (8) make such evaluations as may be necessary to determine if criminal justice agencies are complying with the provision of this Chapter;
- (9) adopt and amend bylaws, consistent with law, for its internal management and control;



(10) enter into contracts incident to the administration of its authority pursuant to this Chapter.

(b) The Commission shall have the following powers, which shall be advisory in nature and for which the Commission is not authorized to undertake any enforcement actions:

- (1) identify types of criminal justice positions for which advanced or specialized training and education are appropriate, and establish minimum standards for the certification of persons as being qualified for those positions on the basis of specified education, training, and experience; provided, that compliance with these minimum standards shall be discretionary on the part of criminal justice agencies with respect to their criminal justice officers;
- (2) certify, pursuant to the standards that it has established for the purpose, criminal justice officers for those criminal justice agencies that elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are appropriate;
- (3) consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of criminal justice training schools and programs or courses of instruction;
- (4) study and make reports and recommendations concerning criminal justice education and training in North Carolina;
- (5) conduct and stimulate research by public and private agencies which shall be designed to improve education and training in the administration of criminal justice;
- (6) study, obtain data, statistics, and information and make reports concerning the recruitment, selection, education and training of persons serving criminal justice agencies in this State; to make recommendations for improvement in methods of recruitment, selection, education and training of persons serving criminal justice agencies;
- (7) make recommendations concerning any matters within its purview pursuant to this Chapter;
- (8) appoint such advisory committees as it may deem necessary;
- (9) do such things as may be necessary and incidental to the administration of its authority pursuant to this Chapter;
- (10) formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for the officers and employees of criminal justice agencies consistent with its rules and regulations;
- (11) maintain liaison among local, State and federal agencies with respect to criminal justice education and training;
- (12) promote the planning and development of a systematic career development program for criminal justice professionals.

(c) All decisions and rules and regulations heretofore made by the North Carolina Criminal Justice Training and Standards Council and the North Carolina Criminal Justice Education and Training System Council shall remain in full force and effect unless and until repealed or suspended by action of the

North Carolina Criminal Justice Education and Training Standards Commission established herein. The present Councils are terminated on December 31, 1979, and their power, duties and responsibilities vest in the North Carolina Criminal Justice Education and Training Standards Commission effective January 1, 1980.

“§ 17A-7. *Functions of the Department of Justice.*—(a) The Attorney General shall provide such staff assistance as the Commission shall require in the performance of its duties.

(b) The Attorney General shall have legal custody of all books, papers, documents, or other records and property of the Commission.

“§ 17A-8. *System established.*—The North Carolina Criminal Justice Education and Training Standards Commission shall establish a North Carolina Criminal Justice Education and Training System. The system shall be a cooperative arrangement among criminal justice agencies, both State and local, and criminal justice education and training schools, both public and private, to provide education and training to the officers and employees of the criminal justice agencies of the State of North Carolina and its local governments. Members of the system shall include the North Carolina Justice Academy as well as such other public or private agencies or institutions within the State, that are engaged in criminal justice education and training, and desire to be affiliated with the system for the purpose of achieving greater coordination of criminal justice education and training efforts in North Carolina.

“§ 17A-9. *Criminal Justice Standards Division of the Department of Justice established; appointment of director; duties.*—(a) There is hereby established, within the Department of Justice, the Criminal Justice Standards Division, hereinafter called ‘the Division’, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Attorney General shall appoint a director for the Division who shall be responsible to and serve at the pleasure of the Attorney General.

(c) The Division shall administer such programs as are assigned to it by the Commission. The Division shall also administer such additional related programs as may be assigned to it by the Attorney General or the General Assembly. Administrative duties and responsibilities shall include, but are not limited to, the following:

- (1) administering any and all programs assigned to the Division by the Commission and reporting any violations of or deviations from the rules and regulations of the Commission as the Commission may require;
- (2) compiling data, developing reports, identifying needs and performing research relevant to beneficial improvement of the criminal justice agencies;
- (3) developing new and revising existing programs for adoption consideration by the Commission;
- (4) monitoring and evaluating programs of the Commission;
- (5) providing technical assistance to relevant agencies of the criminal justice system to aid them in the discharge of program participation and responsibilities;
- (6) disseminating information on Commission programs to concerned agencies and/or individuals;

- (7) taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities;
- (8) the director may divulge any information in the Division's personnel file of a criminal justice officer or applicant for certification to the head of the criminal justice agency employing the officer or considering the applicant for employment when the director deems it necessary and essential to the retention or employment of said officer or applicant. The information may be divulged whether or not such information was contained in a personnel file maintained by a State or by a local government agency.

“§ 17A-10. *Required standards.*—(a) Criminal justice officers shall not be required to meet any requirement of subsections (b) and (c) of this section as a condition of continued employment, nor shall failure of any such criminal justice officer to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible if the criminal justice officer held a permanent appointment prior to March 15, 1973, and is a sworn law enforcement officer with power of arrest; prior to January 1, 1974, and is a State adult correctional officer; prior to July 1, 1975, and is a State probation and parole officer; or prior to July 1, 1974, and is a youth correctional officer. The legislature finds, and it is hereby declared to be the policy of this Chapter, that such criminal justice officers have satisfied such requirements by their experience. It is the intent of the Chapter that all criminal justice officers employed at the entry level after the Commission has adopted the required standards shall meet the requirements of this Chapter. If any criminal justice officer exempted from the required standards by this provision fails to serve as a criminal justice officer for a 12-month period, said officer shall be required to comply with the required standards established by the Commission pursuant to the authority otherwise granted in this section.

(b) The Commission shall provide, by regulation, that no person shall be appointed as a criminal justice officer at entry level, except on a temporary or probationary basis, unless such person has satisfactorily completed an initial preparatory program of training at a school certified by the Commission. Upon separation of a criminal justice officer from a criminal justice agency within the year of temporary or probationary appointment, the probationary certification shall be terminated by the Commission. Upon the reappointment to the same agency or appointment to another criminal justice agency of an officer who has separated from an agency within the year of probation, the officer shall be charged with the amount of time served during his initial appointment and allowed the remainder of the one year probationary period to complete the basic training requirement. Upon the reappointment to the same agency or appointment to another agency of an officer who has separated from an agency within the year of probation and who has remained out of service for more than one year from the date of separation, the officer shall be allowed another one-year period to satisfy the basic training requirement. Any criminal justice officer appointed on a temporary or probationary basis who does not comply with the training provisions of this Chapter within one year shall not be authorized to exercise the powers of a criminal justice officer and shall not be authorized to exercise the power of arrest.

(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, shall fix other qualifications for the

employment and retention of criminal justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of criminal justice offices, and the Commission shall prescribe the means for presenting evidence of fulfillment of these requirements.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required.

(d) The Commission may issue a certificate evidencing satisfaction of the requirements of subsections (b) and (c) of this section to any applicant who presents such evidence as may be required by its rule and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the Commission for approved criminal justice education and training programs in this State.

“§ 17A-11. *Injunctions authorized.*—The Commission is hereby authorized to bring a civil action in the county of the residence of the alleged violation against any criminal justice agency which numbers among its employed or appointed criminal justice officers any criminal justice officer who fails to meet the required standards established by the Commission pursuant to G.S. 17A-10 of this Chapter to enjoin such criminal justice agency from allowing such criminal justice officer to perform any and all criminal justice officer functions, including exercising the power of arrest, until such time as such criminal justice officer shall comply with the required standards established by the Commission pursuant to G.S. 17A-10 of this Chapter.

“§ 17A-12. *Grants under the supervision of Commission and the State; donations and appropriations.*—(a) The Commission may accept for any of its purposes and functions under this Chapter any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in an annual report of the Commission. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any money received by the Commission pursuant to this section shall be deposited in the State Treasury to the account of the Commission.

(b) The Commission may authorize the reimbursement to each political subdivision of the State not exceeding sixty percent (60%) of the salary and of the allowable tuition, living and travel expenses incurred by the officers in attendance at approved training programs, providing said political subdivisions do in fact adhere to the selection and training standards established by the Commission.

(c) The Commission by rules and regulations, shall provide for administration of the grant program authorized by this section. In promulgating such rules, the Commission shall promote the most efficient and economical program of criminal justice training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

(d) The Commission may provide grants as a reimbursement for actual expenses incurred by the State or political subdivision thereof for the



provisions of training programs of officers from other jurisdictions within the State.”

**Sec. 2.** Chapter 17B of the General Statutes is hereby rewritten to read as follows:

“North Carolina Justice Academy.

“§ 17B-1. *Definitions.*—As used in this Chapter, unless the context otherwise requires:

(a) ‘Academy’ means the North Carolina Justice Academy.

(b) ‘Academy property’ means property that is owned or leased in whole or in part by the State of North Carolina and which is subject to the general management and control of the Department of Justice and is located in Salemburg, North Carolina, or at any other locations within the State which are dedicated to the use of the North Carolina Justice Academy subsequent to this Chapter being enacted.

(c) ‘The Commission’ means the North Carolina Criminal Justice Education and Training Standards Commission.

(d) ‘Criminal justice agencies’ means the State and local law enforcement agencies, the State and local police traffic service agencies, the State correctional agencies, the jails and other correctional agencies maintained by local governments, the courts of the State and the juvenile justice agencies.

(e) ‘Criminal justice personnel’ means any person who serves or assists any State or local agency engaged in crime prevention, crime reduction, crime investigation, training or educating of persons employed by criminal justice agencies, or enforcement of the criminal law; or any person employed by a criminal justice agency.

(f) ‘Department’ means the Department of Justice.

“§ 17B-2. *Academy established; duties.*—(a) The North Carolina Department of Justice shall establish a North Carolina Justice Academy.

(b) The Department of Justice shall employ the staff of the academy and direct its operations.

(c) Duties of the academy. The North Carolina Justice Academy shall have, but is not limited to, the following functions:

(1) It may provide training programs for criminal justice personnel.

(2) It may provide technical assistance upon request to criminal justice agencies to aid them in the discharge of their responsibilities.

(3) It may develop, publish, and distribute educational and training materials.

(4) It may take such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities.

“§ 17B-3. *Donations.*—The Department of Justice may accept for any of its purposes and functions under this Article any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation. Any arrangements pursuant to this section shall be detailed in an annual report of the academy. Such reports shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any money received by the Department of Justice pursuant to this section shall be deposited in the State Treasury to the account of the academy. All moneys involved shall be subject to audit by the State Auditor.

“§ 17B-4. *Application of State highway and motor vehicles laws at the academy.*—(a) Except as otherwise provided in this section, all of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State and the operation of vehicles thereon are applicable to all streets, alleys, driveways, and parking lots on academy property. Nothing in this section modifies any rights of ownership or control of academy property, now or hereafter vested in the State of North Carolina ex rel., Department of Justice.

(b) The Department of Justice may by ordinance prohibit, regulate, divert, control, and limit pedestrian or vehicular traffic and the parking of vehicles and other modes of conveyance on the campus. In fixing speed limits, the Department of Justice is not subject to G.S. 20-141(f) or (g), but may fix any speed limit reasonable and safe under the circumstances as conclusively determined by the Department of Justice. The Department of Justice may not regulate traffic on streets open to the public as of right, except as specifically provided in this section.

(c) The Department of Justice may by ordinance provide for the registration of vehicles maintained or operated on the campus by any student, faculty member, or employee of the academy and may fix fees for such registration. The ordinance may make it unlawful for any person to operate an unregistered vehicle on the campus when the vehicle is required by the ordinance to be registered.

(d) The Department of Justice may by ordinance set aside parking lots on the campus for use by students, faculty, and employees of the academy and members of the general public attending schools, conferences, or meetings at the academy, visiting or making use of any academy facilities, or attending to official business with the academy. The Department of Justice may issue permits to park in these lots and may charge a fee therefor. The Department of Justice may also by ordinance make it unlawful for any person to park a vehicle in any lot or other parking facility without procuring the requisite permit and displaying it on the vehicle.

(e) The Department of Justice may by ordinance provide for the issuance of stickers, decals, permits or other indicia representing the registration of vehicles or the eligibility of vehicles to park on the campus and may by ordinance prohibit the forgery, counterfeiting, unauthorized transfer, or unauthorized use of such stickers, decals, permits or other indicia.

(f) Violation of an ordinance adopted under any portion of this section is a misdemeanor punishable by a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than 30 days, in the discretion of the court. An ordinance 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.

(g) An ordinance adopted under this section may provide that a violation will subject the offender to a civil penalty. Penalties may be graduated according to the seriousness of the offense or the number of prior offenses committed by the person charged. The Department of Justice may establish procedure for the collection of these penalties and may enforce the penalties by civil action in the nature of debt. The Department of Justice may also provide for appropriate administrative sanctions if an offender does not pay a validly due penalty or has committed repeated offenses. Appropriate administrative sanctions include, but are not limited to, revocation of parking permits, termination of vehicle

registration, and termination or suspension of enrollment in or employment by the academy.

(h) An ordinance adopted under this section may provide that any vehicle illegally parked may be removed to a storage area, in which case the person so removing the vehicle shall be deemed a legal possessor within the meaning of G.S. 44A-2(d).

(i) Evidence that a vehicle was found parked or unattended in violation of a council ordinance is prima facie evidence that the vehicle was parked by:

- (1) the person holding an academy parking permit for the vehicle;
- (2) if no academy parking permit has been issued for the vehicle, the person in whose name the vehicle is registered with the academy pursuant to subsection (c); or
- (3) if no academy parking permit has been issued for the vehicle and the vehicle is not registered with the academy, the person in whose name it is registered with the North Carolina Department of Motor Vehicles or the corresponding agency of another state or nation.

The rule of evidence established by this subsection applies only in civil, criminal, or administrative actions or proceedings concerning violations of ordinances of the Department of Justice. G.S. 20-162.1 does not apply to such actions or proceedings.

(j) The Department of Justice shall cause to be posted appropriate notice to the public of applicable traffic and parking restrictions.

(k) All ordinances adopted under this section shall be filed in the offices of the North Carolina Attorney General and the Secretary of State. The Department of Justice shall provide for printing and distributing copies of its traffic and parking ordinances.

- (1) All moneys received pursuant to this section shall be State funds as defined in G.S. 143-1."

**Sec. 3.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

AN ACT TO PERMIT ANY PERSON APPLYING FOR A HUNTING  
LICENSE TO MAKE A VOLUNTARY CONTRIBUTION OF FIFTY  
CENTS (50¢) TO A HUNTER SAFETY EDUCATION PROGRAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** A person applying for a hunting license may make a voluntary contribution of fifty cents (50¢) to the Wildlife Resources Commission for the purpose of funding a hunter safety education program.

**Sec. 2.** The Wildlife Resources Commission shall devise administrative procedure for the collection of all contributions donated pursuant to the provisions of this act and shall collect and use the contributions to fund and provide for a hunter safety education program.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

S. B. 727

**CHAPTER 765**

AN ACT TO PERMIT REACT VEHICLES TO USE AMBER LIGHTS  
WHEN PARKED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-130.2 is amended by adding a third sentence to read as follows:

“Radio Emergency Associated Citizens Team (REACT) vehicles may be equipped with amber lights which shall be activated only when the vehicles are parked.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

S. B. 741

**CHAPTER 766**

AN ACT TO ALLOW ALL COUNTY BOARDS OF ELECTION TO APPOINT  
SPECIAL REGISTRATION COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-41(b) is amended by deleting the words “In counties which adopt full-time and permanent registration the county board of elections may” and inserting in lieu thereof the words “The county board of elections may”.

**Sec. 2.** The last sentence of G.S. 163-67(b) is repealed.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

S. B. 747

**CHAPTER 767**

AN ACT TO CLARIFY THE REQUIREMENT THAT DECALS MUST BE  
POSTED ON CERTAIN MACHINES WARNING THAT BREAKING  
INTO THOSE MACHINES IS A CRIME.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-56.1 is amended by adding a new sentence at the end of the second paragraph thereof to read:

“The absence of such a decal is not a defense to a prosecution for the crime described in this section.”

**Sec. 2.** G.S. 14-56.3 is amended by adding a new sentence at the end of the second paragraph thereof to read:

“The absence of such a decal is not a defense to a prosecution for the crime described in this section.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.



S. B. 787

**CHAPTER 768**

**AN ACT TO ALLOW A WIDOW TO RESUME HER MAIDEN NAME OR THE NAME OF A FORMER HUSBAND.**

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Chapter 101 of the General Statutes to read:

“§ 101-8. *Resumption of name by widow.*—A woman at any time after she is widowed, may resume the use of her maiden name or the name of a prior deceased husband or of a previously divorced husband upon application to the clerk of superior court of the county in which she resides, setting forth her intention to do so. The application shall set forth the full name of the last husband of the applicant, shall include a copy of his death certificate, and shall be signed by the applicant in her full name. The clerks of court of the several counties of this State shall record and index such applications in the manner required by the Administrative Office of the Courts and forward a copy of the same to the State Registrar of Vital Statistics on a form provided by him.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

S. B. 799

**CHAPTER 769**

**AN ACT TO PERMIT HUNTING OF GAME BIRDS WHILE FEEDERS ARE IN OPERATION ON CONTROLLED SHOOTING PRESERVES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 84 of Chapter 113 of the General Statutes, as the same appears in the 1978 Replacement Volume 3A, Part II, is amended by adding at the end thereof a new paragraph to read as follows:

“(9) Notwithstanding any provision of G.S. 113-104 to the contrary, it shall be lawful for a properly licensed person hunting on a licensed controlled shooting preserve to take game birds in the vicinity of operating bird feeders which contain grain or other food, provided that the number, type and location of such feeders have been approved by the Wildlife Resources Commission, and provided further that the locations of all such feeders are accurately depicted on a map of the controlled shooting preserve provided to the Wildlife Resources Commission in accordance with its regulations.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 821

## CHAPTER 770

AN ACT TO INCLUDE A CITATION WITH OTHER PLEADINGS THAT MAY BE AMENDED WHEN THE AMENDMENT DOES NOT CHANGE THE NATURE OF THE OFFENSE CHARGED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-922(f) is rewritten to read as follows:

“(f) Amendment of Pleadings Prior to or After Final Judgment. A statement of charges, criminal summons, warrant for arrest, citation, or magistrate’s order may be amended at any time prior to or after final judgment when the amendment does not change the nature of the offense charged.”

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 833

## CHAPTER 771

AN ACT TO INCREASE FEES FOR OPTOMETRY LICENSES AND TO PROVIDE REGISTRATION FEES FOR OPTOMETRIC ASSISTANTS AND TECHNICIANS AND TO INCREASE THE BOARD OF OPTOMETRY PER DIEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-123 is amended in the table of fees in subdivisions (1) through (7) by deleting the amounts presently authorized as fees and replacing them with the following fees for the respective subdivisions:

(1)	\$200.00
(2)	\$125.00
(3)	\$125.00
(4)	\$125.00
(5)	\$100.00
(6)	\$125.00
(7)	\$125.00

**Sec. 2.** G.S. 90-123 is further amended by adding two new subsections as follows:

“(8) Each application for registration as an optometric assistant or renewal thereof — \$25.00.

“(9) Each application for registration as an optometric technician or renewal thereof — \$25.00.”

**Sec. 3.** G.S. 90-122 is amended on line 4 by deleting “twenty dollars (\$20.00)” and inserting in lieu thereof “thirty-five dollars (\$35.00)”.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 848

## CHAPTER 772

## AN ACT TO AMEND G.S. 36A-53(b) RELATIVE TO AMENDMENT OF TRUSTS 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 striking out the first sentence thereof in its entirety and inserting in lieu thereof a new sentence, to read as follows:

"In the case of a will executed before December 31, 1977, or a trust created before such date, if a federal estate tax deduction is not allowable at the time of a decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in Section 2055(a) of the Internal Revenue Code of 1954, to meet the requirements of subsections 2055(e)(2)(A) or (B) of the Internal Revenue Code of 1954, then in order that such deduction shall nevertheless be allowable under Section 2055(e)(3) of the Internal Revenue Code of 1954, any judge of the superior court may, on application of any trustee, executor, administrator or any interested party and either (i) with the written consent of the charitable beneficiaries, the noncharitable beneficiaries not under any legal disability, and duly appointed guardians or guardians ad litem acting on behalf of any beneficiaries under legal disability, or (ii) upon a finding that the interest of such beneficiaries is substantially preserved, order an amendment to the trust so that the remainder interest is in a trust which is a charitable remainder annuity trust, a charitable remainder unitrust (as those terms are described in Section 664 of the Internal Revenue Code of 1954) or a pooled income fund (as that term is described in Section 642(c)(5) of the Internal Revenue Code of 1954), or so that any other interest of a charitable beneficiary is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly), in accordance with the provisions of Section 2055(e)(2)(B) of the Internal Revenue Code of 1954."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 850

## CHAPTER 773

## AN ACT SPECIFYING WHICH REAL PROPERTY WARRANTIES ARE CONTRACTS FOR INSURANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3.2. *Real property warranties.*—Any warranty relating to tangible personal property or fixtures to real property issued in connection with the sale of real property by a person as defined in this Article shall be a contract of insurance, except the following, which shall not be contracts of insurance:

(1) a warranty made by a builder or seller of the real property;

(2) a warranty incidental to the sale of real property providing for the repair or replacement of the items covered by the warranty for defective parts and mechanical failure or resulting from ordinary wear and tear, which warranty

excludes from its coverage damage from recognizable perils such as fire, flood, and wind, which perils do not relate to any defect in the items covered nor result from ordinary wear and tear.”

**Sec. 2.** Any person, firm, or corporation issuing warranties allowed under G.S. 58-3.2(2) shall post a surety bond with the Secretary of State in the principal sum of not less than seventy-five thousand dollars (\$75,000); such bond shall be approved by the Secretary of State and any person to whom the warranty is issued shall have the right to institute an action to recover against the warrantor and the surety bond for breach of warranty.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

## S. B. 851

## CHAPTER 774

AN ACT TO REPEAL G.S. 160A-465 TO AMEND G.S. 160A-460 BEING A LIMITATION ON THE JOINT EXERCISE OF POWERS BY UNITS OF LOCAL GOVERNMENT UNDER ARTICLE 20 OF CHAPTER 160A OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-460(1) is amended by striking out of the third line the words “administrative or governmental”.

**Sec. 2.** G.S. 160A-465 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 June, 1979.

## S. B. 853

## CHAPTER 775

AN ACT TO SPECIFY THE USE OF GRANT FUNDS BY ECONOMIC DEVELOPMENT COMMISSIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 158-13 is amended by redesignating subdivision “(5)” as “(6)”, and is further amended by inserting a new subdivision “(5)” to read as follows:

“(5) Use grant funds to make loans for purposes permitted by the federal government, by the grant agreement and in furtherance of economic development; the economic development commission may delegate to another organization or agency the implementation of the grant’s purposes, subject to approval by the federal agency involved and the commission’s board of directors.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.



## S. B. 880

## CHAPTER 776

AN ACT TO PROVIDE ACCELERATED DEPRECIATION TAX BENEFITS  
FOR CAPITAL INVESTMENTS MANDATED BY THE  
OCCUPATIONAL SAFETY AND HEALTH ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 105 of the General Statutes is amended by adding a new section to read:

“§ 105-130.10A. *Amortization of equipment mandated by OSHA.*—(a) In lieu of any depreciation allowance, at the option of the corporation, a deduction shall be allowed for the amortization, based on a period of 60 months, of the cost of any equipment mandated by the Occupational Safety and Health Act, including the cost of planning, acquiring, constructing, modifying, and installing said equipment.

(b) For the purposes of this section and G.S. 105-147(13)d, the term ‘equipment mandated by the Occupational Safety and Health Act’ is any tangible personal property and other buildings and structural components of buildings, which is acquired, constructed, reconstructed, modified, or erected after January 1, 1979; and which the taxpayer must acquire, construct, install, or make available in order to comply with the occupational safety and health standards adopted and promulgated by the United States Secretary of Labor or the Commissioner of Labor of North Carolina, and the term ‘occupational safety and health standards’ includes but is not limited to interim federal standards, consensus standards, any proprietary standards or permanent standards, as well as temporary emergency standards which may be adopted by the United States Secretary of Labor, promulgated as provided by the Occupational Safety and Health Act of 1970, (Public Law 91-596, 91st Congress, Act of December 29, 1970, 84 Stat. 1950) and which standards or regulations are published in the Code of Federal Regulations or otherwise properly promulgated under the Occupational Safety and Health Act of 1970 or any alternative rule, regulation or standard promulgated by the Commissioner of Labor of North Carolina as provided in G.S. 95-131.”

**Sec. 2.** G.S. 105-147(13) is amended by adding a new subdivision to read:

“d. Any equipment mandated by the Occupational Safety and Health Act, including the cost of planning, acquiring, constructing, modifying, and installing said equipment.

The term ‘equipment mandated by the Occupational Safety and Health Act’ has the same meaning as in G.S. 105-130.10A.”

**Sec. 3.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

S. B. 883

**CHAPTER 777**

AN ACT TO INCREASE THE PERCENTAGE OF PERMISSIBLE INVESTMENTS BY DOMESTIC INSURANCE COMPANIES IN MORTGAGES ON REAL ESTATE WHEN MORTGAGE GUARANTY INSURANCE IS INVOLVED.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 6 of Chapter 58 of the General Statutes is amended by rewriting the first sentence of G.S. 58-79(a)(7) to read as follows:

“Loans secured by first mortgages, or deeds of trust, on unencumbered fee simple or improved leasehold real estate in the District of Columbia or in any state, territory or possession of the United States of America, to an amount not exceeding seventy-five percent (75%) of the fair market value of such fee simple or improved leasehold real estate; provided that such loans may exceed seventy-five percent (75%) of the fair market value of such fee simple or improved leasehold real estate to the extent that an admitted mortgage guaranty insurer, as defined in G.S. 58-72(17), has insured or guaranteed or made a commitment to insure or guarantee the amount by which such loan is in excess of seventy-five percent (75%) of the fair market value; provided, further, that, in no event shall any such loan exceed ninety-five percent (95%) of the fair market value of the property.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.

H. B. 930

**CHAPTER 778**

AN ACT TO AMEND G.S. 143-134.1 SO AS TO PROVIDE FOR INTEREST DUE PRIME CONTRACTORS AND TO CHANGE THE INTEREST RATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-134.1 is amended as follows:

(a) by deleting the words “except the construction of roads, highways, bridges and their approaches” and inserting in lieu thereof: “except contracts let by the Department of Transportation pursuant to G.S. 136-28.1” on line 3;

(b) by deleting the words “six percent (6%) per annum” and inserting in lieu thereof: “one percent (1%) per month or fraction thereof unless a lower rate is agreed upon” on line 21;

(c) and by inserting on line 21 following the word “due.” the following: “In addition to the above final payment provisions, periodic payments due a prime contractor during construction shall be paid in accordance with the payment provisions of the contract documents or said prime contractor shall be paid interest on any such unpaid amount at the rate stipulated above for delayed final payments. Such interest shall begin on the date the payment is due and continue until the date on which payment is made. Such due date may be established by the terms of the contract.”

**Sec. 2.** This act shall become effective July 1, 1979, and shall apply to all public construction contracts described herein which are awarded after July 1, 1979.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1014

## CHAPTER 779

AN ACT TO AMEND G.S. 14-320 RELATING TO SEPARATING A CHILD UNDER SIX MONTHS FROM A PARENT LEGALLY ENTITLED TO CUSTODY OF THE CHILD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-320 is amended to read:

“§ 14-320. *Separating child under six months old from a custodial parent.*—It shall be unlawful for any person to separate or aid in separating any child under six months old from a parent legally entitled to custody of the child for the purpose of placing such child in a foster home or institution, or with the intent to remove it from the State for such purpose, without the written consent of either the county director of social services of the county in which the parent legally entitled to custody of the child resides, or of the county in which the child was born or of a private child-placing agency duly licensed by the Social Services Commission; but the written consent of any of the officials named in this section shall not be necessary for a child when the parent legally entitled to custody of the child places the child with relatives or in a boarding home or institution inspected by the Department of Human Resources and licensed by the Social Services Commission. The consent when required shall be filed in the records of the official or agency giving consent. Any person or agency violating the provisions of this section shall, upon conviction, be fined not exceeding five hundred dollars (\$500.00) or imprisoned for not more than one year, or both, in the discretion of the court.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1028

## CHAPTER 780

AN ACT TO REWRITE THE PROVISIONS OF ARTICLE 5 OF THE GENERAL STATUTES CHAPTER 95 AND AMENDMENTS THERETO ENTITLED “REGULATIONS OF EMPLOYMENT AGENCIES”.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 5 of Chapter 95 of the General Statutes is rewritten to read:

“Article 5.

“Regulation of Private Personnel Services.

“§ 95-37. *Definitions.*—As used in this Article, unless the context clearly requires otherwise:

(1) ‘Accept’ employment means to accept an employer’s offer of employment or to begin work for an employer.

(2) ‘Applicant’, except where it refers to an applicant for a private personnel services license, means any person who uses or attempts to use the services of a private personnel service in seeking employment.

(3) 'Commissioner' means the North Carolina Commissioner of Labor or any person designated by the Commissioner as the representative of the Commissioner.

(4) 'Complaint' means a communication to the Commissioner or department alleging facts that could support issuance of a warning or citation under G.S. 95-42.

(5) 'Contract' means any agreement between a private personnel service and an applicant obligating the applicant to pay a fee or any agreement subsequent to such contract reducing the obligations of the private personnel service to the applicant under the contract.

(6) 'Employee' means a person performing work or services of any kind or character for compensation.

(7) 'Employer' means a person employing or seeking to employ a person for compensation, or any representative or employee of such employer.

(8) 'Employment' means any service or engagement rendered or undertaken for wages, salary, commission, or other form of compensation.

(9) 'Fee' means anything of value, including money or other valuable consideration or services or the promise of any of the foregoing, required or received by a private personnel service, in payment for any of its services, or act rendered or to be rendered by any private personnel service.

(10) 'Interview' means a meeting between an employer and an applicant to discuss potential employment.

(11) 'Job order' means an oral or written communication from an employer authorizing a private personnel service to refer applicants for a position the employer has available.

(12) 'Licensee' means any person licensed by the Commissioner to operate a private personnel service.

(13) 'Manager' of a private personnel service means the person who is responsible for the operation of an office of a private personnel service.

(14) 'Owner' of a private personnel service means the sole proprietor of a private personnel service operated as a sole proprietorship; any partner in a partnership that owns or operates a private personnel service; any stockholder with a financial interest greater than 10 percent (10%) in a corporation that owns or operates a private personnel service.

(15) 'Person' means any individual, association, partnership or corporation.

(16) 'Private personnel service' means any business operated in the State of North Carolina by any person for profit which secures employment or by any form of advertising holds itself out to applicants as able to secure employment or to provide information or service of any kind purporting to promote, lead to or result in employment for the applicant with any employer other than itself, where any applicant may become liable for the payment of a fee to the private personnel service, either directly or indirectly. 'Private personnel service' does not include:

- a. any educational, religious, charitable, fraternal or benevolent organization which charges no fee for services rendered in securing employment or providing information about employment;
- b. any employment service operated by the State of North Carolina, the Government of the United States, or any city, county, or town, or any agency thereof;



- c. any temporary help service that at no time advertises or represents that its employee may, with the approval of the temporary help service, be employed by one of its client companies on a permanent basis;
- d. any newspaper of general circulation or other business engaged primarily in communicating information other than information about specific positions of employment and that does not purport to adapt the information provided to the needs or desires of an individual subscriber;
- e. employment offices that charge no fee to the applicant other than union dues or to the employer and which are used solely for the hiring of employees under a valid union contract by the employer subscribing to this contract;

(17) 'Refer' an applicant means to submit resumes to an employer, arrange interviews between an applicant and an employer, or to provide an employer with the name of an applicant.

"§ 95-38. *License required.*—(a) No person shall open, keep, maintain, own, operate or carry on a private personnel service unless the person has first procured a license therefor as provided in this Article.

(b) An application for license shall be made to the Commissioner. If the private personnel service is owned by an individual, the application shall be made by that individual; if the service is owned by a partnership, the application shall be made by all partners; if the service is owned by a corporation, the application shall be made by all stockholders who own at least twenty percent (20%) of the issued and outstanding voting stock of the corporation, or if the service is owned by an association, society, or corporation in which no one individual owns at least twenty percent (20%) of the issued and outstanding voting stock, the application shall be made by the president, vice-president, secretary and treasurer of the owner, by whatever title designated. The application shall state the name and address of the individual who is responsible for the direction and operation of the placement activities of the private personnel service whether that individual be one of the applicants or another person; whether or not that individual has ever been employed in a private personnel service; the name and address of each of the license applicant's prior employers during the five years immediately preceding the license application; and such other information relating to the good moral character of that individual as the Commissioner may require. No change in such persons shall take place without prior notification to the Commissioner.

(c) Each application for license shall be in writing and in the form prescribed by the Commissioner, and shall state truthfully the name under which the business is to be conducted; the street and number of the building or place where the business is to be conducted.

(d) Upon the receipt of an application for a license the Commissioner:

- (1) shall publish a notice of the pending application in a newspaper of general circulation in the area of the proposed location of the employment agency and may publish the notice in a newspaper of general circulation in each area in which the applicant (or if a corporation, the president and majority shareholder) has resided during the five years preceding the time of the application. The notice shall include a statement informing individuals of their right to protest the issuance of a license by filing within 10 days written comments with the Commissioner. The protest shall be in writing and signed by the person

filing the protest or by his authorized agent or attorney, and shall state reasons why the license should not be granted. Upon the filing of a protest, the Commissioner, if he determines the protest to be of such a nature that a hearing should be conducted and that the protest is for a cause on which denial of a license may properly be based, shall appoint a time and place for a hearing on the application and shall give at least seven days' notice of that time and place to the license applicant and to the person filing the protest. The hearing shall be conducted in accordance with the provisions of the rules of the Administrative Procedure Act;

- (2) shall investigate the character, criminal record and business integrity of each applicant for agency license and shall investigate the criminal records of all persons listed as agency owners, officers, directors or managers. The applicant and all agency owners, officers, directors and managers shall assist the department in obtaining necessary information by authorizing the release of all relevant information;
- (3) upon completion of the investigation, or 30 days after the application was received, whichever is later, but in no case more than 45 days after the application was received, shall determine whether or not a license should be issued. The license shall be denied for any of the following reasons:

- a. if the applicant for agency license, or the president or majority shareholder of a corporate applicant, omits or falsifies any material information asked for in the application and required by the Commissioner;
- b. if any owner, officer, director or manager of the employment agency:

I. has been convicted in any state of the criminal offense of embezzlement, obtaining money under false pretenses, forgery, conspiracy to defraud or any similar offense involving fraud or moral turpitude;

II. was an owner, officer, director or manager of an employment agency or other business whose license was revoked or that was otherwise caused to cease operation by action of any State or federal agency or court because of violations of law or regulation relating to deceptive or unfair practices in the conduct of business;

III. as an owner or manager of an employment agency or other business or as an employment counselor was found by any State or federal agency or court to have violated any law or regulation relating to deceptive or unfair practices in the conduct of business; or

IV. in any other demonstrable way engaged in deceptive or unfair practices in the conduct of business;

- c. if the employment agency will be operated on the same premises as a loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 66-42).

(e) If it appears upon the hearing or from the inspection, examination or investigation made by the Commissioner that the owners, partners, corporation, officers or the agency manager are not persons of good moral character or that the license applicant has not complied with the provisions of this Article, the application shall be denied and a license shall not be granted. The Commissioner shall find facts to substantiate his denial of the issuance of a

license. Each application shall be granted or refused within 30 days from the date of its filing, or if a hearing is held, within 45 days. Any license heretofore or hereafter issued shall expire 12 months from the date of its issuance, and shall be renewed as hereinafter provided unless sooner revoked by the Commissioner.

(f) No license shall be granted to a person to operate as a private personnel service where the name of the business is similar or identical to that of any existing licensed business (except where a franchiser has licensed two or more persons to use the same name within the State) or directly or indirectly expresses or connotes any limitation, specification or discrimination contrary to current State or federal laws against discrimination in employment.

(g) Every license shall contain the name of the person licensed and shall designate the city in which the license is issued, the name of the manager and date of the license. The license shall be displayed in a conspicuous place in the area where job applicants are received by the agency.

(h) A license granted as provided in this Article shall not be valid for any person other than the person to whom it is issued or for any place other than that designated in the license and shall not be assigned or transferred without the consent of the Commissioner, whose consent must be based on the standards contained in this Article. Applications for consent to assign or transfer shall be made in the same manner as an application for a license, and all the provisions of this Article shall apply to applications for consent. The location of a private personnel service shall not be changed without notice to the Commissioner, and any change of location shall be endorsed upon the license. A person who has obtained a license in accordance with the provisions of this Article may apply for additional licenses to conduct additional private personnel services in accordance with the provisions of this Article. The manner of application, and the conditions and terms applicable to the issuance of the additional licenses shall be the same as for an original license. The same agency manager may be designated in all such licenses.

(i) Temporary license. If ownership of a licensed private personnel service is transferred, the department shall issue a temporary license to any new owner or successor if it appears to the department that issuance of such a license would serve the public interest. A temporary license shall be effective for a period of 90 days and shall not be renewed.

(j) Each licensee shall, before the license is issued or renewed, deposit with the department a bond payable to the State of North Carolina and executed by a surety company duly authorized to transact business in the State of North Carolina in the amount of five thousand dollars (\$5,000) and upon condition that the private personnel service will pay to applicants all refunds due under this Article and regulations adopted hereunder if the private personnel service terminates its business.

*"§ 95-39. Fees and contracts, filing with Commissioner.—*(a) Every license applicant shall file with the Commissioner a schedule of fees or charges made by the private personnel service to applicants for employment for any services rendered, stating clearly the conditions under which the private personnel service refunds or does not refund a fee, together with all rules or regulations that may in any manner affect the fees charged or to be charged for any service. Changes in the schedule may be made, but no change shall become effective until seven calendar days after the filing thereof with the Commissioner. It is

unlawful for a private personnel service to charge, demand, collect or receive a greater compensation from an applicant for employment for any service performed than as specified in the schedule filed with the Commissioner.

(b) Every license applicant shall file with the Commissioner a copy of the contract which the private personnel service will require applicants for employment to execute.

“§ 95-39.1. *Contracts*.—(a) A contract between a private personnel service and an applicant shall be in writing, labeled as a contract, physically separate from any application and made in duplicate. One copy shall be given to the applicant and the other shall be kept by the private personnel service as required by G.S. 95-39.2(2).

(b) Any contract that obligates an applicant to pay a fee to the private personnel service shall include:

- (1) the name, address and telephone number of the private personnel service;
- (2) the name of the applicant;
- (3) the date the contract was signed;
- (4) a clear schedule of the fees to be charged to the applicant at various salary levels;
- (5) a clear explanation of when the applicant becomes obligated to pay a fee;
- (6) a clear refund policy (or no refund policy) that conforms to the requirements of G.S. 95-39.1(f) and (g);
- (7) if the applicant is obligated whether or not the applicant accepts employment, a clear explanation of the services provided and a statement that the private personnel service does not guarantee that the applicant will obtain employment as a result of its services;
- (8) a statement, in a type size no smaller than nine point, directly above the place for the applicant's signature, that reads as follows: 'I have read and received a copy of this CONTRACT, which I understand makes me legally obligated to pay a fee under conditions outlined below.' In the preceding statement the word 'CONTRACT' and no others shall be in all capitals; and
- (9) a statement that the private personnel service is licensed and regulated by the Commissioner and the address at which a copy of laws and regulations governing private personnel services may be obtained.

(c) A copy of each contract form to be used with applicants shall be filed with the Commissioner. Until the private personnel service receives written notification from the Commissioner that the form conforms to the requirements of this Article and regulations adopted hereunder, it shall not be used with applicants.

(d) A private personnel service shall not require an applicant to sign a contract with the private personnel service before the applicant has had an opportunity to read the contract and discuss the contract with an employee of the personnel agency who regularly arranges contacts and assists in negotiations between employers and applicants. A private personnel service shall not coerce an applicant into signing a contract by applying or using duress, undue influence, fraud or misrepresentation sufficient to invalidate the contract under North Carolina law.



(e) Any contract that obligates an applicant to pay a fee to the private personnel service when the applicant accepts employment shall be physically separate from any contract that obligates an applicant to pay a fee whether or not the applicant accepts employment. A private personnel service shall not require an applicant to sign one contract as a prerequisite to signing another contract or to pay a fee as a prerequisite to signing a contract. Express violations of this subsection are the following:

- (1) refusal to allow an applicant to contract for counseling, job information or resume writing services, if the applicant does not agree to pay an additional fee upon acceptance of employment; and
- (2) refusal to allow an applicant to contract for services which obligate the applicant only upon acceptance of employment, if the applicant does not agree to pay a registration fee or to contract for counseling, resume writing or other services.

(f) If a private personnel service has a refund policy, included on each contract that obligates an applicant upon acceptance of employment will be a statement defining:

- a. the length of the period of time covered by the refund policy;
- b. the exact manner of computing the refund so that the amount of refund due the applicant will be clear;
- c. the conditions under which a refund becomes due to the applicant. The conditions of the refund, if other than unconditional policy is used, shall contain a definition of the reasons for which a refund will not be made. A refund will not be denied except for a reason so stated in the definition of the contract;
- d. a personnel service shall abide by the refund policy stated on its contract by promptly paying to applicants any refund due under the terms of the contract.

(g) If a private personnel service has no refund policy, the private personnel service shall include on each contract that obligates an applicant upon acceptance of employment, in a type size no smaller than nine point, a statement that reads as follows:

‘\_\_\_\_\_ (name of private personnel service) will make NO REFUND under any circumstances of fees paid by the applicant.’ In the preceding statement the words NO REFUND and no others shall be in all capitals.

“§ 95-39.2. *Records.*—Every private personnel service shall maintain for a period of two years, the following records:

- (1) job orders or job specifications.
- (2) executed applicant contracts.
- (3) information on all placements made, including the employer’s name and address; name and address of applicant placed; salary of the position; amount of fee charged; and refunds, where applicable.

“§ 95-40. *Prohibited acts.*—A private personnel service shall not engage in any of the following activities or conduct:

- (1) induce or attempt to induce any employee placed by that private personnel service to terminate his employment in order to obtain other employment through the private personnel service; or procure or attempt to procure the discharge of any person from his employment.

(2) publish or cause to be published any false or fraudulent information, representation, promise, notice or advertisement.

(3) advertise in newspapers or otherwise, unless the advertising contains the name of the private personnel service and the word 'personnel service'.

(4) direct an applicant to visit or call upon an employer for the purpose of obtaining employment without having first obtained a job order or authorization from the employer for the interview. A private personnel service may attempt to sell the services of an applicant to an employer from whom no job order has been received and may charge a fee if the efforts result in the applicant's being employed.

(5) send or cause to be sent any person to any employer where the private personnel service knows that the prospective employment is or would be in violation of State or federal laws governing minimum wages or child labor, or has been notified that a labor dispute is in progress, without notifying the applicant of that fact, or knowingly arrange an interview for an employment or occupation prohibited by law.

(6) send or cause to be sent any person to any place which the private personnel service knows is maintained for immoral or illicit purposes.

(7) divide or share, either directly or indirectly, the fees collected by the private personnel service, with contractors, sub-contractors, employers or their agents, foremen or anyone in their employ, or if the contractors, sub-contractors or employers be a corporation, any of the officers, directors or employees of the corporation to whom applicants for employment are sent.

(8) make, cause to be made, or use any name, sign or advertising device bearing a name which is similar to or may reasonably be confused with the name of a federal, State, city, county or other governmental unit or agency.

(9) knowingly make any false or misleading promise or representation or give any false or misleading information to any applicant or employer in regard to any employment, work or position, its nature, location, duration, compensation or the circumstances surrounding any employment, work or position including the availability thereof.

(10) accept a registration fee from an applicant.

(11) impose or attempt to collect any fee from any applicant unless that applicant accepts employment with an employer to which the applicant was directly or indirectly introduced by the private personnel service.

(12) a fee may be charged for resume writing provided the private personnel service does not require the applicant to become obligated for any other services.

"§ 95-41. *Personnel Service Advisory Council.*—(a) There is hereby established the North Carolina Private Personnel Service Advisory Council. The council shall be composed of 12 members appointed by the Commissioner. Each member of the council shall be domiciled in this State for at least three years immediately preceding his appointment and be of good moral character. At least five members shall have occupied for at least three years immediately preceding their appointment, and shall occupy at the time of appointment, executive or managerial positions in the private personnel service industry in North Carolina; and at least three shall have occupied, for at least three years immediately preceding their appointment, executive or managerial positions as personnel officers in companies which regularly utilize the services of private

personnel services in obtaining employees. Members of the council shall serve without salary.

(b) Each member of the council shall hold office until the appointment and qualification of his successor. The terms of the initial members of the council shall expire as follows: four members, July 1, 1980; four members, July 1, 1981; four members, July 1, 1982. Subsequent appointments shall be made for terms of three years. Vacancies occurring in the membership of the council for any cause shall be filled by appointment for the balance of the unexpired term. The Commissioner may remove any member of the council for misconduct, incompetency, neglect of duty, or other good cause.

(c) The council shall meet at least once in each calendar quarter of each year. All meetings of the council shall be open and public and all records of the council shall be open to inspection, except as otherwise prescribed by law. Seven members shall constitute a quorum for the transaction of business. The council shall elect from its members, each for term of one year, a chairman and vice-chairman, and may appoint such committees as it deems necessary to carry out its duties. The Commissioner or his designee shall serve ex officio as the secretary of the council, but shall not be a member of the council.

“§ 95-41.1. *Duties of Personnel Service Advisory Council.*—The Advisory Council shall:

(1) Inquire into the nature of the private personnel service industry, and make such recommendations as may be deemed important and necessary for the welfare of the citizens of the State, the public health and welfare and the progress of the private personnel service industry.

(2) Confer and advise with the Commissioner in regard to how private personnel services may best serve the State, the public and the private personnel service industry.

(3) Assist the Commissioner in the formulation, adoption, amendment or repeal of any rules or regulations authorized by this Article. Both the Commissioner and a majority of a properly constituted quorum of the Advisory Council must review any such rules or regulations, or amendments or repeals thereof, before they become effective.

(4) Collect such necessary information and data as the council deems necessary to the proper administration of this Article.

(5) Consider and make recommendations to the Commissioner with respect to all matters relating to the private personnel service industry in the State, including, but not limited to, applicants for licenses and complaints against private personnel services.

(6) Publish findings and make such recommendations as the council may deem necessary to the Commissioner.

“§ 95-42. *Enforcement.*—(a) This Article shall be enforced by the Commissioner. The Commissioner or any duly authorized agent, deputies or assistants designated by the Commissioner, may upon receipt of a complaint that a private personnel service has violated a specific section of this Article, inspect those records relevant to the complaint which this Article requires the private personnel service to retain. The Commissioner may also subpoena those records and witnesses and may conduct investigations of any employer or other person where the Commissioner has reasonable grounds for believing that the employer or person has conspired or is conspiring with a private personnel service to violate this Article.

(b) The Commissioner may make reasonable administrative rules within the standards set in this Article. Before such rules are presented to the Advisory Council, the Commissioner shall conduct a public hearing, giving due notice thereof to all interested parties and shall afford the opportunity for written comments. No rule shall become effective until 60 days after the public hearing and Advisory Council approval, and copies thereof shall be furnished to all private personnel services at least 30 days prior to the effective date of the rule.

(c) Complaints against any licensed person shall be made in writing to the Commissioner, or be sent in affidavit form without a personal appearance of the complainant. If the complaint alleges a violation of this Article, the Commissioner shall cause an investigation to be made. If, as a result of the investigation, the Commissioner has reason to believe that a material violation of this Article has been committed by a private personnel service, the Commissioner may hold a hearing. Reasonable notice thereof, not less than 10 days, shall be given in writing to the licensed person involved by serving upon him either personally, by registered or certified mail, or by leaving the same with the manager, a copy of the complaint. A hearing shall be held before the Commissioner with reasonable promptness but in no event later than 30 calendar days from the date of the filing of the complaint. The Commissioner, when investigating any matters pertaining to the granting, issuing, transferring, renewing, revoking, suspending or cancelling of any license may take such testimony as he deems necessary on which to base official action. When taking such testimony he may subpoena witnesses and also direct the production before him of necessary and material books and papers. A daily calendar of all hearings shall be kept by the Commissioner and shall be posted in a conspicuous place in his public office for at least one day before the date of the hearings. The Commissioner shall render his decision within eight calendar days from the date of the completion of the hearing. The Commissioner shall keep a record of all such complaints and hearings.

(d) If at the hearing conducted pursuant to subsection (c) of this section, it has been shown that the private personnel service or any employee of that personnel service is guilty of violating the provisions of this Article, the Commissioner may issue warnings, or levy a fine against the personnel service which shall not exceed two hundred and fifty dollars (\$250.00), and, for repeated willful violations, may suspend or revoke the license of the personnel service. Whenever the Commissioner suspends or revokes the license of any private personnel service, or levies a fine against a service, the determination is subject to judicial review in proceedings brought pursuant to the Administrative Procedure Act. Whenever a license is revoked, another license shall not be issued to the same person within three years from the date of the revocation. The Commissioner, Deputy Commissioner, or Director, Private Personnel Service Division may conduct hearings and act upon applications for licenses, and may revoke or suspend such licenses, or levy fines.

(e) Any person who operates as a private personnel service without first obtaining the appropriate license (1) shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed two thousand dollars (\$2,000), or imprisonment for not more than one year, or both, by any court of competent jurisdiction; and (2) be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each day the private personnel service operates without a license, the penalty not to exceed a total of



two thousand dollars (\$2,000). Actions to recover civil penalties shall be initiated by the Attorney General and any such penalties collected shall be deposited to the General Fund.

“§ 95-43. *Power of Commissioner to seek injunction.*—The Commissioner may apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto, and such courts are 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. A single act of unauthorized or illegal practice shall be sufficient, if shown, to invoke the injunctive relief of this section or criminal or civil penalties under G.S. 95-42(e).

“§ 95-44. *Government employment agencies unaffected.*—This Article shall not in any manner affect or apply to the State of North Carolina, the government of the United States, or to any city, county or town, or any agency of any of those governments.

“§ 95-44.1. *License taxes placed upon agencies not affected.*—This Article is not intended to conflict with or affect any license tax placed upon private personnel services by the revenue laws of North Carolina, but instead shall be construed as supplementary thereto in exercising the police powers of the State.

“§ 95-45. *Severability.*—If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Article are severable.”

**Sec. 2.** A new Article 5A is added to Chapter 95 of the General Statutes to read:

“Article 5A.

“Regulation of Job Listing Services.

“§ 95-46. *Definitions.*—Definitions of terms used in this Article shall be the same as in Chapter 95, Article 5 (Regulation of Private Personnel Services), with the words ‘job listing service’ substituted, where appropriate, for the words ‘private personnel service’. ‘Job listing service’ means any business operated in the State of North Carolina by any person for profit which publishes, either orally or in writing, lists of specific positions of employment available with any employer other than itself or which holds itself out to applicants as able to provide information about specific positions of employment available with any employer other than itself, which charges a fee to any applicant for its services or purported services and which performs none of the activities of a private personnel service other than the publishing of job listings. ‘Job listing service’ does not include:

(1) any educational, religious, charitable, fraternal or benevolent organization which charges no fee for services rendered in providing information about employment;

(2) any employment service operated by the State of North Carolina, the Government of the United States, or any city, county or town, or any agency thereof;

(3) any temporary help service that charges no fee for services rendered in providing information about employment;

(4) any newspaper of general circulation or other business engaged primarily in communicating information other than information about specific positions of employment and that does not purport to adapt the information provided to the needs or desires of an individual subscriber;

(5) employment offices that charge no fee to the applicant other than union dues and which are used solely for the hiring of employees under a valid union contract by the employers subscribing to this contract.

“§ 95-46.1. *License required.*—No person shall operate a job listing service in North Carolina without first obtaining a license from the Commissioner. A job listing service shall have a separate license for each location at which it maintains an office.

“§ 95-46.2. *Violation of this Article, criminal and civil penalty.*—Any person who violates the provisions of this Article by operating a job listing service without a valid license from the Commissioner shall be subject, under current regulations adopted pursuant to this Article, to criminal and civil penalties in the same amount and under substantially the same procedure as that provided under G.S. 95-42(e) for a person operating a private personnel service.

“§ 95-46.3. *Licensing procedure.*—The procedure, under regulations adopted prior to this Article, for the issuance, denial and renewal of job listing service licenses and other aspects of the licensing of job listing services by the Commissioner shall be substantially the same as that provided under Article 5 of this Chapter for the licensing of private personnel services.

“§ 95-46.4. *Enforcement.*—Under regulations adopted pursuant to this Article, a job listing service may be issued a warning, citation or notice of violation, or may have its license revoked or suspended, or its licensee reprimanded, censured or placed on probation in substantially the same manner and under substantially the same procedure as that provided for a private personnel service under Article 5 of this Chapter.

“§ 95-46.5. *Certain practices prohibited.*—Under regulations adopted pursuant to this Article, a job listing service shall abide by provisions substantially the same as those provided under G.S. 95-40(7) (kickbacks), G.S. 95-40(9)(misrepresentation), G.S. 95-38(d)(3)c. (loan or collection agencies) and G.S. 95-38(j) (bond required) for a private personnel service.

“§ 95-46.6. *Contracts.*—A contract between a job listing service and an applicant shall be in writing, labeled as a contract, physically separate from any application form and made in duplicate, and shall include:

(1) a clear explanation of the services provided and the amount of the fee;

(2) in a typesize no smaller than nine point, a statement that reads ‘I understand that \_\_\_\_\_(name of job listing service) does not guarantee that I will obtain employment through its services. I understand that \_\_\_\_\_(name of job listing service) does not refund fees for any reason,’ unless the job listing service agrees in the contract to refund to the applicant any fee the applicant paid to the job listing service if within three months of paying such a fee the applicant has not accepted an employment position listed in a publication of the job listing service;

(3) a statement that the job listing service is not a private personnel service or employment agency, that no additional fee will be charged to the applicant upon acceptance of employment and that the job listing service will not set up interviews or otherwise arrange direct contacts between an employer and the applicant; and

(4) a statement that the job listing service is licensed and regulated by the Commissioner and the address at which a copy of regulations governing job listing services may be obtained.

A copy of each contract form to be used with applicants shall be filed with the Commissioner. Until the job listing service receives written notification from the Commissioner that the form conforms to the requirements of this Article and regulations adopted hereunder, it shall not be used with applicants. A job listing service shall not accept a fee from any applicant before the applicant has read and received a copy of the contract.

“§ 95-46.7. *Advertising and publication.*—(a) In conducting any form of advertising, a job listing service shall identify itself by its business name and identify itself as a job listing service by using in the name or elsewhere in the advertising the term ‘job listing service’.

(b) Prior to advertising or publishing information about an available job, a job listing service shall receive a job order and shall record the job order, the date it was received and the name of the employer representative or other business who gave the job order to the job listing service. No description or representation of an employment position shall be stated in any advertising or other publication, unless the information is included on the recorded job order for the position. Information about a single employment position shall not be used in more than one advertisement or listing in a single issue of any publication.

(c) A job listing service shall not publish or cause to be published any information which it knows or reasonably ought to know is false or deceptive or which it has no reasonable basis for believing to be true.

(d) In conducting any form of advertising, a job listing service shall not use the term ‘no fee’ or any other term indicating that applicants will not be financially obligated to the job listing service.

“§ 95-46.8. *Fee receipts.*—A job listing service shall give every applicant from whom payment is received a receipt stating the name and address of the job listing service, the name of the applicant, the date and the amount of the payment.

“§ 95-46.9. *Prohibited job listings.*—A job listing service shall not publish information about a position of employment with an employer that the job listing service knows or has reason to know:

- (1) has included false information in the job order; or
- (2) has a strike or lockout at its business, unless the applicant is so informed in the publication; or
- (3) is engaging in unlawful or immoral activity; or
- (4) is in financial or other difficulty likely to lead to imminent cessation of operation, unless the applicant is so informed in the publication; or
- (5) is an employer in which the job listing service or any owner of the job listing service has a financial interest greater than ten percent (10%), unless the applicant is so informed in the publication.

“§ 95-46.10. *Records of the job listing service.*—Each job listing service shall maintain and make available for inspection by the Commissioner the following records of the operation of the job listing service for the 18 months immediately preceding:

- (1) the job listing service’s copies of all contracts executed with applicants;
- (2) copies of all fee receipts;
- (3) copies of all advertising and job lists published orally or in writing, indexed or attached to the recorded job order (including the date it was received and the name of the employer representative or other business who gave it) for

each position advertised or listed, and records of the dates advertisements were run on publications issued; and

(4) any records required by the Commissioner under regulations adopted pursuant to this Article.

“§ 95-46.11. *Administration of this Article.*—This Article shall be enforced under the general supervision of the Commissioner, who shall have the same powers and duties in the enforcement of this Article as in the enforcement of Article 5 of this Chapter.

“§ 95-46.12. *Review of job listing services.*—After the Commissioner receives written statements from two or more applicants complaining that the applicant failed to obtain employment as a result of the services of a job listing service, the Commissioner may contact other applicants who have paid a fee to the job listing service for the purpose of determining what percentage of such applicants obtain employment as a result of the services of the job listing service. After gathering information from such applicants and following the requirements of due process, the Commissioner shall place the survey results in the public records.

“§ 95-47. *Severability.*—If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Article are severable.”

**Sec. 3.** G.S. 143-34.11 is amended by deleting line 25 of the section which reads as follows:

“Chapter 95, Article 5, entitled ‘Regulation of Employment Agencies’.”

**Sec. 4.** Effective date. This Article shall become effective on July 1, 1979, and shall apply to all employment agencies operating on or after that date. Any agency license issued by the department prior to that date shall remain in full force and effect under the terms of the license until the first anniversary date of the issuance of the license following July 1, 1979, at which time the license shall be renewed under procedures established by the department, unless the department finds that the agency has not substantially complied with the laws and regulations governing employment agencies in North Carolina and that the agency licensee is not of a character likely to abide by this Article and regulations adopted hereunder.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

H. B. 1065

## CHAPTER 781

### AN ACT TO AUTHORIZE PHYSICIANS TO UTILIZE TETRAHYDROCANNABINOLS FOR TREATMENT PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-101 is hereby amended by adding a new subsection (h) to read as follows:

“(h) A physician licensed by the Board of Medical Examiners pursuant to Article 1 of this Chapter may possess, dispense or administer tetrahydrocannabinols in duly constituted pharmaceutical form for human administration for treatment purposes pursuant to regulations adopted by the North Carolina Drug Commission.”

**Sec. 2.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1158

## CHAPTER 782

AN ACT TO ALLOW SPECIAL REGISTRATION COMMISSIONERS TO BE APPOINTED AT ANY TIME WITHIN 60 DAYS OF INITIAL APPOINTMENTS OF REGISTRARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-41(b) is amended in the first paragraph by deleting the words "shall be appointed at the same time as required by G.S. 163-41 for the appointment of registrars" and inserting in lieu thereof the following: "shall be appointed no later than 60 days following the date on which registrars are appointed pursuant to G.S. 163-41."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1214

## CHAPTER 783

AN ACT TO AMEND G.S. 143B-417 TO PROVIDE THAT THE OFFICE OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES BE INCLUDED AMONG THE OFFICES TO WHICH A STUDENT INTERN MAY BE ASSIGNED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-417(1), as the same appears in the 1978 Replacement Volume 3C of the North Carolina General Statutes, is hereby amended by striking the semicolon at the end thereof and adding the following: "T. Office of the Speaker of the House of Representatives;"

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1343

## CHAPTER 784

AN ACT TO PERMIT PROOF OF SIGNATURE OF WITNESS TO A WILL OUTSIDE OF COUNTY OF PROBATE THROUGH USE OF CERTIFIED PHOTOGRAPHIC COPY OF THE ORIGINAL WILL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 31 of the General Statutes of North Carolina is amended by adding a new section immediately following G.S. 31-25, to be designated G.S. 31-25.1, and to read as follows:

"§ 31-25.1. *Proof by certified photographic copy of original will.*—Whenever the attesting witnesses, or any of them, are nonresidents of the county in which the original will is offered for probate, but are residents of this State, proof of their signatures as attesting witnesses may be taken by the clerk of superior court of the county of residence of the said witnesses, upon receipt of a commission to do so through use of a photographic copy of the original will certified to be a true and exact copy thereof by the clerk of the county in which the will is to be probated. The clerk of the county of residence of such witnesses shall take the deposition of such witnesses, and, upon return of the commission

and depositions to the clerk of court in which the will is to be probated, the said clerk shall adjudge the will to be duly proved thereon as if the witnesses had appeared in person before him."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1362

### CHAPTER 785

#### AN ACT TO REQUIRE COUNTY BOARDS OF ELECTION TO PROVIDE PRECINCT MAPS TO ALL REGISTRATION OFFICIALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-128 is designated as subsection (a), and a new subsection (b) is added to read:

"(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1420

### CHAPTER 786

#### AN ACT TO CORRECT AN ERROR IN CHAPTER 523, SESSION LAWS OF 1979, CONCERNING FALSIFICATION OF DEPARTMENT OF TRANSPORTATION INSPECTION REPORTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 136-13.2(a) and G.S. 136-13.2(b) are amended by deleting the word "felony" each time it appears and inserting in lieu thereof the word "misdemeanor".

**Sec. 2.** G.S. 136-13.2(c) is repealed.

**Sec. 3.** This act is effective May 8, 1979.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## H. B. 1455

### CHAPTER 787

#### AN ACT TO AMEND CHAPTER 456 OF THE 1979 SESSION LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of G.S. 15A-1352 as enacted by Chapter 456 of the 1979 Session Laws is amended by inserting in the first sentence immediately following the words "misdemeanor under this Article" the following: "or for nonpayment of a fine under Article 84 of this Chapter".

**Sec. 2.** Subsection (b) of G.S. 15A-1352 as enacted by Chapter 456 of the 1979 Session Laws is amended by inserting immediately before the period at the end of the subsection the following:

"; except that, upon request of the sheriff or the board of commissioners of a county, the presiding judge may, in his discretion, sentence the person to a local confinement facility in that county".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

S. B. 289

## CHAPTER 788

## AN ACT TO ENACT THE NORTH CAROLINA DRINKING WATER ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 130 of the General Statutes is hereby amended by adding a new Article to read as follows:

“Article 13D.

“North Carolina Drinking Water Act.

“§ 130-166.39. *Short title.*—This Article shall be known and may be cited as the North Carolina Drinking Water Act.

“§ 130-166.40. *Purpose.*—The purpose of this act is to regulate water systems within the State which supply drinking water to the public insofar as the water furnished may affect the public health.

“§ 130-166.41. *Definitions.*—As used in this Article, the term:

(a) ‘Administrator’ shall mean the Administrator of the United States Environmental Protection Agency or his authorized representative.

(b) ‘Certified Laboratory’ shall mean any facility for performing bacteriological, chemical or other analyses on water which has received interim or final certification by either the Environmental Protection Agency or the Division of Health Services Laboratory Section certification program.

(c) ‘Commission’ shall mean the Commission for Health Services as created by G.S. 143B-142.

(d) ‘Contaminant’ shall mean any physical, chemical, biological or radiological substance or matter in water.

(e) ‘Department’ shall mean the Department of Human Resources as created by G.S. 143B-136.

(f) ‘Drinking Water Regulations’ shall mean regulations promulgated pursuant to this Article.

(g) ‘Federal Act’ shall mean the Safe Drinking Water Act of 1974, P.L. 93-523, as amended.

(h) ‘Federal Agency’ shall mean any department, agency or instrumentality of the United States.

(i) ‘Maximum Contaminant Level’ shall mean the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(j) ‘National Primary Drinking Water Regulations’ shall mean primary drinking water regulations promulgated by the Administrator pursuant to the federal act.

(k) ‘Person’ shall mean an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency, or other legal entity.

(l) ‘Public Water System’ shall mean a system for the provision to the public of piped water for human consumption if such system serves 15 or more service connections or which regularly serves 25 or more individuals. Such term includes:

(1) any collection, treatment, storage, or distribution facility under control of the operator of such system and used primarily in connection with such system, and

(2) any collection or pre-treatment storage facility not under such control which is used primarily in connection with such system.

A public water system, as defined above, is either a 'community water system' or a 'noncommunity water system':

(1) 'Community Water System' shall mean a public water system which serves 15 or more service connections or which regularly serves at least 25 year-round residents.

(2) 'Noncommunity Water System' shall mean a public water system which is not a community water system.

(m) 'Secretary' shall mean the Secretary of the Department of Human Resources.

(n) 'Supplier of Water' shall mean any person who owns, operates, or controls a public water system.

(o) 'Treatment Technique Requirement' shall mean a requirement of the Drinking Water Regulations which specifies for a contaminant a specific treatment technique which leads to reduction in the level of such contaminant sufficient to comply with the Drinking Water Regulations.

(p) 'Unit of Local Government' shall mean a county, city, consolidated city-county, sanitary district, or other local political subdivision, authority, or agency of local government.

"§ 130-166.42. *Scope.*—(a) The provisions of this Article shall apply to each public water system in the State, unless the public water system meets all of the following conditions:

(1) consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(2) obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) does not sell water to any person; and

(4) is not a carrier which conveys passengers in interstate commerce.

(b) Any provision of any charter granted to a public water system in conflict with the provisions of this Article is hereby repealed.

"§ 130-166.43. *Drinking Water Regulations.*—(a) The Commission shall promulgate and the Secretary shall enforce Drinking Water Regulations to regulate water systems within the State which supply drinking water to the public insofar as the water furnished may affect the public health.

(b) Such regulations shall:

(1) specify contaminants which may, in the Commission's judgment, have an adverse effect on the public health;

(2) specify for each contaminant either:

a. a maximum contaminant level which is acceptable in water for human consumption, if it is feasible to establish the level of such contaminant in water in public water systems; or

b. one or more treatment techniques which lead to a reduction in the level of such contaminants sufficient to protect the public health, if it is not feasible to establish the level of such contaminants in water in a public water system; and



(3) establish criteria and procedures to assure a supply of drinking water which dependably complies with maximum contaminant levels and treatment techniques as determined in paragraph (2). Such regulations may provide for:

- a. the minimum quality of raw water which may be taken into a public water system;
- b. a program of laboratory certification;
- c. monitoring and analysis;
- d. record-keeping and reporting;
- e. notice of noncompliance, failure to perform monitoring, variances and exemptions;
- f. inspection of public water systems; inspection of records required to be kept and the taking of samples;
- g. criteria for design and construction of new or modified public water systems;
- h. review and approval of design and construction of new or modified public water systems;
- i. siting of new public water system facilities;
- j. variances and exemptions from the Drinking Water Regulations; and
- k. such additional criteria and procedures as may be required to carry out the purposes of this Article.

(c) The Drinking Water Regulations may be amended from time to time as necessary to be in accordance with required federal regulations.

“§ 130-166.44. *Department of Human Resources to control and examine waters.*—The Department shall cause to be made examination of all waters and their sources and surroundings which are used as, or proposed to be used as, sources of public water supply, and the Department shall ascertain whether the same are suitable for use as public water supply sources.

“§ 130-166.45. *Submission and approval of public water system plans; Department to provide advice.*—(a) The Department shall advise all persons and units of local government locating, constructing, altering or operating or intending to locate, construct, alter, or operate a public water system of the most appropriate source of water supply and the best practical method of purifying such water, having regard to the present and prospective needs and interests of other persons and units of local government which may be affected thereby. The Department shall also advise concerning accepted engineering practices in the location, construction, alteration, and operation of public water systems.

(b) All persons and units of local government constructing or altering a public water system shall give prior notice thereof and submit plans, specifications, and other information therefor to the Department. The Commission shall promulgate rules and regulations providing for the amount of prior notice required to be given and the nature and detail of the plans, specifications, and other information required to be submitted. The Commission shall take into consideration the complexity of the construction or alteration which may be involved and the resources of the Department to review the plans, specifications, and other information. The Department shall review the plans, specifications, and other information and notify the person, Utilities Commission, and unit of local government of compliance or lack thereof with applicable law and rules and regulations of the Commission.

(c) No person or unit of local government shall begin construction or alteration of a public water system or award a contract for construction or alteration unless

- (1) the plans for such construction or alteration have been prepared by an engineer licensed by the State of North Carolina;
- (2) the Department has determined that such system, as constructed or altered, will be capable of compliance with the Drinking Water Regulations;
- (3) the Department has determined that the system is capable of interconnection at an appropriate time with an expanding municipal, county, or regional system;
- (4) the Department has determined that adequate arrangements have been made for the continued operation, service and maintenance of the public water system; and
- (5) the Department has approved the plan.

“§ 130-166.46. *Disinfection by public water systems.*—(a) The Department is hereby authorized to require disinfection by

- (1) public water systems introduced on or after January 1, 1972, and
- (2) all public water systems, regardless of the date introduced, whenever
  - a. the maximum microbiological contaminant level is exceeded, or
  - b. conditions exist which make continued use of the water potentially hazardous to health.

(b) Public water systems shall employ disinfection methods and procedures approved by the Department.

“§ 130-166.47. *Condemnation of lands for public water systems.*—All units of local government operating public water systems and all water companies operating under franchise from the State or units of local government, may acquire by condemnation such lands and rights in lands and water as are necessary for the successful operation and protection of their systems. Condemnation proceedings under this section shall be the same as prescribed by law under Chapter 40 of the General Statutes of North Carolina.

“§ 130-166.48. *Sanitation of watersheds; rules.*—(a) The Commission shall promulgate rules and regulations governing the sanitation of watersheds from which public drinking water supplies are obtained. In promulgating such regulations the Commission is authorized to consider the different classes of watersheds, taking into account general topography, nature of watershed development, density of population and need for frequency of sampling of raw water. The regulations shall govern the keeping of livestock, operation of recreational areas, maintenance of residences and places of business, disposal of sewage, establishment of cemeteries or burying grounds, and any other factors which would endanger the public water supply.

(b) Any person operating a public water system and furnishing water from unfiltered surface supplies shall have inspections made of the watershed area at least quarterly, and more often when, in the opinion of the Department, such inspections are necessary.

“§ 130-166.49. *Variances and exemptions.*—(a) The Secretary may authorize variances from the Drinking Water Regulations.

- (1) The Secretary may grant one or more variances to any public water system within the State from any requirement respecting a maximum

contaminant level of an applicable Drinking Water Regulation upon a finding that:

- a. because of characteristics of the raw water sources reasonably available to the system, the system cannot meet the requirements respecting the maximum contaminant levels of the Drinking Water Regulations despite application of the best technology, treatment techniques, or other means, which the Secretary finds are generally available (taking costs into consideration); and
  - b. the granting of a variance will not result in an unreasonable risk to health when considering the population exposed, the projected duration of the requested variance, and the degree to which the maximum contaminant level is being or will be exceeded.
- (2) The Secretary may grant one or more variances to any public water system within the State from any requirement of a specified treatment technique of an applicable Drinking Water Regulation upon a finding that the public water system applying for the variance has demonstrated that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system.
- (3) In consideration of whether the public water system is unable to comply with a contaminant level required by the Drinking Water Regulations because of the nature of the raw water sources, the Secretary shall consider such factors as the following:
- a. the availability and effectiveness of treatment methods for the contaminant for which the variance is requested;
  - b. costs of implementing the best treatment(s) improving the quality of the raw water by the best means, or using an alternate source.
- (4) In consideration of whether a public water system should be granted a variance from a required treatment technique because such treatment is unnecessary to protect the public health, the Secretary shall consider such factors as the following:
- a. quality of the water source including water quality data and pertinent sources of pollution;
  - b. source protection measures employed by the public water system.
- (b) The Secretary may authorize exemptions from the Drinking Water Regulations.
- (1) The Secretary may exempt any public water system within the State from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable Drinking Water Regulation upon a finding that:
- a. due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement;
  - b. the public water system was in operation on the effective date of such contaminant level or treatment technique requirement; and
  - c. the granting of the exemption will not result in an unreasonable risk to health when considering the population exposed, the projected duration of the requested exemption, and the degree to which the maximum contaminant level is being or will be exceeded.

(2) In consideration of whether the public water system is unable to comply due to compelling factors, the Secretary shall consider such factors as the following:

- a. construction, installation, or modification of treatment equipment or systems;
- b. the time needed to put into operation a new treatment facility to replace an existing system which is not in compliance;
- c. economic feasibility of immediate compliance.

(c) As a condition of issuance of either a variance or an exemption, the Secretary shall require that the public water system adhere to a schedule of compliance, including increments of progress, with each Drinking Water Regulation for which the variance or exemption was issued. As a further condition of the variance or exemption, the Secretary shall require implementation by the public water system of such control measures as the Secretary deems necessary, during the period ending on the date of compliance with such requirement. The schedules of compliance must be prescribed within one year of the date the variance or exemption has been granted. The compliance schedule for an exemption shall require compliance as expeditiously as practical but no later than January 1, 1981, for the initial drinking water regulations, and no later than seven years after the date of revised Drinking Water Regulations setting new maximum contaminant levels or treatment techniques. Compliance dates can be extended two years if the public water supply has entered into an enforceable agreement to become part of a regional water system.

(d) The Secretary shall provide notice and opportunity for public hearing on proposed variances and proposed variance and exemption schedules.

“§ 130-166.50. *Imminent hazard; power of the Secretary.*—(a) An imminent hazard shall exist when in the judgment of the Secretary there exists a present or potential condition in a public water system which poses a serious, immediate risk to public health.

(b) In order to eliminate an imminent hazard, the Secretary may, without notice or hearing, issue an order requiring the person or persons involved to immediately take action necessary to protect the public health. A copy of the order shall be delivered by certified mail or personal service. Such order shall become effective immediately and shall remain in effect until modified or rescinded by the Secretary or by a court of competent jurisdiction.

“§ 130-166.51. *Emergency plan for drinking water.*—(a) The Secretary shall promulgate an adequate plan for the provision of drinking water under emergency circumstances. When in the judgment of the Secretary emergency circumstances exist in the State with respect to a need for drinking water, the Secretary may take such actions in accordance with the plan as the Secretary may deem necessary in order to provide drinking water.

(b) Emergency circumstances shall exist whenever the available supply of drinking water is inadequate.

“§ 130-166.52. *Notice of noncompliance, failure to perform monitoring, variances and exemptions.*—Whenever a public water system

(1) is not in compliance with the Drinking Water Regulations,

(2) fails to perform an applicable testing procedure or monitoring required by the Drinking Water Regulations,



(3) is subject to a variance granted for inability to meet a maximum contaminant level requirement,

(4) is subject to an exemption, or

(5) fails to comply with the requirements prescribed by a variance or exemption,

the supplier shall as soon as possible but not later than 48 hours after discovery notify the Department and give such public notification as may be prescribed by regulation.

“§ 130-166.53. *Prohibited acts.*—The following acts are prohibited:

(1) failure by a supplier of water to comply with this Article, any order issued hereunder, or the Drinking Water Regulations;

(2) failure by a supplier of water to comply with the requirements of G.S. 130-166.52 or the dissemination by such supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with the Drinking Water Regulations;

(3) refusal by a supplier of water to allow an authorized representative of the Department or any local health department to inspect any public water system as provided for in G.S. 130-204;

(4) the willful defiling by any person of any water supply of a public water system or the willful damaging of any pipe or other part of a public water system;

(5) the discharge by any person of sewage or other waste above the intake of a public water system, unless the sewage or waste shall have been passed through a system of purification approved by the Department and the Department of Natural Resources and Community Development; and

(6) the failure by any person to maintain a system approved by the Department for collecting and disposing of all accumulations of human excrement located on the watershed of any public water system.

“§ 130-166.54. *Penalties; remedies; contested cases.*—(a) The Department may impose an administrative, civil penalty in accordance with the Drinking Water Regulations, on any person who violates G.S. 130-166.52. Each day of a continued violation shall constitute a separate violation. Such penalty shall not exceed five thousand dollars (\$5,000) for each day such violation continues.

(b) Any person wishing to contest a penalty or other order issued under this Article shall be entitled to an administrative hearing and judicial review conducted according to the procedures outlined in G.S. 150A-23 through 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 a supplier of water

(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.

(d) In addition to any other remedies provided for in this section, the Secretary may institute a civil action in the Superior Court of the county in which the defendant in said civil action resides to prevent a threatened or continuing violation of any provision of this Article or any order or regulation issued pursuant to this Article.

“§ 130-166.55. *Powers of the Secretary.*—To carry out the provisions and purposes of this Article, the Secretary is authorized and empowered to:

(1) administer and enforce the provisions of this Article and all rules, regulations and orders promulgated hereunder;

(2) enter into agreements, or cooperative arrangements with, or participate in related programs of other states, other state agencies, federal or interstate agencies, units of local government, educational institutions, local health departments or other organizations or individuals;

(3) receive financial and technical assistance from the federal government and other public or private agencies;

(4) delegate those responsibilities and duties and designate agents as deemed appropriate for the purpose of administering the requirements of this Article;

(5) require public water systems to take such actions or make such modifications as are necessary to comply with the requirements of this Article or the regulations promulgated hereunder;

(6) prescribe such policies and procedures as are necessary or appropriate to carry out the Secretary's function under this Article; and

(7) collect fees to recover the costs of laboratory analysis as follows:

<u>Type of Analysis</u>	<u>Fee per Analysis</u>
Coliform Bacteria	\$ 5.00
Nitrate	7.00
Inorganic Chemical	100.00
Organic Chemical	120.00
Radiological	
1) surface or ground source serving less than 100,000 in population	50.00
2) surface source serving more than 100,000 in population	120.00
3) any community water system using water contaminated by manmade radioactivity	200.00

“§ 130-166.56. *Construction.*—This Article shall be interpreted as giving the State the authority needed to assume primary enforcement responsibility under the federal act.”

**Sec. 2.** Article 13 of Chapter 130 of the General Statutes is rewritten to read as follows:

“Article 13.

“Sanitary Sewage Disposal.

“§ 130-160. *Sanitary sewage 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 disposal consisting of an approved privy, an approved septic tank system, or a connection to a public or community sewerage system. Any such sanitary sewage disposal system with 3,000 gallons or less design capacity serving a single or multiple family residence, place of business, or place of public assembly, the effluent from which is not discharged to the surface waters, shall be approved under rules and regulations promulgated by the Commission for Health Services. All other such sanitary sewage disposal systems with more than 3,000 gallons design capacity shall be approved under rules and regulations promulgated by the

Environmental Management Commission pursuant to the applicable provisions of Article 21 of Chapter 143.

(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of G.S. 130-17(b), any sanitary sewage 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 Commission for Health Services to review its proposed regulations concerning sanitary sewage disposal systems;
- (2) the Commission for Health Services has found that the regulations of the local board of health concerning sanitary sewage disposal systems are substantially equivalent to the Commission's regulations, and are sufficient to safeguard the public health.

(c) The Commission for Health Services from time to time, upon its own motion or upon the request of a citizen of an affected county, may review its findings under subsection (b) of this section. Subject to such review, the Commission's findings that local regulations meet the requirements of subsection (b) of this section shall be binding and conclusive.

(d) The relationship between State and local regulations concerning sanitary sewage 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 (b) of this section."

**Sec. 3.** Article 6 of Chapter 130 is rewritten to read as follows:

"Article 6.

"State Laboratory of Public Health.

"§ 130-30. *Laboratory established.*—For the better protection of the public health there is established under the control of the Department of Human Resources a State Laboratory of Public Health.

"§ 130-31. *To make examinations.*—The Department of Human Resources is authorized to make in its laboratory such examinations as the public health may require.

"§ 130-32. *Fees.*—All fees incurred under Article 6 prior to the effective date of this act shall remain due and payable."

**Sec. 4.** G.S. 130-157 is amended by deleting the word "Article" and substituting the word "Chapter", and further is recodified as G.S. 130-9.6.

**Sec. 5.** G.S. 130-205 is rewritten to read as follows:

"If any person shall violate the provisions of this Chapter or any rules and regulations adopted pursuant thereto, or if any person shall hinder or interfere with the proper performance of duty of the Secretary of Human Resources or his representative or any local health director or his representative, the Secretary of Human Resources or any local health director may institute an action in the superior court of the county in which such violation, hindrance or interference occurred for injunctive relief against such continued violation, hindrance or interference, irrespective of all other remedies at law, and upon the institution of such an action, the procedure shall be in accordance with the provisions of Article 37 of Chapter 1 of the General Statutes, and Rule 65 of the Rules of Civil Procedure."

**Sec. 6.** Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## S. B. 624

## CHAPTER 789

AN ACT TO ALLOW CITIES AND COUNTIES TO EXERCISE THE POWER OF EMINENT DOMAIN TO ACQUIRE CERTAIN HISTORIC PROPERTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 160A, Article 11, Section 160A-241, as the same appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by adding to the purposes set forth in G.S. 160A-241(1)-(6) for which the power of eminent domain may be exercised, the following purpose:

“(7) 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”.

**Sec. 2.** Chapter 153A, Article 8, Section 153A-159, as the same appears in the 1976 Replacement Volume 3C of the General Statutes, is amended by adding to the purposes set forth in G.S. 153A-159(1)-(6) for which the power of eminent domain may be exercised, the following purpose:

“(7) 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”.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

## S. B. 697

## CHAPTER 790

AN ACT TO ALLOW THE TOWNS OF WELDON AND GARNER TO LEVY A TAX OF UP TO THREE DOLLARS (\$3.00) PER YEAR UPON RESIDENT MOTOR VEHICLES.

Whereas, a one dollar (\$1.00) tax per year upon resident motor vehicles is not cost effective to collect in the Towns of Weldon and Garner; and

Whereas, the Mayor of the Town of Weldon acting on behalf of the Town Commissioners has requested that an upward adjustment of the motor vehicle tax be made; and

Whereas, the Town of Garner has made a similar request; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 458, Session Laws of 1979, is amended in line 2, by adding immediately after the words “City of Roanoke Rapids”, the words “, the Town of Weldon, the Town of Garner,”.

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.



S. B. 852

**CHAPTER 791**

AN ACT TO AUTHORIZE JOINT AGENCIES CREATED UNDER ARTICLE 20 OF CHAPTER 160A OF THE GENERAL STATUTES TO ISSUE BONDS UNDER THE LOCAL GOVERNMENT REVENUE BOND ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-81(1), the definition of "municipality", is hereby amended by adding to the list of units of government included within such definition the following: "a joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

S. B. 929

**CHAPTER 792**

AN ACT TO AMEND GENERAL STATUTE 62-300(9) AS IT APPLIES TO TRANSCRIPT FEES OF THE NORTH CAROLINA UTILITIES COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statute 62-300(9) is rewritten to read as follows:

"(9) One dollar (\$1.00) for each page (8 1/2 x 11 inches) of transcript of testimony, but not less than five dollars (\$5.00) for any such transcript."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

H. B. 315

**CHAPTER 793**

AN ACT TO REQUIRE THE RANDOLPH COUNTY BOARD OF EDUCATION TO RELEASE AND THE CHATHAM BOARD OF EDUCATION TO ACCEPT CERTAIN PUPILS IN THE BENNETT ATTENDANCE ZONE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 115-163, the Randolph County Board of Education is directed to release from attendance in the Randolph County Schools those students who are presently attending the Chatham County Schools, who reside within the area described below, and who request such release, and the Chatham County Board of Education is directed to accept such pupils for attendance in the Chatham County Schools:

BEGINNING at a point where Deep River intersects the Moore and Randolph County lines; running thence up the various courses of said river to a point 500 feet South of where River Road (State Road No. 2874) dead-ends from the west with Deep River; thence West along a line 500 feet south of and parallel with Secondary Road #2874 to a point where said line intersects a line running 500 feet west of and parallel with Secondary Road No. 2873; thence North along said line running 500 feet west of and parallel with Secondary Road #2873 to a point where said line intersects a line running 500 feet north of and parallel with Secondary Road No. 1002; thence East along said line running

500 feet north of and parallel with Secondary Road #1002 to a point where said line intersects Deep River; thence North along the various courses of Deep River to a point where Little Brush Creek empties into Deep River; thence North along the various courses of Little Brush Creek to a point where Little Brush Creek intersects the Chatham-Randolph County line; thence South along the Chatham-Randolph County line to a point where said line intersects the Moore County line; thence along the Moore-Randolph County line to the place and point of BEGINNING.

The above description is that area in Randolph County which by policy and custom has been served by the Chatham County school system for more than 40 years.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 369

## CHAPTER 794

### AN ACT TO ABOLISH THE OFFICE OF CORONER IN CUMBERLAND AND BERTIE COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The office of coroner in Cumberland County is abolished.

**Sec. 2.** Chapter 152 of the General Statutes is not applicable to Cumberland County.

**Sec. 3.** The office of coroner in Bertie County is abolished.

**Sec. 4.** Chapter 152 of the General Statutes is not applicable to Bertie County.

**Sec. 5.** Section 1 of Chapter 557 of the 1979 Session Laws is amended by deleting the word "run-off" and inserting in lieu thereof the word "primary".

**Sec. 6.** Section 1, Section 2, and Section 5 of this act are effective upon ratification and Section 3 and Section 4 of this act are effective December 1, 1980.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 798

## CHAPTER 795

### AN ACT TO INCORPORATE THE TOWN OF LELAND, SUBJECT TO REFERENDUM.

*The General Assembly of North Carolina enacts:*

**Section 1.** The inhabitants and property of the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the "Town of Leland" and 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. 2.** The corporate boundaries of the Town of Leland shall be as follows until changed in accordance with law:

Beginning at a point in the western line of the corporate limits of the town of Navassa, said point being situated 1000 feet north of the center line of Seaboard Coastline Railroad right of way, and runs thence in a general southerly

direction, with and along the western line of the corporate limits of the town of Navassa, to the run of Sturgeon Creek; thence in a general easterly direction, with and along the run of Sturgeon Creek and the southern line of the corporate limits of the Town of Navassa, to the run of Brunswick River; thence in a general southerly direction, with and along the run of Brunswick River, to the point where the run of said river is intersected by the centerline of U.S. Highway 17, 74, 76; thence in a general southwesterly direction, with and along the centerline of said highway, to the point where the centerline of said highway is intersected by the centerline of N.C. Highway 133; thence in a general southeasterly direction, with and along the centerline of said N.C. Highway 133, 1000 feet to a point, thence in a general westerly direction, and parallel with the centerline of U.S. Highways 74 and 76 and 1000 feet therefrom, to a point situated 1000 feet west of the centerline of secondary road number 1438; thence in a general northerly direction, parallel with said centerline and 1000 feet therefrom, to a point situated 1000 feet north of centerline of right of way of Seaboard Coastline Railroad; thence in a general southeasterly direction, parallel with said centerline and 1000 feet therefrom, to the beginning.

**Sec. 3.** Until the initial election hereinafter provided for, Lee Sullivan, Willie Beatty, Jr., James L. Clemmons, Van Hoyt Clark, Jeannie Mintz, Don Honeycutt, C. E. "Mike" Mitchell, Edison M. Moore, George Robbins, Herbert Long, V. A. Creech, Jr., and Harold Geedy are appointed as the Board of Commissioners of the Town of Leland. Bill Sue is appointed Mayor. The persons appointed shall exercise the powers granted by law to the Board of Commissioners until the 1979 election of municipal officers when their successors shall be elected and qualified. Notwithstanding the fact that 12 commissioners are appointed by this section to serve until the 1979 election of municipal officers, the elected officers of the Town shall be as provided in Section 4 of this act.

**Sec. 4.** 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 in Section 5, the terms of members of the Board of Commissioners shall be four years.

**Sec. 5.** At the regular municipal election in 1979, 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. In 1981 and quadrennially thereafter, two commissioners shall be elected for four-year terms. In 1983 and quadrennially thereafter, three commissioners shall be elected for four-year terms.

**Sec. 6.** The officers of the Town shall be elected by the nonpartisan plurality method as provided in G.S. 163-292.

**Sec. 7.** 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. 8.** Elections in the Town of Leland shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes.

**Sec. 9.** The Board of Commissioners and Mayor may adopt a budget ordinance for the 1979-80 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, 1979, then taxes may be paid at par or 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 first.

**Sec. 10.** (a) The Board of Elections in Brunswick County is hereby authorized and directed to call and conduct a special election on a date to be set by the Brunswick County Board of Commissioners, but no earlier than 60 days after ratification of this act and no later than 100 days after ratification of this act for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Leland, the question of whether or not such area shall be incorporated as a municipal corporation to be known as the Town of Leland. In conducting the election required to be held by this act, the Board of Elections of Brunswick 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 Leland as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the Town of Leland"; and those voters who are opposed to the incorporation of the Town of Leland as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST Incorporation of the Town of Leland".

**Sec. 11.** If the majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town of Leland" then Sections 1 through 9 of this act shall have no force and effect.

**Sec. 12.** If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Town of Leland", then Section 1 through 9 of this act shall be in full force and effect from and after the date upon which the Brunswick County Board of Elections determines the result of the election.

**Sec. 13.** Sections 10 through 13 of this act are effective upon ratification. Sections 1 through 9 of this act are effective as provided in Section 12 of this act.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

H. B. 1317

## CHAPTER 796

AN ACT TO AMEND CHAPTER 62 (PUBLIC UTILITIES) TO PERMIT DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION FOR PURPOSES OF SCREENING CERTAIN EMPLOYMENT APPLICATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 62 of the General Statutes is amended by adding the following new Article:

"Article 16.

"Security Provisions.

"§ 62-330. *Screening employment applications.*—The Chief Personnel Officer or his designee of any public utility franchised to do business in North Carolina shall be permitted to obtain from the State Bureau of Investigation a



confidential copy of criminal history record information for screening an applicant for employment with or an employee of a utility or utility contractor where the employment or job to be performed falls within a class or category of positions certified by the North Carolina Utilities Commission as permitting or requiring access to nuclear power facilities or access to or control over nuclear material.

The State Bureau of Investigation shall charge a reasonable fee to defray the administrative costs of providing criminal history record information for purposes of employment application screening. The State Bureau of Investigation is authorized to retain fees charged pursuant to this section and to expend those fees for the purpose of discharging its duties under this section, provided that all such fees received after March 30, 1980 shall be credited to the General Fund."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 1319

## CHAPTER 797

### AN ACT TO SHORTEN THE OATHS ADMINISTERED TO VOTERS WHEN REGISTERING AND MAKE TECHNICAL AMENDMENTS IN THE ELECTIONS LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-72(a), as the same appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by rewriting as follows:

"Before questioning any applicant for registration as to his qualifications, the registrar shall present to the applicant a certification which shall be read by or to the applicant on his request and then signed by the applicant: 'I hereby certify that the information I shall give with respect to my qualifications and identity is true and correct to the best of my knowledge.

(Signature of applicant)'"

**Sec. 2.** G.S. 163-72(b) is amended by rewriting the oath, appearing after the colon, as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitutions of the United States and the State of North Carolina; that I will have been a resident of this State and this precinct for 30 days by the date of the next election; that I have not registered, nor will I vote in any other county or State, so help me, God."

**Sec. 3.** G.S. 163-251(b) is amended in the first sentence by deleting the words "together with the original of all applications for military absentee ballots received by him".

**Sec. 4.** G.S. 163-255 is amended in the last sentence of the second paragraph by deleting the words "6:00 P.M." and inserting in lieu thereof the words "5:00 P.M."

**Sec. 5.** G.S. 163-108(b) is amended by deleting the words "Prior to the fourth Saturday before the primary election" and inserting in lieu thereof the words "No later than 10 days after the time for filing notices of candidacy under the provisions of G.S. 163-106(c) has expired".

**Sec. 6.** G.S. 163-137(b) is amended by striking the words "30 days" and inserting in lieu thereof the words "60 days".

**Sec. 7.** This act is effective on September 1, 1979.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## S. B. 614

## CHAPTER 798

### AN ACT TO PROVIDE FOR CONVERSION OF MUTUALLY-OWNED SAVINGS AND LOAN ASSOCIATIONS TO STOCK-OWNED ASSOCIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The final sentence of G.S. 54A-1 (which reads: "No mutual savings and loan associations shall be allowed to convert to a stock-owned savings and loan association under the provisions of this Chapter.") is repealed.

**Sec. 2.** A new G.S. 54A-13 is enacted to read as follows:

"§ 54A-13. *Conversion of mutual savings and loan associations to stock-owned.*—(a) Any mutual savings and loan association may convert from mutual to the stock form of ownership as provided in this section. Upon conversion such associations shall be stock-owned associations and shall be governed by the law which govern stock-owned associations.

(b) A mutual savings and loan association that wishes to convert to stock form may apply to the Administrator of the Savings and Loan Division for permission to convert 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 into all facts connected with the requested conversion and, if conversion is duly approved, the Administrator shall monitor and supervise the conversion until completed. 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 Savings and Loan Commission. After hearing the findings of the Administrator and conducting such further examinations and investigations as it deems appropriate, 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 safely and competently managed.
- (2) The conversion will not impair the capital of the association or harm the association's ability to operate safely and properly.
- (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 its community and to the public by the association will not be harmed 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 association; and, after lawful notice to the members of the association and full and fair disclosure, the substance of said 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 proxy.

(6) The plan of conversion provides that:

- a. All shares of stock issued in connection with the conversion are offered first to the members of the association.
- b. No person may acquire said stock except a natural person in exchange for fair consideration approved by the Administrator in the form of legal tender of the United States.
- c. All stock shall be offered to members of the association and others in prescribed amounts and otherwise pursuant to a formula and procedure first found to be fair and equitable by the Administrator and fairly disclosed to all interested persons.
- d. 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 fixed by the Administrator.
- e. At the time of the conversion, no person singularly or in combination with his immediate family, may acquire ownership or control of more than five percent (5%) of all the stock issued in connection with the conversion.
- f. At the time of the conversion, the total amount of stock issued in connection with the conversion and 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 Administrator shall not permit a completed conversion until the entire offering of stock 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 savings and loan association to the stock form of ownership, the legal existence of the association shall not terminate but the converted stock-owned association shall be a continuation of the mutual association. The conversion shall be deemed a mere change in identity or form or 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-Thursdays, 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

chartered Savings and Loan Associations are to continue to be allowed to choose between FSLIC and a mutual deposit guaranty association authorized by the statutes of this State for insurance of accounts. 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."

**Sec. 3.** No conversion shall be permitted pursuant to the terms of this act until the rules and regulations referred to herein are promulgated.

**Sec. 4.** No association shall be permitted to sell stock pursuant to a plan of conversion under the provisions of this act until such time as stock has been sold and issued pursuant to an approved plan of conversion by a federally chartered Savings and Loan Association in this State.

**Sec. 5.** 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 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. 6.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## S. B. 519

## CHAPTER 799

### AN ACT TO PREVENT FRAUD IN ABSENTEE VOTING.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-227.2(b) is amended by striking "60 days" and inserting in lieu thereof "30 days" and by striking "not later than 5:00 p.m. on the Wednesday prior to that election" and inserting in lieu thereof "not later than 5:00 p.m. on the Thursday prior to that election."

**Sec. 2.** G.S. 163-227.2 is amended by adding a new subsection (e) to read as follows:

"(e) The voter shall vote his absentee ballot in a voting booth and the county board of elections shall provide a voting booth for that purpose, provided however, that the county board of elections may in the alternative provide a private room for the voter adjacent to the office of the board, in which case the voter shall vote his absentee ballot in that room. The voting booth shall be in the office of the county board of elections. If the voter needs assistance in getting to and from the voting booth and in preparing and marking his ballots or if he is a blind voter, only a member of the county board of elections, the supervisor of elections, an employee of the board of elections authorized by the board, a near relative of the voter as defined in G.S. 163-227(c)(4), or the voter's legal guardian shall be entitled to assist the voter."



**Sec. 3.** G.S. 163-227.2 is amended by adding a new subsection (f) to read as follows:

“(f) Notwithstanding the exception specified in G.S. 163-67(b) counties which operate a modified full-time office shall remain open five days each week during regular business hours consistent with the daily hours presently observed by the county board of elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing until 5:00 p.m. on the Thursday prior to that election or primary. The boards of county commissioners shall provide necessary funds for the additional operation of the office during such time.”

**Sec. 4.** Article 20 of Chapter 163 of the General Statutes is amended by adding a new section to read as follows:

“§ 163-226.3. *Certain acts declared felonies.*—(a) Any person who shall, in connection with absentee voting in any primary, general, municipal or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a felony and upon conviction shall be imprisoned for not less than six months or fined not less than one thousand dollars (\$1,000), or both, in the discretion of the court. It shall be unlawful:

- (1) for any person except the voter's near relative as defined in G.S. 163-227(c)(4) or the voter's legal guardian to assist the voter to vote an absentee ballot when the voter is voting an absentee ballot other than under the procedure described in G.S. 163-227.2; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance;
- (2) for any person to assist a voter to vote an absentee ballot under the absentee voting procedure authorized by G.S. 163-227.2 except a member of the county board of elections, the supervisor of elections, an employee of the board authorized by the board, the voter's near relative as defined in G.S. 163-227(c)(4), or the voter's legal guardian;
- (3) for a voter who votes an absentee ballot under the procedures authorized by G.S. 163-227.2 to vote his absentee ballot outside of the voting booth or private room provided to him for that purpose in the office of the county board of elections or to receive assistance in getting to and from the voting booth or private room and in preparing and marking his ballots from any person other than a member of the county board of elections, the supervisor of elections, an employee of the board of elections authorized by the board, a near relative of the voter as defined in G.S. 163-227(c)(4), or the voter's legal guardian;
- (4) for any owner, manager, director, employee, or other person, other than the voter's near relative as defined in G.S. 163-227(c)(4) or legal guardian, to make application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or legal guardian to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot;
- (5) for any officer with a seal to take the acknowledgement on the container-return envelope of any absentee voter in any primary or election in which the officer is a candidate for nomination or election;
- (6) for any person to take into his possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's

near relative as defined in G.S. 163-227(c)(4) or the voter's legal guardian;

- (7) except as provided in subsections (1), (2), (3), and (4) of this section and G.S. 163-227.2(e), for any voter to permit another person to assist him in marking his absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark his absentee ballot.

(b) The State Board of Elections or a county board of elections, upon receipt of a sworn affidavit from any qualified voter of the State or the county, as the case may be, attesting to first-person knowledge of any violation of subsection (a) of this section, shall transmit such affidavit to the appropriate district attorney, who shall investigate and prosecute any person violating subsection (a)."

**Sec. 5.** G.S. 163-231(a)(1) is amended by inserting the words "by such officer" after the words "to be marked" and before the words "in his presence".

**Sec. 6.** This act shall become effective September 1, 1979.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## S. B. 592

## CHAPTER 800

AN ACT TO PROVIDE THAT IN CASE OF CONFLICTS BETWEEN NATIONAL PARTY RULES AND STATE LAW AS TO NATIONAL CONVENTION DELEGATES THE STATE PARTY EXECUTIVE COMMITTEE MAY RESOLVE THE CONFLICT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Existing G.S. 163-213.8 is designated as subsection (a) of that section, and a new subsection is added to read:

"(b) In case of conflict between subsection (a) of this section and the national rules of a political party, the State executive committee of that party has the authority to resolve the conflict by adopting for that party the national rules, which shall then supercede any provision in subsection (a) of this section with which it conflicts, provided that the executive committee shall take only such action under this subsection necessary to resolve the conflict."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## S. B. 904

## CHAPTER 801

AN ACT TO PROVIDE TAX RELIEF FOR THE CITIZENS OF NORTH CAROLINA.

Whereas, the citizens of North Carolina have suffered and are suffering, due to inflation, a dramatic decrease in the purchasing power of the dollar; and

Whereas, the State income tax personal exemptions have not been raised since 1921 and the inheritance tax has not been substantially amended since 1913; and

Whereas, the effect of inflation on the State taxes increases the tax burden of North Carolina citizens each year; and

Whereas, this increased tax burden as a result of inflation offsets the increases in the wages and salaries that are necessary to keep up with the increase in consumer prices; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** This act shall be known as the "Revenue Act of 1979".

**Sec. 2.** G.S. 7A-311(a)(1) is rewritten to read as follows:

"(1)(a) Effective July 1, 1979, for every civil action filed on or after that date, for each item of civil process, including summons, subpoenas, notices, motions, orders, units and pleadings served, three dollars (\$3.00). When two or more items of civil process are served simultaneously on one party, only one three-dollar (\$3.00) fee shall be charged. Effective July 1, 1981, for every civil action filed on or after that date, for each item of civil process, including summons, subpoenas, notices, motions, orders, writs and pleadings served, four dollars (\$4.00). When two or more items of civil process are served simultaneously on one party, only one four-dollar (\$4.00) fee shall be charged.

(b) When an item of civil process is served on two or more persons or organizations, a separate service charge shall be made for each person or organization. If the process is served, or attempted to be served, by a city policeman, the fee shall be remitted to the city rather than the county. If the process is served, or attempted to be served by the sheriff, the fee shall be remitted to the county. This subsection shall not apply to service of summons to jurors."

**Sec. 3.** G.S. 15A-1343 is amended to add a new subsection (e) to read as follows:

"(e) Supervision fee. When any person is placed upon supervised probation, the court may require, as a condition of probation, that such person pay, during his probationary period, a monthly supervision fee of ten dollars (\$10.00) to the clerk of superior court designated by the court. The probation officer shall not be required to collect the supervision fee. Any clerk of superior court receiving such a fee shall transmit this money to the State of North Carolina to be deposited in the General Fund. In no event shall a person placed upon supervised probation be required to pay more than one monthly supervision fee."

**Sec. 4.** G.S. 18A-15(3)c.2. is amended to strike the words "alcoholic beverages" from lines 1, 4 and 7 of that sub-subdivision and insert in lieu thereof the words "spirituous liquors".

**Sec. 5.** The first sentence of G.S. 20-7(g) is rewritten to read as follows:

"(g) Every chauffeur's license issued under this section shall automatically expire on the birthday of the licensee on the fourth year following the year of issuance and chauffeurs shall renew their licenses every four years after an examination which may include road tests, oral and in the case of literate applicants, written tests, and tests of vision as the Division may require: Provided, that the Commissioner may, in proper cases, waive the examination required by this subsection: Provided, further, that no chauffeur's license issued hereunder shall expire in less than six months from the date of issuance."

**Sec. 6.** G.S. 20-7(i) is amended to replace the words and numbers "five dollars (\$5.00)" with "ten dollars (\$10.00)".

**Sec. 7.** G.S. 20-42(b) is amended to strike the words and figure “one dollar (\$1.00)” appearing in lines 3 and 4 and insert in lieu thereof the words and figure “two dollars (\$2.00)”.

**Sec. 8.** G.S. 20-74 is amended to strike the words and figure “two dollars (\$2.00)” appearing in line 6 and insert in lieu thereof the words and figure “three dollars (\$3.00)”.

**Sec. 9.** G.S. 20-84 is amended to strike the words and figure “one dollar (\$1.00)” whenever same appears therein and insert in lieu thereof the words and figure “three dollars and fifty cents (\$3.50)”.

**Sec. 10.** G.S. 20-84.1 is amended to strike the words and figure “one dollar (\$1.00)” appearing in line 12 and insert in lieu thereof the words and figure “three dollars and fifty cents (\$3.50)”.

**Sec. 11.** G.S. 20-85 is amended to strike the first word in line 1, the word “There”, and to insert in lieu thereof the following: “Except as provided in G.S. 20-68, there”; to strike the figure “\$2.00” appearing in subsections (1) and (3), and insert in lieu thereof the figure “\$3.50”; to strike the figure “\$2.00” appearing in subsection (2), and insert the figure “\$5.00”; and to strike the figure “.50” appearing in subsection (6), and insert the figure “\$2.00”.

**Sec. 12.** G.S. 20-94 is amended to strike the words and figure “one-half of one percent (1/2 of 1%)” appearing in lines 7 and 8 and insert the words and figure “one percent (1%)”.

**Sec. 13.** G.S. 28A-21-2(a) is amended to insert the following two sentences between the first and second sentences of that subsection:

“If the total value of the decedent’s property subject to inheritance or estate tax, both real and personal, including the value of transfers over which the decedent retained any interest as described in G.S. 105-2(3), as well as the taxable value of any gifts made within three years prior to the date of death of the decedent, as also required by G.S. 105-2(3), is less than twenty thousand dollars (\$20,000) and all of the beneficiaries belong to the class (A) as defined in G.S. 105-4(a), then the personal representative or collector shall certify in the final account filed with the Clerk of Superior Court that no inheritance tax return was required to be filed with the Department of Revenue pursuant to G.S. 105-23. Such certification shall list the amount and value of all of the decedent’s property, and with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which he had retained any interest as described in G.S. 105-2(3), or any property transferred within three years prior to the date of the decedent’s death, and after being filed and accepted by the Clerk of Superior Court shall be prima facie evidence that such property is free of any State inheritance or State estate tax liability.”

**Sec. 14.** The third sentence of the first paragraph of G.S. 54-1(b)(which reads: “The corporation organized under the provisions of this Chapter shall be taxed as a business corporation organized under the provisions of Chapter 55.”) is repealed.

**Sec. 15.** Article 2A of Chapter 54 of the General Statutes is amended to add a new section to read as follows:

“§ 54-18.6. *Shares and deposits defined.*—Such shares as mentioned in Article 2 of this Chapter, and such deposits as mentioned in Article 2A of this Chapter, shall be those funds, the custody of which is transferred to a savings and loan association in this State by its shareholders or depositors, which are



withdrawable upon the demand of the owner of such shares or deposits, subject only to the agreed upon notice of intention to withdraw.”

**Sec. 16.** G.S. 105-2(9) is rewritten to read as follows:

“(9) Whenever any person or corporation comes into possession or enjoyment of any real or personal property, including bonds of the United States and bonds of a state or subdivision or agency thereof, at or after the death of an individual and by reason of said individual’s having entered into a contract or other arrangement with the United States, a state or any person or corporation to pay, transfer or deliver said real or personal property, including bonds of the United States and bonds of a state, to the person or corporation receiving the same, whether said person or corporation is named in the contract or other arrangement or not: Provided, that no tax shall be due or collected on that portion of the real or personal property received under the conditions outlined herein which the person or corporation receiving the same purchased or otherwise acquired by funds or property of the person or corporation receiving the same, or had acquired by a completed *inter vivos* gift.

Nothing in subdivision (9) shall apply to the proceeds of life insurance policies.”

**Sec. 17.** G.S. 105-3(4) is rewritten to read as follows:

“(4) The proceeds of all life insurance policies payable to beneficiaries named in subdivisions (1), (2) and (3) of this section. And also proceeds of all policies of insurance and the proceeds of all adjusted service certificates that have been or may be paid by the United States government, or that have been or may be paid on account of policies required to be carried by the United States government or any agency thereof, to the estate, beneficiary, or beneficiaries of any person who has served in the armed forces of the United States or in the merchant marine during the First or Second World War or any subsequent military engagement; and proceeds, not exceeding the sum of twenty thousand dollars (\$20,000), of all policies of insurance paid to the estate, beneficiary or beneficiaries of any person whose death was caused by enemy action during the Second World War or any subsequent military engagement; and proceeds, not exceeding the sum of twenty thousand dollars (\$20,000), of all policies of insurance paid to the estate, beneficiary or beneficiaries of any person whose death was caused by enemy action during the Second World War or any subsequent military engagement involving the United States. This provision will be operative only when satisfactory proof that the death was caused by enemy action is filed by the executor, administrator, or beneficiary with the Secretary of Revenue.”

**Sec. 18.** The first sentence of G.S. 105-3(5) is rewritten to read as follows:

“(5) The value of an annuity or other payment (other than a lump sum distribution described in Section 402(e)(4) of the United States Internal Revenue Code, determined without regard to the next to the last sentence of Section 402(e)(4)(A) of such Code) receivable by any beneficiary (other than the executor) under (a) an employees’ trust (or under a contract or insurance policy purchased by an employees’ trust) forming part of a pension, stock bonus, or profit-sharing plan, which at the time of the decedent’s separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of Section 401(a) of the United States Internal Revenue Code; or (b) a retirement annuity contract purchased by an employer (and not by an employees’ trust) pursuant to a plan, which at the time

of decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of Section 403(a) or 403(b) of such Code."

**Sec. 19.** G.S. 105-3(7) is rewritten to read as follows:

"(7) The total value of proceeds of an annuity or other payment receivable by any beneficiary (other than the executor) under a military family protection, or survivor benefit, plan, or other comparable plan, pursuant to Chapter 73 of Title 10 of the United States Code."

**Sec. 20.** G.S. 105-4(a) is amended on line 11 by striking the words "above exemption".

**Sec. 21.** G.S. 105-4(b) is rewritten to read as follows:

"(b)(1) The surviving spouse of a decedent shall be allowed a credit of three thousand one hundred fifty dollars (\$3,150) against the taxes imposed under this Article. Notwithstanding any other provisions of this Article, the credit allowed by this subdivision shall not exceed the amount of the tax imposed by this Article.

(2) If there is no surviving spouse or to the extent that a surviving spouse has not used all of the credit allowed under subdivision (1) of this subsection, the remainder of the credit shall be allowed on a pro rata basis according to tax liability to each child under 18 years of age and each child 18 years of age or older, who is mentally incapacitated, or by reason of physical disability is unable to support himself, is unmarried and residing with the decedent in his home at the time of the decedent's death, or who is then institutionalized on account of such mental incapacity or physical disability. Notwithstanding any other provisions of this Article, the credit allowed by this subdivision shall not exceed the amount of the tax imposed by this Article.

(3) To the extent that minor children and physically and mentally disabled children have not used all of the credit allowed under subdivision (2) of this subsection, the remainder of the credit shall be allowed on a pro rata basis according to tax liability to each of the other Class A beneficiaries, except lineal ancestors of the decedent. Notwithstanding any other provisions of this Article, the credit allowed by this subdivision shall not exceed the amount of the tax imposed by this Article."

**Sec. 22.** G.S. 105-14 is rewritten to read as follows:

"§ 105-14. *Recurring taxes.*—(a) Where property transferred has been taxed under the provisions of this Article, each transferee (regardless of class) receiving such property on account of any other transfer by reason of a death occurring within five years of the date of death of the former decedent, shall be allowed a tax credit based on the amount of tax paid on the prior transfer of said property as hereinafter provided. The tax credit allowed shall be a proportion of the tax paid on the prior transfer and shall be computed as follows:

(1) If the said death occurs within one year of the former decedent's death, then a tax credit equal to one hundred percent (100%) of the amount of tax paid on the prior transfer shall be allowed.

(2) If the said death occurs within two years of the former decedent's death, then a tax credit equal to eighty percent (80%) of the amount of tax paid on the prior transfer shall be allowed.

- (3) If the said death occurs within three years of the former decedent's death, then a tax credit equal to sixty percent (60%) of the amount of tax paid on the prior transfer shall be allowed.
- (4) If the said death occurs within four years of the former decedent's death, then a tax credit equal to forty percent (40%) of the amount of tax paid on the prior transfer shall be allowed.
- (5) If the said death occurs within five years of the former decedent's death, then a tax credit equal to twenty percent (20%) of the amount of tax paid on the prior transfer shall be allowed.
- (6) No tax credit shall be allowed if said death occurs after five years have elapsed from the time of the former decedent's death.

(b) The tax paid on the property in G.S. 105-14(a) shall be a fraction of the total tax paid on the prior transfer on account of all property received by the prior transferee. The numerator of this fraction shall be the former taxable value of the property being presently transferred. The denominator of this fraction shall be the former total taxable value of all the property received by the prior transferee on the prior transfer.

(c) For the purposes of this section, the personal representative shall conclusively presume that the property involved in the prior transfer or its equivalent value is a part of the present decedent's estate. The personal representative shall identify the property or its equivalent value and its taxable value in the prior transfer in a manner prescribed by the Secretary of Revenue."

**Sec. 23.** The second sentence of G.S. 105-22 which begins with the word "The" and ends with the word "decedent" is rewritten to read as follows:

"The clerk shall make no report of a death where (1) the estate of a decedent is less than twenty thousand dollars (\$20,000) in gross value, including the value of transfers over which the decedent retained any interest as described in G.S. 105-2(3), as well as the value of any gifts made within three years prior to the date of death of the decedent, as also required by G.S. 105-2(3), and (2) all the beneficiaries belong to the class (A) as defined in G.S. 105-4(a)."

**Sec. 24.** G.S. 105-23 is amended to:

(a) delete all of the seventh sentence thereof, beginning with the word "Every" and ending with the word "decedent" and substitute therefor the following:

"Every executor or administrator may make a tentative settlement of the inheritance tax with the Secretary of Revenue, based on the inventory supported by oath or affirmation provided in this section."; and

(b) add at the end of said section a new paragraph to read as follows:

"Notwithstanding any other provision of this section, no executor, administrator or other personal representative shall be required to file a return hereunder when (1) an estate shall have a gross value of less than twenty thousand dollars (\$20,000), including any property transferred by the decedent over which he had retained any interest as described in G.S. 105-2(3), as well as any property transferred within three years prior to the date of the decedent's death, and (2) all of the beneficiaries belong to the class (A) as defined in G.S. 105-4(a)."

**Sec. 25.** The table of rates contained in G.S. 105-37(a) is rewritten to read as follows:

<u>"Population of Cities or Towns</u>	<u>Seating Capacity up to 600 Seats</u>	<u>Seating Capacity of 600 to 1200 Seats</u>	<u>Seating Capacity over 1200 Seats</u>
Less than 1,500	\$ 62.50	\$ 75.00	\$ 100.00
1,500 and less than 3,000	100.00	125.00	150.00
3,000 and less than 5,000	125.00	150.00	200.00
5,000 and less than 10,000	175.00	200.00	300.00
10,000 and less than 15,000	200.00	300.00	400.00
15,000 and less than 25,000	250.00	400.00	500.00
25,000 and less than 40,000	300.00	500.00	750.00
40,000 or over	350.00	700.00	1,200.00".

**Sec. 26.** Subsections (b) and (c) of G.S. 105-37 are repealed. Sec. 27. Subsection (f) of G.S. 105-37 is amended by rewriting the last sentence of that subsection to read as follows:

"On a business described in subsections (d) or (e) of this section, cities and towns may levy a license tax not in excess of one half of the tax authorized by the schedule set forth in this subsection."

**Sec. 28.** G.S. 105-113.83(2) is rewritten to read as follows:

"(2) For an 'off-premises' license, twenty dollars (\$20.00)."

**Sec. 29.** G.S. 105-113.84 is rewritten to read as follows:

"§ 105-113.84. *Annual retail malt beverage State license.*—Every person who intends to engage in the business of retail sales of malt beverages shall also apply for and procure an annual State license from the Secretary of Revenue. Twenty dollars (\$20.00) shall be charged for the license for each location at which such business shall be engaged in."

**Sec. 30.** G.S. 105-113.86 is amended to:

(a) rewrite the first paragraph of subsection (o) to read as follows:

"In addition to the license taxes herein levied, a tax is levied upon the sale of unfortified wine at the rate of twenty-one cents (21¢) per liter. Provided, however, that the tax upon the sale of unfortified wine manufactured in North Carolina and composed principally of fruits or berries grown in North Carolina shall be taxed at the rate of one and one-fourth cents (1 1/4¢) per liter."

(b) replace the words "one-half" in line 3 of subsection (p) with "sixty-two percent (62%)".

(c) add between the words "thereof" and "shall" in line 4 of subsection (p) the following:

"and from the taxes collected annually under G.S. 105-113.95 an amount equivalent to twenty-two percent (22%) thereof".

**Sec. 31.** G.S. 105-113.95 is rewritten to read as follows:

"§ 105-113.95. *Tax on fortified wines.*—In addition to all other taxes levied in this Article, there is levied a tax upon the sale of fortified wines of twenty-four cents (24¢) per liter. Provided, however, that the tax upon the sale of fortified wine manufactured in North Carolina and composed principally of fruits or



berries grown in North Carolina shall be taxed at the rate of one and one-fourth cents (1 1/4¢) per liter.”

**Sec. 32.** G.S. 105-130.5 is amended to add a new subdivision at the end of subsection (b) to read as follows:

“(11) Reasonable expenses, in excess of deductions allowed for federal income tax purposes, paid for reforestation and cultivation of commercially grown trees; provided, that this deduction shall be allowed only to those corporations in which the real owners of all the shares of such corporation are natural persons actively engaged in the commercial growing of trees, or the spouse, siblings, or parents of such persons. Provided further, that in no case shall a corporation be allowed a deduction for the same reforestation or cultivation expenditure more than once.”

**Sec. 33.** G.S. 105-130.7 is amended:

(a) to renumber present subsections (4), (5) and (6) to be subsections (5), (6) and (7) respectively;

(b) to add a new subsection (4), immediately following subsection (3), to read as follows:

“(4) Dividends received on shares of capital stock owned in a stock-owned savings and loan association taxed under Article 8D of this Chapter shall be deductible.”;

(c) to substitute the number (4) for the number (3) in line 1 of renumbered subsection (5) (formerly subsection (4));

(d) to substitute the number (4) for the number (3) in line 13 of renumbered subsection (6) (formerly subsection (5)); and

(e) to substitute the number (4) for the number (3) in line 3 of renumbered subsection (7) (formerly subsection (6)).

**Sec. 34.** Division I of Article 4, Chapter 105 of the General Statutes, is amended to add a new section, G.S. 105-130.25, to read as follows:

“§ 105-130.25. *Credit against corporate income tax for construction of cogenerating power plants.*—Any corporation, except a public utility as defined in G.S. 62-3(23), which constructs a cogenerating power plant in North Carolina shall be allowed a tax credit against the tax imposed by this division equal to ten percent (10%) of the costs required to purchase and install the electrical or mechanical power generation equipment of that plant; provided, that in order to secure the credit allowed by this section, the taxpayer must own or control such power plant at the time of construction, and payment in part or in whole for such construction and equipment must be made by the taxpayer during the tax year for which the credit is claimed; and the amount of credit allowed for any one income year shall be limited to ten percent (10%) of such costs paid during the year, and the credit allowed by this section shall 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 for payments of tax made by or on behalf of the taxpayer. For purposes of this section, a cogenerating power plant is a power plant which sequentially produces electrical or mechanical power and useful thermal energy from the same primary energy source. The tax credit provided for in this section is not allowed to a corporation which constructs a cogenerating power plant whose combustion

equipment uses residual oil, middle distillate oil, gasoline, natural gas or liquid propane gas (LPG) as a primary fuel.”

**Sec. 35.** Division I of Article 4, Chapter 105 of the General Statutes, is amended to add a new section, G.S. 105-130.26, to read as follows:

“§ 105-130.26. *Credit against corporate income tax for conversion of industrial boiler to wood fuel.*—Any corporation which modifies or replaces an oil or gas-fired boiler or kiln used in the manufacturing process of a manufacturing business located in this State with one which is capable of burning wood shall be allowed as a credit against the tax imposed by this division, an amount equal to fifteen percent (15%) of the installation and equipment cost of such conversion; provided, that in order to secure the credit allowed by this section, the taxpayer must own or control the business in which such boiler or kiln is used at time of such conversion and payment in part or in whole for such installation and equipment must be made by the taxpayer during the tax year for which the credit is claimed; and the amount of credit allowed for any one income year shall be limited to fifteen percent (15%) of such costs paid during the year; and the credit allowed by this section shall 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 for payments of tax made by or on behalf of the taxpayer.”

**Sec. 36.** The third sentence of G.S. 105-135(8) is rewritten to read as follows:

“A ‘closely related dependent’ for purposes of this subdivision shall be an individual for whom exemption is allowable under G.S. 105-149(a)(5)a.”

**Sec. 37.** G.S. 105-141(b) is amended to add at the end a new subdivision, to be numbered (21) and to read as follows:

“(21) Any amount, not exceeding one thousand five hundred dollars (\$1,500), paid to an individual as compensation for the performance of duties as a member of the North Carolina organized militia, the National Guard as defined in G.S. 127A-3.”

**Sec. 38.** G.S. 105-141(b) is amended to add the following new subdivision:

“(22) a. General rule. At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if with respect to a sale or exchange of a residence on or after January 1, 1979,

1. the taxpayer has attained the age of 55 before the date of such sale or exchange, and
2. during the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more.

b. Limitation.

1. The amount of the gain excluded from gross income under subdivision a. shall not exceed one hundred thousand dollars (\$100,000) (not to exceed fifty thousand dollars (\$50,000) to each spouse with respect to property held by a husband and wife as tenants by the entirety or held as joint tenants with right of survivorship).
2. Sub-subdivision a. shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subdivision a. with respect to any other sale or exchange is in effect.

c. Election. An election under sub-subdivision a. may be made or revoked at any time before the expiration of the period for making a claim for credit or

refund of the tax imposed by this Article for the taxable year in which the sale or exchange occurred, and shall be made or revoked in such manner as the Secretary of Revenue shall prescribe. In the case of a taxpayer who is married, an election under sub-subdivision a. or a revocation thereof may be made only if his spouse joins in such election or revocation.

d. Special rules.

1. For purposes of this subdivision, if
  - I. property is held by a husband and wife as tenants by the entirety or held as joint tenants with right of survivorship,
  - II. such husband and wife make a joint return under Section 6013 of the Internal Revenue Code for the taxable year of the sale or exchange, and
  - III. one spouse satisfies the age, holding, and use requirements of sub-subdivision a. with respect to such property, then both husband and wife shall be treated as satisfying the age, holding, and use requirements of sub-subdivision a. with respect to such property.
2. For purposes of this subdivision, if property is held by a husband and wife as tenants by the entirety or held as joint tenants with right of survivorship, they shall be treated as one person for purpose of determining a gain under this subdivision. After such gain has been determined, one half the gain shall be attributed as income to each spouse. In order to enjoy the benefits of the election with respect to entirety property or property held as joint tenants with right of survivorship, the husband and wife shall file a combined return.
3. For purposes of this subdivision, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if
  - I. the deceased spouse (during the five-year period ending on the date of the sale or exchange) satisfied the holding and use requirements of sub-subdivision a. 2. with respect to the property, and
  - II. no election by the deceased spouse under sub-subdivision a. is in effect with respect to a prior sale or exchange, then such individual shall be treated as satisfying the holding and use requirements of sub-subdivision a. with respect to the property.
4. For purposes of this subdivision, if the taxpayer holds stock as a tenant-stockholder (as defined in Section 216 of the Internal Revenue Code) in a cooperative corporation (as defined in that section), then
  - I. the holding requirements of sub-subdivision a. shall be applied to the holding of the stock, and
  - II. the use requirements of sub-subdivision a. shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.
5. For purposes of this subdivision, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of the property.
6. In the case of property only a portion of which, during the five-year period ending on the date of the sale or exchange, has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more, this subdivision shall apply with respect to so much of the gain from the sale or exchange of such property as is determined, under regulations prescribed by the Secretary of Revenue, to be

attributable to the portion of the property so owned and used by the taxpayer.

7. In the case of any sale or exchange, for purposes of this subdivision;
  - I. the determination of whether an individual is married shall be made as of the date of the sale or exchange, and
  - II. an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.
8. In applying G.S. 105-144.1 (relating to involuntary conversions) and G.S. 105-144.2 (relating to sale or exchange of residence), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this subdivision, reduced by the amount of gain not included in gross income pursuant to an election under this subdivision.
9. If the basis of property sold or exchanged is determined (in whole or in part) under subsection (b) of G.S. 105-144.1 (relating to the basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged."

**Sec. 39.** G.S. 105-141(b) is amended to add a new subdivision (23) to read as follows:

"(23) The portion of payments received from governmental programs listed under Section 126 of the Internal Revenue Code which are excludable from gross income for federal income tax purposes. No deduction or credit allowable under any other provision of this division shall be allowed for any expenditure made with the use of such payments or for any property acquired with such payments (to the extent that the basis is allocable to the use of such payments). No adjustment to basis shall be made for property acquired through the use of such payments, to the extent that such adjustment would reflect the amount of such payment."

**Sec. 40.** Division II of Article 4 of Chapter 105 of the General Statutes is amended to add a new section to read as follows:

"§ 105-144.5. *Special proration provision for sale of timber products.*—Any individual who meets the landowner qualification requirements for receiving forestry incentive payments under Section 4(c) of the Federal Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) may elect to report the gross income from the sale of timber products from his individually owned forestland as defined in G.S. 105-277.2(2) and (4), as follows: one-third of the gross income shall be reported in the year in which the income is realized and the remaining two-thirds of the gross income shall be reported in thirds in the two taxable years succeeding the year in which the income is realized. If a timely election is made to report a gain from the sale of timber products on the basis prescribed in this section, the election shall be binding on the taxpayer, and he may not after the date prescribed by law for filing his return change to another method of reporting the gain, and in like manner if a timely election is made to report the income on other than the basis prescribed in this section, the election shall likewise be binding on the taxpayer."



**Sec. 41.** G.S. 105-147 is amended to add a new subparagraph to subdivision (1) to read as follows:

“f. As to taxpayers engaged in the commercial growing of trees, reasonable expenses paid for reforestation and cultivation, including site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, and cultivation of established young growth of desirable trees. Such expenses may, at the taxpayer's option, be amortized based on a period of 60 months. No deduction shall be allowable under this subdivision for amounts deducted under other provisions of this Division. The deduction provided under this subdivision shall be reduced by amounts received for incentive payments excludable from income under this Division. No adjustment to the basis of property shall be made for expenses deducted under this subdivision. The election under this subdivision for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for the taxable year. The election shall be made in such manner as the Secretary of Revenue may prescribe, and such election may not be revoked.”

**Sec. 42.** G.S. 105-147(7) is amended to insert a new sentence immediately following the sixth sentence of said subsection to read as follows:

“Dividends received on shares of capital stock owned in a stock-owned savings and loan association taxed under Article 8D of this Chapter shall be deductible.”

**Sec. 43.** G.S. 105-147(11)b.2. is rewritten to read as follows:

“2. The term ‘qualifying spouse’ means a spouse who has not claimed a two thousand two hundred dollar (\$2,200) personal exemption.”

**Sec. 44.** The first paragraph of G.S. 105-147(22) is rewritten to read as follows:

“(22) Individual income taxpayers whose income is reportable to the State for income tax purposes, may, at their option, under such rules and regulations as the Secretary of Revenue may prescribe, elect to claim a standard deduction equal to ten percent (10%) of their adjusted gross income or five hundred fifty dollars (\$550.00) whichever is lesser, in lieu of all deductions other than those incurred in the deriving of the income and other than personal exemptions and dependency deductions provided that where both spouses have income taxable in this State and one spouse elects to take credit for the standard deduction provided herein, the other spouse must also take such standard deduction. For the purpose of this subdivision, the phrase ‘adjusted gross income’ shall mean adjusted gross income as defined in G.S. 105-141.3 of this division.”

**Sec. 45.** G.S. 105-147(26)a. is rewritten to read as follows:

“a. In the case of an individual who maintains a household which includes as a member one or more qualifying individuals, there shall be allowed as a miscellaneous deduction an amount for employment related expenses as defined in subdivision b2 not to 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 b1I below, the amount allowed 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.”

**Sec. 46.** G.S. 105-147(26)c. is repealed.

**Sec. 47.** G.S. 105-147 is amended to add a new subdivision (27) to read as follows:

“(27)(a) There shall be allowed as a deduction any political contribution or newsletter fund contribution, payment of which is made by a taxpayer within the taxable year.

(b) The deduction under subsection (a) above shall not exceed twenty-five dollars (\$25.00), and shall be allowed only if such contribution is verified in such manner as the secretary shall prescribe by administrative rule or regulation.

(c) Definitions. For the purposes of this subsection (27):

(1) The term ‘political contribution’ means any contribution or gift of money to

(A) an individual who is a candidate for nomination or election to any federal, State, or local elective public office in any primary, general, or special election, for use by that individual to further his candidacy for nomination or election to such office;

(B) any committee, association, or organization (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any federal, State, or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office;

(C) the national committee of a national political party;

(D) the State committee of a national political party as designated by the national committee of such party; or

(E) a local committee of a national political party as designated by the State committee of such party designated under subparagraph (D).

(2) The term ‘candidate’ means, with respect to any federal, State, or local elective public office, an individual who

(A) publicly announces before the close of the calendar year following the calendar year in which the contribution or gift is made that he is a candidate for nomination or election to such office; and

(B) meets the qualifications prescribed by law to hold such office.

(3) The term ‘national political party’ means

(A) in the case of contributions made during a taxable year of the taxpayer in which the electors of President and Vice-President are chosen, a political party presenting candidates or electors for such offices on the official election ballot of 10 or more states, or

(B) in the case of contributions made during any other taxable year of the taxpayer, a political party which met the qualifications described in subparagraph (A) in the last preceding election of a president and vice-president.

(4) The term ‘State’ means the State of North Carolina; and the term ‘local’ means one or more political subdivisions (or parts thereof) of the State.

(5) The term ‘newsletter fund contribution’ means a contribution or gift of money to a fund established and maintained by an individual who holds, has been elected to, or is a candidate for nomination or election

to, any federal, State, or local elective public office for use by such individual exclusively for the preparation and circulation of a newsletter.”

**Sec. 48.** G.S. 105-149(a)(1) is rewritten to read as follows: “(1) In the case of a single individual who is not a head of household as defined in G.S. 105-135(8), a personal exemption of one thousand one hundred dollars (\$1,100). In the case of a single individual who is a head of household, as defined in G.S. 105-135(8), a personal exemption of two thousand two hundred dollars (\$2,200).”

**Sec. 49.** G.S. 105-149(a)(2) is rewritten to read as follows:

“(2) In the case of a married couple living together, two thousand two hundred dollar (\$2,200) exemption to the spouse having the larger adjusted gross income and one thousand one hundred dollar (\$1,100) exemption to the other spouse; provided that the spouse having the larger income may by agreement with the other spouse allow that spouse to claim the two thousand two hundred dollar (\$2,200) exemption in which case the spouse having the larger adjusted gross income must file a return and claim only the one thousand one hundred dollar (\$1,100) exemption.”

**Sec. 50.** G.S. 105-149(a)(2a) is rewritten to read as follows: “(2a) In the case of an individual who qualifies as ‘head of household’ as defined in subdivision (8) of G.S. 105-135, two thousand two hundred dollars (\$2,200), but the ‘head of household’ exemption shall not be allowable to a married individual living with his or her spouse except as provided in subsection (c)(2) of this section. The ‘head of household’ exemption shall be in lieu of and not in addition to the exemptions established in subdivisions (1), (2), (4), (6) and (7) of subsection (a). Only one ‘head of household’ exemption shall be allowable with respect to any one household, as the term ‘household’ is defined in subdivision (8) of G.S. 105-135, and no individual shall be entitled to more than one ‘head of household’ exemption.”

**Sec. 51.** G.S. 105-149(a)(3) is rewritten to read as follows: “(3) In the case of a married couple living together, the spouse who does not claim the two thousand two hundred dollar (\$2,200) exemption as provided in (a)(2), one thousand one hundred dollars (\$1,100).”

**Sec. 52.** G.S. 105-149(a)(4) is rewritten to read as follows: “(4) In the case of a widow or widower having minor child or children, natural or adopted, two thousand two hundred dollars (\$2,200).”

**Sec. 53.** The first paragraph of G.S. 105-149(a)(5) is rewritten to read as follows:

“(5) For taxable years, beginning on or between January 1, 1980, and December 31, 1980, seven hundred dollars (\$700.00) for each dependent (as defined below) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars (\$1,000), or who is a child of the taxpayer either under 19 years of age or a student regularly enrolled for full-time study in a school, college, or other institution of learning. For taxable years beginning on and after January 1, 1981, eight hundred dollars (\$800.00) for each dependent (as defined below) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars (\$1,000), or who is a child of the taxpayer either under 19 years of age or a student regularly enrolled for full-time study in a school, college, or other institution of learning. For the purpose of the preceding

sentence, the term 'child' means an individual who is a son or daughter (natural or adopted), or a stepson or stepdaughter of the taxpayer."

**Sec. 54.** The second paragraph of G.S. 105-149(a)(5) is rewritten to read as follows:

"An additional exemption of six hundred sixty dollars (\$660.00) for a dependent (as defined in this subdivision) who is a full-time student at an accredited college or university or other institution of higher learning under such rules or regulations as may be prescribed by the Secretary of Revenue. For the purposes of this paragraph, the words 'full-time student' shall mean a dependent enrolled in full-time study on the last day of the income year or enrolled for full-time study for a period of at least five months (whether or not consecutive) during the income year."

**Sec. 55.** The second paragraph of G.S. 105-149(a)(5)c. is rewritten to read as follows:

"The exemption provided in this subdivision for children of taxpayers shall be allowed only to the person claiming the two thousand two hundred dollar (\$2,200) exemption provided in subdivision (2) of this subsection except, however, that where husband and wife are divorced and have children of their marriage for which they would otherwise be entitled to an exemption hereunder, the parent furnishing the chief support of his (or her) child during the income year shall be entitled to said exemption, irrespective of whether said parent has custody of said child or children or is head of the household during said year."

**Sec. 56.** The second paragraph of G.S. 105-149(a)(5)d. is rewritten to read as follows:

"Nothing in this subdivision shall be construed to allow one spouse to claim an exemption for the other spouse under this subdivision."

**Sec. 57.** G.S. 105-149(a)(7) is rewritten to read as follows: "(7) In the case of a divorced person having the sole custody of a minor child or children and receiving no alimony for the support of himself or herself, nor support for a child, or children, two thousand two hundred dollars (\$2,200)."

**Sec. 58.** G.S. 105-149(a)(8) is rewritten to read as follows: "(8) In the case of any person who is blind, such person shall be entitled to an additional exemption of one thousand one hundred dollars (\$1,100) in addition to all other exemptions allowed by law. Provided, such person shall submit to the Department of Revenue a certificate from a physician, an optometrist or from the Department of Human Resources certifying that such condition exists."

**Sec. 59.** The first sentence of G.S. 105-149(a)(8a) is rewritten to read as follows:

"In the case of hemophiliacs meeting the criteria herein contained, such persons shall be entitled to an additional exemption of one thousand one hundred dollars (\$1,100) in addition to all other exemptions provided by law."

**Sec. 60.** The second paragraph of G.S. 105-149(a)(8a) is rewritten to read as follows:

"An additional exemption of one thousand one hundred dollars (\$1,100) is allowed in addition to all other exemptions provided by law, for each dependent (as defined in subdivision (a)(5) above), who is a hemophiliac meeting the criteria set out in the above paragraph. The Division of Health Services of the



Department of Human Resources is directed to develop said certificate and inform physicians and county health departments of its availability.”

**Sec. 61.** The first sentence of G.S. 105-149(a)(8b) is rewritten to read as follows:

“(8b) In the case of any person who is deaf, such person shall be entitled to an additional exemption of one thousand one hundred dollars (\$1,100) in addition to all other exemptions provided by law.”

**Sec. 62.** The first sentence of G.S. 105-149(a)(8c) is rewritten to read as follows:

“(8c) In the case of persons suffering from chronic irreversible renal disease, whose condition requires that they utilize dialysis in connection with the amelioration of that condition, such persons shall be entitled to an additional exemption of one thousand one hundred dollars (\$1,100) in addition to all other exemptions provided by law.”

**Sec. 63.** The second paragraph of G.S. 105-149(a)(8c) is rewritten to read as follows:

“An additional exemption of one thousand one hundred dollars (\$1,100) is allowed in addition to all other exemptions provided by law, for each dependent (as defined in subdivision (a) above) who suffers from chronic irreversible renal disease and who meets the criteria set out in the above paragraph. The Division of Health Services of the Department of Human Resources is directed to develop said certificate and inform physicians and county health departments of its availability.”

**Sec. 64.** G.S. 105-149(a) is amended to add immediately following subdivision (8c) a new subdivision to read as follows:

“(8d) For taxable years, beginning on or between January 1, 1979, and December 31, 1979, in the case of an individual who is paraplegic or who is disabled to the point that he must use a wheelchair to move about and to function effectively or who is a double-leg amputee above the knee, such individual shall be entitled to an exemption of one thousand dollars (\$1,000) in addition to all other exemptions allowed by this section. For taxable years, beginning on and after January 1, 1980, that same individual shall be entitled to an exemption of one thousand one hundred dollars (\$1,100) in addition to all other exemptions allowed by this section. Such individual shall submit to the Department of Revenue a certificate from a physician certifying that such condition exists.”

**Sec. 65.** G.S. 105-149(a)(9) is rewritten to read as follows:

“(9) In the case of an individual who has reached the age of 65 years on or before the last day of the taxable year, an exemption of one thousand one hundred dollars (\$1,100) in addition to all other exemptions allowed by this section.”

**Sec. 66.** The first paragraph of G.S. 105-149(a)(10) is rewritten to read as follows:

“(10) In the case of each severely retarded person over half of whose support for the taxable year has been provided by a parent or guardian, there shall be allowed an exemption of two thousand two hundred dollars (\$2,200) in addition to all other exemptions allowed by this subsection. For the purposes of this subdivision, ‘severely retarded’ shall mean a person whose intelligence quotient falls below 40.”

**Sec. 67.** Division II of Article 4, Chapter 105 of the General Statutes, is amended to add a new section, G.S. 105-151.4, to read as follows:

“§ 105-151.4. *Credit against personal income tax for construction of cogenerating power plants.*—Any person, except a public utility as defined in G.S. 62-3(23), who constructs a cogenerating power plant in North Carolina shall be allowed a tax credit against the tax imposed by this division equal to ten percent (10%) of the costs required to purchase and install the electrical or mechanical power generation equipment of that plant; provided, that in order to secure the credit allowed by this section, the taxpayer must own or control such power plant at the time of construction, and payment in part or in whole for such construction and equipment must be made by the taxpayer during the tax year for which the credit is claimed; and the amount of credit allowed for any one income year shall be limited to ten percent (10%) of such costs paid during the year, and the credit allowed by this section shall 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 for payments of tax made by or on behalf of the taxpayer. For purposes of this section, a cogenerating power plant is a power plant which sequentially produces electrical or mechanical power and useful thermal energy from the same primary energy source. The tax credit provided for in this section is not allowed to a person who constructs a cogenerating power plant whose combustion equipment uses residual oil, middle distillate oil, gasoline, natural gas or liquid propane gas (LPG) as a primary fuel.”

**Sec. 68.** Division II of Article 4, Chapter 105 of the General Statutes, is amended to add a new section, G.S. 105-151.5, to read as follows:

“§ 105-151.5. *Credit against personal income tax for conversion of industrial boiler to wood fuel.*—Any person who modifies or replaces an oil or gas-fired boiler or kiln used in the manufacturing process of a manufacturing business located in this State with one which is capable of burning wood shall be allowed as a credit against the tax imposed by this division, an amount equal to fifteen percent (15%) of the installation and equipment cost of such conversion; provided, that in order to secure the credit allowed by this section, the taxpayer must own or control the business in which such boiler or kiln is used at time of such conversion and payment in part or in whole for such installation and equipment must be made by the taxpayer during the tax year for which the credit is claimed; and the amount of credit allowed for any one income year shall be limited to fifteen percent (15%) of such costs paid during the year; and the credit allowed by this section shall 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 for payments of tax made by or on behalf of the taxpayer.”

**Sec. 69.** G.S. 105-159.1(c) is amended to delete the phrase, “three hundred thousand dollars (\$300,000)”, and insert in lieu thereof the phrase, “four hundred thousand dollars (\$400,000)”.

**Sec. 70.** G.S. 105-163.1(3) is rewritten to read as follows:

“‘Dependent’ means a dependent with respect to whom an income tax exemption is allowed under the provisions of G.S. 105-149(a)(5).”

**Sec. 71.** G.S. 105-163.16(c) is amended to delete the period in line 6 and add the following:

“and except that there shall be no refund to the taxpayer of any sum set-off under the provisions of Chapter 105A, the Set-off Debt Collection Act.”

**Sec. 72.** G.S. 105-164.3(16) is amended to add a new subsection e. to read as follows:

“e. ‘Sales price’ shall not include amounts charged as deposits on automotive, industrial, marine and farm replacement parts which are returnable to vendors for rebuilding or remanufacturing and which amounts are refundable or creditable to vendees, whether or not such deposits are separately charged. This subsection shall not be construed to include tires and batteries.”

**Sec. 73.** G.S. 105-164.4(1) is amended to add three new subdivisions to read as follows:

“n. Sales to farmers of commercially manufactured portable swine equipment or facilities and accessories thereto.

o. Sales to farmers of grain or soybean storage facilities and accessories thereto, whether or not dryers are attached, and all similar apparatus and accessories thereto for the storage of grain or soybeans.

p. Sales to farmers for installing on the farm of: all bulk feed handling equipment which has been designed and constructed, to be used for raising, feeding and the production of swine and poultry products; and further including all cages used in the production of swine and poultry products.”

**Sec. 74.** G.S. 105-164.13 is amended to add a new subdivision (32a) to read as follows:

“(32a) Sales of items by a nonprofit civic, charitable, educational, scientific or literary organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities.”

**Sec. 75.** G.S. 105-164.13 is amended to add a new subdivision (32b) to read as follows:

“(32b) Sales by a nonprofit civic, charitable, educational, scientific or literary organization continuously chartered or incorporated within North Carolina for at least five 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 exempted if not actually consummated within 60 days of the first solicitation of any sale made during said organization’s annual sales period.”

**Sec. 76.** Division III of Article 5 of Chapter 105 is amended to add a new section to read as follows:

“§ 105-164.13A. *Service charge on prearranged group meals at approved facilities.*—(a) The service charge imposed on prearranged group meals at approved facilities shall be specifically exempted from the tax imposed by this Article.

(b) A ‘service charge’ is a prearranged charge, not to exceed fifteen percent (15%), agreed to by the contracting parties, which represents labor charges for serving meals to be provided.

(c) ‘Prearranged group meals’ are meals for four or more people, for which the price has been agreed upon in advance.

(d) 'Approved facilities' are restaurants, hotels, motels, cafeterias, and civic centers."

**Sec. 76.1.** Chapter 47 of the 1979 Session Laws of the General Assembly is repealed.

**Sec. 77.** G.S. 105-164.14(c) is rewritten to read as follows:

"(c) Upon receipt of timely applications for refund, the Secretary of Revenue shall make refunds annually to all governmental entities, as hereinafter defined, of sales and use tax paid under this Article by said governmental entities on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by such governmental entities on building materials, supplies, fixtures and equipment which shall become a part of or annexed to any building or structure being erected, altered or repaired which is owned or leased by such governmental entities shall be construed as sales or use tax liability incurred on direct purchases by such governmental entities, and such entities may obtain refunds of such taxes indirectly paid. The refund provisions contained in this subsection shall not apply to any governmental entities not specifically named herein. In order to receive the refund herein provided for, governmental entities shall file a written request for said refund within six months of the close of the fiscal year of the governmental entities seeking said refund, and such request for refund shall be substantiated by such records, receipts and information as the Secretary may require. No refunds shall be made on applications not filed within the time allowed by this section and in such manner as the Secretary may otherwise require. The term 'governmental entities', for the purposes of this subsection, shall mean all counties, incorporated cities and towns, sanitary districts, metropolitan sewerage districts and metropolitan water districts in this State."

**Sec. 78.** Notwithstanding any provision of law to the contrary, any metropolitan water district may, within six months after the effective date of this section, make timely application for refund of sales and use taxes paid under this Article within a period of three years next preceding the effective date of this section. Such taxes shall be only those which are refundable under the provisions of G.S. 105-164.14(c) and refunds made pursuant to applications filed after the time herein specified shall be subject to the penalties provided for in G.S. 105-164.14(d).

**Sec. 79.** G.S. 105-164.14(c) is amended to insert the phrase:

"water and sewer authorities created and existing under the provisions of Chapter 162A of the General Statutes," immediately after the phrase "incorporated cities and towns," and immediately before the phrase "sanitary districts" in each place at which those words occur in said section.

**Sec. 80.** G.S. 105-164.14(c) is amended to insert after the phrase "sanitary districts", each time it appears in that subsection, the following:

“, regional councils of governments created pursuant to G.S. 160A-470”.

**Sec. 81.** G.S. 105-164.14(c) is amended to insert after the phrase "sanitary districts", each time it appears in that subsection, the following:

“, area mental health boards (other than single-county boards) established pursuant to Article 2F of Chapter 122 of the General Statutes”.



**Sec. 82.** G.S. 105-164.14(c) is amended to insert after the phrase "sanitary districts", each time it appears in that subsection, the following:

" , regional planning and economic development commissions created pursuant to G.S. 158-14, regional economic development commissions created pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S. 153A-391".

**Sec. 83.** G.S. 105-164.16 is amended to delete "five dollars (\$5.00)" and substitute in lieu thereof "twenty-five dollars (\$25.00)".

**Sec. 84.** G.S. 105-199, as the same appears in Chapter 1220 of the 1977 Session Laws of the General Assembly is amended as follows:

(a) In the first sentence of the first paragraph, to delete the following: "and stock-owned savings and loan association in this State,".

(b) In the first sentence of the second paragraph, to delete the following: "and every stock-owned savings and loan association".

(c) In the first sentence of the third paragraph, to delete the following: "and of every such stock-owned savings and loan association in this State".

(d) Also, in the first sentence of the third paragraph, to delete the following: "and by the stock-owned savings and loan association in this State".

(e) In the second sentence of the third paragraph, to delete in both places in the sentence, the following: "or stock-owned savings and loan association".

(f) In the third sentence of the third paragraph, to delete the following: "or stock-owned savings and loan association".

(g) In the fourth sentence of the third paragraph, to delete the following: "and the stock-owned savings and loan association".

(h) In the first sentence of the fourth paragraph, to delete in both places in the sentence, the following: "or stock-owned savings and loan association".

(i) In the third sentence of the fourth paragraph, to delete the following: "and North Carolina stock-owned savings and loan associations".

**Sec. 85.** The last line of the second paragraph of G.S. 105-199 is amended to delete the phrase "three hundred dollars (\$300.00)" and substitute the phrase "one thousand dollars (\$1,000)".

**Sec. 86.** G.S. 105-212 is amended to insert the following new paragraph at the end of the first paragraph:

"Funds on deposit in savings and loan associations in this State, which associations pay taxes under Article 8D of this Chapter, shall not be subject to taxation under this Article."

**Sec. 87.** Subsection (d) of Section 4 of Chapter 179 of the 1979 Session Laws of the North Carolina General Assembly is amended to delete the phrase "or stock-owned savings and loan association".

**Sec. 88.** G.S. 105-228.23 is rewritten to read as follows:

"§ 105-228.23. *Share and deposit tax.*—(a) There is imposed on every savings and loan association affected by this Article, as determined by G.S. 105-228.22, for the privilege of conducting business in this State, a tax of seven and one-half cents (\$.075) on each one hundred dollars (\$100.00) of the liability of a nondeposit mutual association on its shares, or of a deposit mutual association, other mutual association, or stock-owned association on its deposits. For the purposes of this Article, the liability mentioned in the immediately preceding sentence shall mean the dollar amount which an association is obligated to pay to the owners of shares or deposits held by the association.

(b) The amount of such tax shall be computed on the basis of shares or deposits in the association on December 31 of the preceding year.”

**Sec. 89.** G.S. 105-228.24 is rewritten to read as follows:

“§ 105-228.24. *Excise tax.*—In addition to the taxes levied under G.S. 105-228.23, every savings and loan association shall pay annually an excise tax in the amount of seven and one half percent (7.5%) of the net taxable income, as herein defined, of such corporation during the income year. For purposes of this Article, ‘net taxable income’ shall mean net income as the same is defined for purposes of the income tax levied against corporations as provided in Article 4 of Subchapter I of Chapter 105 of the General Statutes less all dividends or interest paid or accrued by an association during the income year on all of its shares or deposits. ‘Dividends or interest’ shall mean the amounts paid to, or credited to the accounts of those who hold shares or deposits in such association, if such amounts paid or credited are withdrawable upon demand subject only to the agreed upon notice of intention to withdraw. The words ‘income year’ shall mean the calendar year or fiscal year upon the basis of which the net taxable income is computed under this Article.”

**Sec. 90.** G.S. 105-266 is amended to delete the period in line 8, substitute a semicolon therefor, and thereafter add the following:

“except that there shall be no refund to the taxpayer of any sum set-off under the provisions of Chapter 105A, the Set-off Debt Collection Act.”

**Sec. 91.** G.S. 105-266.1(a) is amended to delete the period in line 11, substitute a colon therefor, and thereafter add the following:

“except that there shall be no refund to the taxpayer of any sum set-off under the provisions of Chapter 105A, the Set-off Debt Collection Act.”

**Sec. 92.** Article 36 of Subchapter V, Chapter 105 of the General Statutes entitled “Gasoline Tax”, is amended to add a new section, G.S. 105-446.5, to read as follows:

“§ 105-446.5. *Refund of taxes paid on motor fuels used by concrete mixing vehicles.*—(a) Any person, association, firm, or corporation, who shall purchase motor fuels, as defined in this Article, for the purpose of use, and the same is actually used to load a concrete mixing vehicle, to maintain and transport the concrete mixture until ready for unloading, and to complete the unloading process as distinguished from propelling such vehicle, shall be 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:

- (1) On or before April 15, 1981, and on or before April 15 of succeeding years, application for reimbursement for each immediately preceding calendar year shall be filed with the Secretary of Revenue. Such application shall be made upon such forms as the Secretary of Revenue shall prescribe. In all applications for reimbursement, the applicant shall be required to state whether or not such applicant has filed a North Carolina income tax return with the Secretary of Revenue, and all such applications shall be sworn before an officer authorized to administer oaths; provided, however, that said application shall show on its face that the purchase price of the motor fuel therein referred to has been paid by the applicant or that the payment of such purchase price has been secured to the seller's satisfaction. Refunds made

pursuant to applications filed after April 15 of the year following the year in which the tax was paid shall be subject to the following late filing penalties: applications filed within 30 days after such date, twenty-five percent (25%); applications filed after 30 days but within six months, fifty percent (50%); but refunds applied for after six months following such date shall be barred.

- (2) The Secretary of Revenue shall have authority to issue rules and regulations as to how claims shall be filed and the information that shall be submitted with said claims and the records required to support said claims.
  - (3) If, upon the filing of such application, the Secretary of Revenue shall be satisfied that the same is made in good faith and the motor fuels upon which such tax refund is requested have been or are to be used exclusively for purposes set forth in the application and for purposes other than the propulsion of a motor vehicle upon the public highways, he shall issue to such applicant a warrant upon the State Treasurer for the tax refund.
  - (4) If the Secretary of Revenue shall be satisfied that the applicant for any refund authorized by this section has collected or sought to collect any refund of tax or taxes on fuels used for the purpose of propelling a concrete mixer on the highways as distinguished from mixing concrete, he shall issue to such applicant notice to show cause why such application should not be disallowed, which notice shall state a time and place of hearing upon said notice. If, upon such hearing, the secretary shall find as a fact that such applicant has collected or sought to collect any refund on fuels which have been used to propel a vehicle on the highways, he shall disallow the application in its entirety and the applicant shall be required to pay all tax or taxes which have been refunded to him on said application.
  - (5) Any applicant for a refund may seek administrative review or appeal from the decision of the Secretary of Revenue under the provisions of G.S. 105-241.2, G.S. 105-241.3, and G.S. 105-241.4.
  - (6) The Secretary of Revenue shall authorize and direct, if at any time in his opinion there is reason to doubt the accuracy of the facts set forth in any application for tax refund, refer the matter to any agent of the Department of Revenue, and such person so designated shall make a careful investigation of all the facts and circumstances relating to said application in the use of the motor fuels therein referred to, and shall have a right to have access to the books and records of any retailer or distributor of motor fuel products for the purpose of obtaining the necessary information concerning such matters, and shall make due report thereof to the Secretary of Revenue.
  - (7) If any court of last resort shall hold that the provisions for refund herein set out shall render the levying and collecting of the tax hereinbefore provided invalid, it is the intention of the General Assembly that such provisions for refund shall be annulled and the tax shall be levied without any provisions for such refund and that this Article shall be so construed.
- (b) Any person making a false application or affidavit for the purpose of securing a refund to which he is not entitled under the provisions of this section

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) or imprisoned not exceeding two years, in the discretion of the court.”

**Sec. 93.** G.S. 105-449.24 is rewritten to read as follows:

“§ 105-449.24. *Exemptions, rebates and refunds.*—The provisions of G.S. 105-439, G.S. 105-446.1, G.S. 105-446.3, G.S. 105-446.5 and G.S. 105-449 relating to exemption from, and rebates and refunds of tax levied on gasoline shall also apply to the taxes levied by this Article on special fuels.”

**Sec. 94.** The General Statutes are amended to insert therein immediately following Chapter 105 of the General Statutes a new Chapter 105A entitled “Set-Off Debt Collection Act” to read as follows:

“CHAPTER 105A.

“SET-OFF DEBT COLLECTION ACT.

“Article 1.

“§ 105A-1. *Purposes.*—The purpose of this Article is to establish as policy that all claimant agencies and the Department of Revenue shall cooperate in identifying debtors who owe money to the State through its various claimant agencies and who qualify for refunds from the Department of Revenue. It is also the intent of this Article that procedures be established for setting off against any such refund the sum of any debt owed to the State. Furthermore, it is the legislative intent that this Article be liberally construed so as to effectuate these purposes as far as legally and practically possible.

“§ 105A-2. *Definitions.*—As used in this Article:

(1) ‘Claimant agency’ means and includes:

- a. The State Education Assistance Authority as enabled by Article 23 of Chapter 116 of the General Statutes;
- b. The North Carolina Department of Human Resources when in the exercise of its authority to collect health profession student loans made pursuant to G.S. 131-121;
- c. The North Carolina Department of Human Resources when in the performance of its duties under the Medical Assistance Program enabled by Chapter 108, Article 2, Part 5, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Medical Assistance Program collection functions;
- d. The North Carolina Department of Human Resources when in the performance of its duties under the Child Support Enforcement Program (as enabled by Chapter 110, Article 9) to obtain indemnification for the State for past public assistance paid and any county operating the same Program at the local level, when and only to the extent such a county is engaged in the performance of those same program duties;
- e. The University of North Carolina, including its constituent institutions as specified by G.S. 116-2(4);
- f. The North Carolina Memorial Hospital in the conduct of its financial affairs and operations pursuant to G.S. 116-37;
- g. The Board of Governors of The University of North Carolina and the State Board of Education through the College Scholarship Loan Committee when in the performance of its duties of administering the



Scholarship Loan Fund for Prospective College Teachers enabled by Chapter 116, Article 5;

- h. The Office of the North Carolina Attorney General on behalf of any State agency when the claim has been reduced to a judgment;
- i. The State Board of Education through community colleges, technical institutes, and industrial education centers as enabled by Chapter 115D in the conduct of their financial affairs and operations;
- j. Broughton Hospital, Cherry Hospital, Dorothea Dix Hospital, John Umstead Hospital, Caswell School at Kinston, Murdoch School, O'Berry School, Western Carolina Center, Black Mountain Alcoholic Rehabilitation Center, Butner Alcoholic Rehabilitation Center, Walter B. Jones Alcoholic Rehabilitation Center, School for the Deaf at Morganton, North Carolina Sanatorium at McCain, Western Carolina Sanatorium at Black Mountain, Eastern North Carolina Sanatorium at Wilson, and Gravely Sanatorium at Chapel Hill under Chapter 143, Article 7; Governor Morehead School under Chapter 115, Article 40; Central North Carolina School for the Deaf under Chapter 115, Article 41; Wright School for Treatment and Education of Emotionally Disturbed Children under Chapter 122, Article 12A; the Lenox Baker Children's Hospital under Chapter 131, Article 14; and these same institutions by any other names by which they may be known in the future;
- k. The North Carolina Department of Revenue; and
- l. The Administrative Office of the Courts.

(2) 'Debtor' means any individual owing money to or having a delinquent account with any claimant agency which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.

(3) 'Debt' means any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum.

(4) 'Department' means the North Carolina Department of Revenue.

(5) 'Refund' means any individual's North Carolina income tax refund.

(6) 'Net proceeds collected' means gross proceeds collected through final set-off against a debtor's refund minus any collection assistance fee charged by the Department.

"§ 105A-3. *Remedy additional; mandatory usage; obtaining identifying information.*—(a) The collection remedy under this Article is in addition to and not in substitution for any other remedy available by law.

(b) All claimant agencies shall submit, for collection under the procedure established by this Article, all debts which they are owed, except in cases where said agencies are advised by the Attorney General not to submit a claim because the validity of the debt is legitimately in dispute, because an alternative means of collection is pending and believed to be adequate, or because such a collection attempt would result in a loss of federal funds.

(c) All claimant agencies shall whenever possible obtain the full name, social security number, address, and any other identifying information required by rules promulgated by the Department pursuant to the authority of G.S. 105A-16 from any person for whom the agencies provide any service or transact any

business and who the claimant agencies can foresee may become a debtor under the terms of this Article.

“§ 105A-4. *Minimum sum collectible.*—A claimant agency shall not be allowed to effect final set-off and collect debts through use of the remedy established under this Article unless both the debt and the refund, if any, are at least fifty dollars (\$50.00).

“§ 105A-5. *Collection of sums due claimant agencies through set-off.*—Subject to the limitations contained in this Article, the Department of Revenue shall upon request render assistance in the collection of any delinquent account or debt owing to any claimant agency. This assistance shall be provided by setting off any refunds due the debtor from the Department by the sum certified by claimant agency as due and owing.

“§ 105A-6. *Procedure for set-off.*—(a) A claimant agency seeking to attempt collection of a debt through set-off shall notify in writing the Department and supply information necessary to identify the debtor whose refund is sought to be set-off. Notification to the Department and the furnishing of identifying information must occur on or before a date specified by the Department in the year preceding the calendar year during which the refund would be paid. Additionally, subject to the notification deadline specified above, the notification shall be effective only to initiate set-off for claims against refunds that would be made in the calendar year subsequent to the year in which notification is made to the Department.

(b) The Department, upon receipt of notification, shall determine whether the debtor to the claimant agency is entitled to a refund of at least fifty dollars (\$50.00) from the Department. Upon determination by the Department that a debtor specified by a claimant agency qualifies for such a refund, the Department shall notify in writing the claimant agency that a refund is pending, specify its sum, and indicate the debtor's address as listed on the tax return.

(c) Unless stayed by court order, the Department shall, upon certification as hereinafter provided in this Article, set-off the certified debt against the refund to which the debtor would otherwise be entitled.

“§ 105A-7. *Notification of intention to set-off and right to hearing.*—(a) The claimant agency, upon receipt of notification from the Department that a debtor is entitled to a refund, shall within 10 days send a written notification to the debtor and a copy of same to the Department of its assertion of rights to the refund or any part thereof. Such notification shall inform the debtor of the claimant agency's intention to direct the Department to apply the refund or any portion thereof against the debt certified as due and owing. For the Department to be obligated to continue holding refunds until receipt of certification of the debt, if any, pursuant to G.S. 105A-10, the copy of the notification to the debtor by the claimant agency of its intention to set-off must be received by the Department within 15 days of the date of the Department's mailing to the respective claimant agency the notification of the debtor's entitlement to a refund.

(b) The contents of the written notification to the debtor (and the Department's copy) of the set-off claim shall clearly set forth the basis for the claim to the refund, the intention to apply the refund against the debt to the claimant agency, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the claimant agency within 30 days of

the date of the mailing of the notice, the mailing address to which the application for a hearing must be sent, and the fact that failure to apply for a hearing in writing within the 30-day period will be deemed a waiver of the opportunity to contest the claim causing final set-off by default.

(c) The written application by the debtor for a hearing shall be effective upon mailing the application postage pre-paid and properly addressed to the claimant agency.

“§ 105A-8. *Hearing procedure.*—(a) If a claimant agency receives written application of the debtor's intention to contest at hearing the claim upon which the intended set-off is based, it shall grant a hearing according to procedures established under Chapter 150A, the Administrative Procedure Act, to determine whether the claim is valid. Additionally, it shall be determined at the hearing whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made.

(b) Pending final determination at hearing of the validity of the debt asserted by the claimant agency, no action shall be taken in furtherance of collection through the set-off procedure allowed under this Article.

(c) No issues may be considered at the hearing which have been previously litigated.

“§ 105A-9. *Appeals from hearings.*—Appeals from action taken at hearings allowed under this Article shall be in accordance with the provisions of Chapter 150A, the Administrative Procedure Act, except that the place of initial judicial review shall be the superior court for the county in which the debtor resides.

“§ 105A-10. *Certification of debt by claimant agency; finalization of set-off.*—(a) Upon final determination through hearing provided by G.S. 105A-8 of the debt due and owing the claimant agency or upon the debtor's default for failure to comply with G.S. 105A-7 mandating timely request for review of the asserted basis for set-off, the claimant agency shall within 20 days certify the debt to the Department and in default thereof, the Department shall no longer be obligated to hold the refund for set-off.

(b) Upon receipt by the Department of a certified debt from the claimant agency, the Department shall finalize the set-off by transferring the net proceeds collected for credit or payment in accordance with the provisions of G.S. 105A-14 and by refunding any remaining balance to the debtor as if set-off had not occurred.

“§ 105A-11. *Notice of final set-off.*—Upon the finalization of set-off under the provisions of this Article, the Department shall notify the debtor in writing of the action taken along with an accounting of the action taken on any refund. If there is an outstanding balance after set-off, the notice under this section shall accompany the balance when disbursed.

“§ 105A-12. *Priorities in claims to set-off.*—Priority in multiple claims to refunds allowed to be set-off under the provisions of this Article shall be in the order in time which a claimant agency has filed a written notice with the Department of its intention to effect collection through set-off under this Article. Notwithstanding the priority set forth above according to time of filing, the Department has priority over all other claimant agencies for collection by set-off whenever it is a competing agency for a refund.

“§ 105A-13. *Disposition of proceeds collected; collection assistance fees.*—(a) Upon effecting final set-offs, the Department shall periodically write checks to the respective claimant agencies for the net proceeds collected on their behalf.

(b) From the gross proceeds collected by the Department of Revenue through set-off, the Department shall retain fifteen percent (15%), which amount shall be charged to the respective claimant agency as a collection assistance fee. The Department shall devote the funds so retained to the following uses and purposes: (1) for the purpose of effectuating the provisions of the income tax refund Set-off Debt Collection Act, the sum of one hundred fifteen thousand dollars (\$115,000) in the fiscal year 1979-80, and the sum of one hundred sixty thousand dollars (\$160,000) in the fiscal year 1980-81; and (2) for the purpose of preparing, printing, publishing and mailing to taxpayers revised income withholding tax tables required to be revised as a result of the Revenue Act of 1979, the sum of one hundred one thousand dollars (\$101,000) in the fiscal year 1979-80, and the sum of one hundred eight thousand dollars (\$108,000) in the fiscal year 1980-81. Any balance remaining unexpended from the total collection assistance fees at the close of each fiscal year shall be deposited into the State Treasury for credit to the General Fund. In order to fund the cost of the set-off program and of printing, publishing and mailing said tax tables, before receipt of any collection assistance fees, the Department of Revenue is authorized to borrow from the Contingency and Emergency Fund up to two hundred sixteen thousand dollars (\$216,000) in fiscal year 1979-80, and up to two hundred sixty-eight thousand dollars (\$268,000) in fiscal year 1980-81, to be repaid from collection assistance fees as they are received.

For years after fiscal year 1980-81, the Department shall calculate its actual cost of collection as a percentage of the immediately preceding year's collections under the Set-off Debt Collection Act, and that percentage shall be its collection assistance fee for the then-current fiscal year.

“§ 105A-14. *Accounting to the claimant agency; credit to debtor's obligation.*—(a) Simultaneously with the transmittal of a check for net proceeds collected to a claimant agency, the Department shall provide the agency with an accounting of the set-offs finalized for which payment is being made. The accounting shall, whenever possible, include the full names of the debtors, the debtors' social security numbers, the gross proceeds collected per individual set-off, the net proceeds collected per set-off, and the collection assistance fee charged per set-off.

(b) Upon receipt by a claimant agency of a check representing net proceeds collected on a claimant agency's behalf by the Department and an accounting of the proceeds as specified under this section, the claimant agency shall credit the debtor's obligation with the gross proceeds collected.

“§ 105A-15. *Confidentiality exemption; nondisclosure.*—(a) Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure by the Department of the contents of taxpayer records or information and notwithstanding any confidentiality statute of any claimant agency, all information exchanged among the Department, claimant agency, and the debtor necessary to accomplish and effectuate the intent of this Article is lawful.

(b) The information obtained by a claimant agency from the Department in accordance with the exemption allowed by subsection (a) shall only be used by a claimant agency in the pursuit of its debt collection duties and practices and any person employed by, or formerly employed by, a claimant agency who discloses any such information for any other purpose, except as otherwise allowed by G.S. 105-259, shall be penalized in accordance with the terms of that statute.



“§ 105A-16. *Rules and regulations.*—The Secretary of Revenue is authorized to prescribe forms and make all rules which he deems necessary in order to effectuate the intent of this Article.”

**Sec. 95.** G.S. 121-5(d) is amended to add after the last sentence the words: “The Department may answer written inquiries for nonresidents of North Carolina and for such service charge a search and handling fee not to exceed five dollars (\$5.00), the receipts from which fee shall be used to defray the cost of providing such service.”

**Sec. 96.** Sections 1, 76.1, 78, and 95 are effective upon ratification.

**Sec. 97.** Section 74 is effective upon ratification and shall apply to sales made on and after January 1, 1974.

**Sec. 98.** Section 18 is effective with respect to the estates of decedents dying on and after July 1, 1977.

**Sec. 98.1.** Section 77 shall become effective June 30, 1979.

**Sec. 99.** Sections 2, 5, 6, 7, 8, 9, 10, 11, 12, 19, 22, 25, 26, 27, 72, 73, 76, 79, 80, 81, 82 and 83 shall become effective July 1, 1979.

**Sec. 100.** Sections 13, 16, 17, 20, 21, 23, and 24 shall become effective July 1, 1979, with respect to the estates of decedents dying on and after that date.

**Sec. 101.** Sections 4, 30, and 31 shall become effective October 1, 1979.

**Sec. 102.** Sections 15, 32, 33, 34, 35, 37, 38, 40, 41, 42, 45, 46, 47, 64, 67, 68, 69, 84, 85, 86, 87, and 89 shall become effective with respect to taxable years beginning on and after January 1, 1979.

**Sec. 103.** Section 75 is effective upon ratification and shall apply to sales made on and after July 1, 1979.

**Sec. 104.** Section 39 shall become effective September 30, 1979, with respect to grants made after that date under the programs referred to in that section.

**Sec. 105.** With respect to the franchise taxes levied upon corporations pursuant to Article 3, Subchapter I, Chapter 105 of the General Statutes, Section 14 of this act shall become effective January 1, 1980. For all other purposes, Section 14 is effective for taxable years beginning after December 31, 1978.

**Sec. 106.** Sections 71, 90, 91, and 94 shall become effective July 1, 1979, and shall apply to refunds due after January 1, 1980.

**Sec. 107.** Sections 88, 92, and 93 shall become effective January 1, 1980.

**Sec. 108.** Section 3 shall become effective January 1, 1980, and shall apply to any person placed upon probation on and after that date.

**Sec. 109.** Sections 36, 43, 44, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 66, and 70 shall become effective with respect to taxable years beginning on and after January 1, 1980.

**Sec. 110.** Sections 28 and 29 shall become effective May 1, 1980.

**Sec. 111.** Sections 96, 97, 98, 98.1, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110 are effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 1385

## CHAPTER 802

## AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES TO PROVIDE RULES FOR MARKING AND COUNTING BALLOTS IN ELECTIONS AND PRIMARIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-151 is rewritten to read as follows:

“§ 163-151. *Marking ballots in primary and election.*—The voter shall adhere to the following rules and those instructions printed on the ballot in marking his ballots:

(1) In both primaries and elections, a voter may designate his choice of candidates by making a cross mark (X), a check mark, or some other clear indicative mark in the appropriate voting square or circle.

(2) In both primaries and elections, a voter should not mark more names for any office than there are positions to be filled by election.

(3) A voter should not affix a sticker to a ballot, mark a ballot with a rubber stamp, attach anything to a ballot, wrap or fold anything in a ballot or do anything to a ballot except to mark it properly with a pencil or pen.

(4) Straight ticket. In an election, but not a primary, if the voter desires to vote for all candidates of one political party (a straight ticket), he shall either:

- a. mark the party circle printed above the party column; or
- b. mark in the voting square at the left of the name of every candidate printed on the ballot in the party column for whom he desires to vote; or
- c. mark the party circle and also mark some or all names printed in that party column.

(5) Split ticket. In an election but not in a primary, if the voter desires to vote for candidates of more than one political party (a split ticket), he shall:

- a. omit marking in the party circle of any party and mark in the voting square opposite the name of each candidate of any party printed on the ballot for whom the voter wishes to vote.
- b. If the voter should mark the party circle of one party, and also mark the voting square opposite the name of candidates of any other party, the ballot shall be counted as a straight ticket for all candidates of the party whose circle was marked and the individually marked candidates of any other party shall not be counted.

(6) Write-in votes.

- a. In an election but not in a primary, if a voter desires to vote for a person whose name is not printed on the ballot, he shall write in the name of the person in the space immediately beneath the name of a candidate, if any, printed on the ballot for that particular office. The voter shall write the name himself unless he is entitled to assistance under G.S. 163-152, in which case the person giving assistance may write in the name at the request of the voter.
- b. The voter should not write in a name of a person whose name appears as a candidate of a political party. If the voter writes in the name of a candidate printed on the ballot of any party, the write-in shall not be counted.
- c. If the voter has marked the party circle of one political party, he may also write in the name of a person for whom he wishes to vote beneath

the name of a candidate printed in the same column whose party circle he has marked.

- d. If the voter has marked the party circle of one party, he should not write in the name of a person under the name of a candidate in any other party. In such case, the write-in shall not be counted, but the ballot shall be counted for all candidates of the party whose circle was marked.

- e. No voter shall write the name of any person on a primary ballot."

**Sec. 2.** G.S. 163-169(b) is rewritten to read:

"(b) General rule. Only official ballots shall be voted and counted. No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to determine the voter's choice under the rules for counting ballots. Such determination shall be made by the county board of elections if the registrar and judges are unable to determine the voter's choice, or whether a particular ballot should be counted."

**Sec. 3.** G.S. 163-170 is rewritten to read:

"§ 163-170. *Rules for counting ballots.*—Only official ballots shall be voted and counted. No official ballot shall be rejected because of technical errors in marking it unless it is impossible to determine the voter's choice. In applying the general rule, all election officials shall be governed by the following rules:

- (1) If for any reason it is impossible to determine a voter's choice for an office, the ballot shall not be counted for that office but shall be counted for all other offices.

- (2) If a ballot is marked for more names than there are positions to be filled, it shall not be counted for that office but shall be counted for all other offices.

- (3) If a ballot has been defaced or torn by a voter so that it is impossible to determine the voter's choice for one or more offices, it shall not be counted for such offices but shall be counted for all offices for which the voter's choice can be determined.

- (4) If a voter has properly marked the voting square with pen or pencil, and also has affixed a sticker to a ballot, or marked a ballot with a rubber stamp, attached anything to a ballot, wrapped or folded anything in a ballot, or done anything to a ballot other than mark it properly with pen or pencil, it shall be counted unless such action by the voter makes it impossible to determine the voter's choice.

- (5) Write-in votes. If a name has been written in on an official general election ballot as provided in G.S. 163-151, it shall be counted in accordance with the following rules:

- a. The name written in shall not be counted unless written in by the voter or a person authorized to assist the voter pursuant to G.S. 163-152.

- b. The name shall be written in immediately below the name of a candidate for a particular office, if any, and shall be counted as a vote for the person whose name has been written in for that office. If the voter has made a mark to the left of the name written in, or checked in the party circle or the square beside the name of a candidate below whose name the write-in appears, or if the voter strikes out, marks through or crosses out the name printed above the write-in, such action by the voter shall not serve to invalidate the ballot or the vote for the person whose name was written in for that particular office.

- c. If the person whose name was written in appears as a candidate of a political party for any office, the write-in shall be ignored and the ballot shall be counted as though no write-in appeared for such office.
- d. Marking party circle and write-ins.
  - 1. If the voter marks the party circle above the column in which he has entered the write-in, his ballot shall be counted as a vote for the person whose name has been written in, and for all other candidates of the party in whose circle he has marked, except the candidate beneath whose printed name the write-in appears.
  - 2. If the voter has marked the party circle at the top of the column of a political party, and has made a write-in under the name of a candidate printed in a column of a different political party, the write-in shall not be counted, and the ballot shall be counted as a vote for all candidates of the party in whose circle he has marked.
- (6) Split ticket.
  - a. If the voter has marked the party circle of one party and also marked the voting square of individual candidates of another party, the ballot shall be counted as a straight ballot and counted as a vote for every candidate for the party whose circle has been marked.
  - b. If the voter votes a split ticket by omitting to mark the party circle and marks the voting square opposite the name of candidates for whom he desires to vote in different party columns, the ballot shall be counted as a vote for each candidate marked in a different party column.
- (7) Voting a straight ticket. If a voter desires to vote for all candidates of one political party, a straight ticket, he shall either:
  - a. mark the party circle printed at the top of the party column; or
  - b. mark the voting squares at the left of the name of every candidate of the same party printed on the ballot; or
  - c. mark the party circle and also mark some or all names printed in that party column.

In either case, the ballot shall be counted as a straight ticket and counted as a vote for every candidate whose name is printed in the party column."

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 1418

## CHAPTER 803

AN ACT TO CLARIFY THE INCOME TAX CREDIT PROVIDED FOR CONSTRUCTION OF DWELLING UNITS ACCESSIBLE TO HANDICAPPED PERSONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-130.22, as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting from lines 8 and 9 thereof the phrase "which does not exceed five percent (5%) of the total of such units completed during the taxable year", and substituting therefor the phrase "which were required to be built in compliance with Section (IIX) of the North Carolina Building Code".



**Sec. 2.** G.S. 105-130.22 is further amended by adding a new sentence at the end thereof to read as follows:

“When he has recorded the number of such units on the face of the occupancy permit, the building inspector shall promptly make and forward a copy of the permit to the Special Office for the Handicapped, Department of Insurance.”

**Sec. 3.** G.S. 105-151.1, as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting from lines 8 and 9 thereof the phrase “which does not exceed five percent (5%) of the total of such units completed during the taxable year”, and substituting therefor the phrase “which were required to be built in compliance with Section (IIX) of the North Carolina Building Code”.

**Sec. 4.** G.S. 105-151.1 is further amended by adding a new sentence at the end thereof to read as follows:

“When he has recorded the number of such units on the face of the occupancy permit, the building inspector shall promptly make and forward a copy of the permit to the Special Office for the Handicapped, Department of Insurance.”

**Sec. 5.** This act shall be effective with respect to taxable years beginning on and after January 1, 1979.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 1436

## CHAPTER 804

AN ACT TO GRANT WATER AND SEWER AUTHORITIES ESTABLISHED PURSUANT TO CHAPTER 162A, ARTICLE 1, OF THE GENERAL STATUTES, AUTHORITY TO MAKE SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 162A-6 is amended:

(1) by renumbering paragraph (15) as paragraph (16); and

(2) by inserting therein two new paragraphs, which shall be numbered subsection (15) and shall read as follows:

“(15) To make special assessments against benefited property within the area served or to be served by the authority for the purpose of constructing, reconstructing, extending, or otherwise improving water systems or sanitary collection, treatment, and sewage disposal systems, in the same manner that a county may make special assessments under authority of Chapter 153A, Article 9, except that the language appearing in G.S. 153A-185 reading as follows: ‘A county may not assess property within a city pursuant to subdivision (1) or (2) of this section unless the governing board of the city has by resolution approved the project’, shall not apply to assessments levied by Water and Sewer Authorities established pursuant to Chapter 162A, Article 1, of the General Statutes. For the purposes of this paragraph, references in Chapter 153A, Article 9, to the ‘county’, the ‘board of county commissioners’, ‘the board’ or a specific county official or employee are deemed to refer, respectively, to the authority and to the official or employee of the Authority who performs most nearly the same duties performed by the specified county official or employee.”

Assessment rolls after being confirmed shall be filed for registration in the office of the Register of Deeds of the county in which the property being assessed is located, and the term 'county tax collector' wherever used in G.S. 153A-195 and G.S. 153A-196, shall mean the Executive Director or other administrative officer designated by the Authority to perform the functions described in said sections of the statute."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 1525

## CHAPTER 805

### AN ACT TO AMEND CHAPTER 157 ENTITLED "HOUSING AUTHORITIES AND PROJECTS".

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 157-9 is amended by adding a fifth unenumerated power in line 14 following the power "to prepare, carry out, and operate housing projects;" as follows:

"to approve, assist, and cooperate with, as its instrumentality, a nonprofit corporation in providing financing by the issuance by such nonprofit corporation's obligations (which obligations shall not be or be deemed to be indebtedness of a housing authority) for one or more housing projects, pursuant to the United States Housing Act of 1937, as amended, and applicable regulations thereunder, specifically including, but not limited to, programs to make construction and other loans to developers or owners of residential housing, and to acquire, operate or manage such a housing project, and to administer federal housing assistance subsidy payments for such projects;".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 1325

## CHAPTER 806

### AN ACT TO PERMIT ROTATION OF CANDIDATE NAMES ON MUNICIPAL PRIMARY AND ELECTION BALLOTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-299(c) is amended by changing the period at the end to a comma and by adding immediately after such comma the following:

"unless the municipal governing body has adopted a resolution no later than 60 days prior to a primary or election requesting that candidates' names be rotated on ballots. In the event such a resolution has been adopted, then the board of elections responsible for printing the ballots shall have them printed so that the name of each candidate shall, as far as practicable, occupy alternate positions on the ballot; to that end the name of each candidate shall occupy with reference to the name of every other candidate for the same office, first position, second position and every other position, if any, upon an equal number of ballots, and the ballots shall be distributed among the precinct voting places impartially and without discrimination."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1979.

## H. B. 1021

## CHAPTER 807

## AN ACT TO SPECIFY AND DEFINE RETALIATORY EVICTION AS A TENANT'S DEFENSE IN SUMMARY EJECTMENT ACTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 42 is amended by adding a new Article to read:

“Article 4.

“Retaliatory Eviction.

“§ 42-37. *Defense of retaliatory eviction.*—(a) It is the public policy of the State of North Carolina to protect tenants and other persons whose residence in the household is explicitly or implicitly known to the landlord, who seek to exercise their rights to decent, safe, and sanitary housing. Therefore, the following activities of such persons are protected by law:

- (1) a good faith complaint or request for repairs to the landlord, his employee, or his agent about conditions or defects in the premises that the landlord is obligated to repair under G.S. 42-42;
- (2) a good faith complaint to a government agency about a landlord's alleged violation of any health or safety law, or any regulation, code, ordinance, or State or federal law that regulates premises used for dwelling purposes;
- (3) a government authority's issuance of a formal complaint to a landlord concerning premises rented by a tenant;
- (4) a good faith attempt to exercise, secure or enforce any rights existing under a valid lease or rental agreement or under State or federal law; or
- (5) a good faith attempt to organize, join, or become otherwise involved with, any organization promoting or enforcing tenants' rights.

(b) In an action for summary ejectment pursuant to G.S. 42-26, a tenant may raise the affirmative defense of retaliatory eviction and may present evidence that the landlord's action is substantially in response to the occurrence within 12 months of the filing of such action of one or more of the protected acts described in subsection (a) of this section.

(c) Notwithstanding subsections (a) and (b) of this section, a landlord may prevail in an action for summary ejectment if:

- (1) the tenant breached the covenant to pay rent or any other substantial covenant of the lease for which the tenant may be evicted, and such breach is the reason for the eviction; or
- (2) in a case of a tenancy for a definite period of time where the tenant has no option to renew the lease, the tenant holds over after expiration of the term; or
- (3) the violation of G.S. 42-42 complained of was caused primarily by the willful or negligent conduct of the tenant, member of the tenant's household, or their guests or invitees; or
- (4) compliance with the applicable building or housing code requires demolition or major alteration or remodeling that cannot be accomplished without completely displacing the tenant's household; or

- (5) the landlord seeks to recover possession on the basis of a good faith notice to quit the premises, which notice was delivered prior to the occurrence of any of the activities protected by subsections (a) and (b) of this section; or
- (6) the landlord seeks in good faith to recover possession at the end of the tenant's term for use as the landlord's own abode, to demolish or make major alterations or remodeling of the dwelling unit in a manner that requires the complete displacement of the tenant's household, or to terminate for at least six months the use of the property as a rental dwelling unit.

“§ 42-37.1. *Remedies.*—(a) If the court finds that an ejectment action is retaliatory, as defined by this Article, it shall deny the request for ejectment; provided, that a dismissal of the request for ejectment shall not prevent the landlord from receiving payments for rent due or any other appropriate judgment.

(b) The rights and remedies created by this Article are supplementary to all existing common law and statutory rights and remedies.

“§ 42-37.2. *Waiver.*—Any waiver by a tenant or a member of his household of the rights and remedies created by this Article is void as contrary to public policy.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 1233

## CHAPTER 808

### AN ACT TO AUTHORIZE THE APPOINTMENT OF ANIMAL CRUELTY INVESTIGATORS AND TO MAKE TECHNICAL AND CLARIFYING AMENDMENTS TO ARTICLE 1 OF GENERAL STATUTES CHAPTER 19A.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 19A is amended by adding a new Article to read:

#### “ARTICLE 4.

##### “Animal Cruelty Investigators.

“§ 19A-5. *Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond.*—(a) The board of county commissioners is authorized to appoint one or more animal cruelty investigators to serve without any compensation or other employee benefits in his county. In making these appointments, the board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the board of county commissioners is authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable pursuant to G.S. 19A-7 may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.

(b) Animal cruelty investigators shall serve a one-year term subject to removal for cause by the board of county commissioners. Animal cruelty investigators shall, while in the performance of their official duties, wear in



plain view a badge of a design approved by the board identifying them as animal cruelty investigators, and provided at no cost to the county.

(c) Animal cruelty investigators shall take and subscribe the oath of office required of public officials. The oath shall be filed with the clerk of superior court. Animal cruelty investigators shall not be required to post any bond.

(d) Upon approval by the board of county commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the county.

“§ 19A-6. *Powers, magistrate's order, execution of order, petition, notice to owner.*—(a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) The animal cruelty investigator may request a law enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge.

“§ 19A-7. *Care of seized animals.*—The investigator must take any animal he seizes directly to some safe and secure place and provide suitable care for it. The necessary expenses of caring for seized animals, including necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal to be enforced as provided by G.S. 44A-4.

“§ 19A-8. *Interference unlawful.*—It shall be a misdemeanor punishable by a fine of up to two hundred dollars (\$200.00) or not more than ninety days

imprisonment, or both, to interfere with an animal cruelty investigator in the performance of his official duties.

“§ 19A-9. *Educational requirements.*—Each animal cruelty investigator at his own expense must attend annually a course of at least six hours instruction offered by the North Carolina Humane Federation or some other agency. The course shall be designed to give the investigator expertise in the investigation of complaints relating to the care and treatment of animals. Failure to attend a course approved by the board of county commissioners shall be cause for removal from office.”

**Sec. 2.** G.S. 19A-1(2) is rewritten to read:

“(2) The terms ‘cruelty’ and ‘cruel treatment’ shall be held to include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; but such term shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport, the production of livestock or poultry, or the lawful destruction of any animal for the purpose of protecting such livestock or poultry.”

**Sec. 3.** G.S. 19A-3 is rewritten to read:

“§ 19A-3. *Preliminary injunction.*—Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, in his discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the complainant so requests, may give the complainant the right to provide suitable care for the animal. If it appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the complainant to take possession of the animal.”

**Sec. 4.** G.S. 19A-4 is rewritten to read:

“§ 19A-4. *Permanent injunction.*—In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as he deems appropriate, including a permanent injunction or final determination of the animal’s custody.”

**Sec. 5.** G.S. 6-18 is amended by adding a new subsection to read:

“(5) In an action brought under Article 1 of General Statutes Chapter 19A.”

**Sec. 6.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 1370

## CHAPTER 809

AN ACT TO REQUIRE LOANS MADE TO SOCIETIES AND CERTAIN  
COPARTNERSHIPS AND CORPORATIONS AS MEMBERS OF A  
CREDIT UNION TO BE SECURED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-109.27 is amended by adding a new sentence to read as follows:

“Provided, however, secured loans in excess of shareholdings may be made to nonprofit societies, copartnerships, and corporations who are members.”

**Sec. 2.** G.S. 54-109.82 is amended by adding a new subparagraph to read as follows: “(12) They may be placed on time deposits in any banks insured by the Federal Deposit Insurance Corporation or may be deposited or may be invested in any savings or building and loan association insured by the Federal Savings and Loan Insurance Corporation.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## S. B. 621

## CHAPTER 810

AN ACT TO AMEND CHAPTER 122A OF THE GENERAL STATUTES TO  
PROVIDE FOR THE FINANCING BY THE NORTH CAROLINA  
HOUSING FINANCE AGENCY OF HOUSING FOR PERSONS AND  
FAMILIES OF MODERATE INCOME.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 122A of the General Statutes, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by adding a new section to be designated G.S. 122A-5.4 and to read as follows:

“§ 122A-5.4. *Housing for persons and families of moderate income.*—(a) The General Assembly hereby finds and determines that there is a serious shortage of decent, safe and sanitary housing which persons and families of moderate income in the State can afford; that it is in the best interests of the State to encourage home ownership by persons and families of moderate income; that the assistance provided by this section will enable persons and families of moderate income to acquire existing decent, safe and sanitary housing without undue financial hardship and will encourage private enterprise to sponsor, build and rehabilitate additional housing for such persons and families; and that the Agency in providing such assistance is promoting the health, welfare and prosperity of all citizens of the State and is serving a public purpose for the benefit of the general public.

(b) The terms ‘persons and families of lower income’ and ‘persons of lower income’ wherever they appear in this Chapter, except where they appear in G.S. 122A-2 and G.S. 122A-3(11), shall be deemed to include ‘persons and families of moderate income’ as defined in clause (c) of this section.

(c) ‘Persons and families of moderate income’ means persons and families deemed by the Agency to require the assistance made available by this Chapter on account of insufficient personal or family income taking into consideration, without limitation, (i) the amount of the total income of such persons and

families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available and (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a moderate or low and moderate income basis.”

**Sec. 2.** The provisions of Chapter 122A, including G.S. 122A-5.4 hereby added, 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 said Chapter.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

S. B. 670

## CHAPTER 811

AN ACT TO PROHIBIT CONVICTION AS ACCESSORY BEFORE THE FACT ON AN INDICTMENT CHARGING THE PRINCIPAL FELONY.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 14 is amended by adding the following section:

“§ 14-5.1. *Indictment on principal felony does not charge accessory before the fact.*—Any person who shall be charged with the principal felony in an indictment, presentment or information may not be convicted as accessory before the fact to the principal felony on the same indictment, presentment or information. Accessory before the fact is not a lesser included offense of the principal felony.”

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

S. B. 864

## CHAPTER 812

AN ACT TO CLARIFY A CONFLICT BETWEEN CHAPTERS 178 AND 632, SESSION LAWS OF 1979, CONCERNING HANDICAPPED PARKING.

*The General Assembly of North Carolina enacts:*

**Section 1.** Sections 1, 3 and 4 of Chapter 178, Session Laws of 1979, are repealed.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.



S. B. 932

**CHAPTER 813**

AN ACT TO AUTHORIZE THE TOWN OF SPRUCE PINE TO PARTICIPATE IN THE URBAN DEVELOPMENT ACTION GRANT PROGRAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 81, Session Laws of 1979, is amended by striking out the period at the end of Section 3 and adding the following:  
“and to the Town of Spruce Pine, North Carolina.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

H. B. 1519

**CHAPTER 814**

AN ACT TO CHANGE THE EFFECTIVE DATE OF CHAPTER 688 OF THE 1979 SESSION LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 688 of the 1979 Session Laws is amended by deleting the words and figures “July 1, 1979” and inserting in lieu thereof the words and figures “January 1, 1980”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

H. B. 474

**CHAPTER 815**

AN ACT TO PROVIDE A UNIFIED JUVENILE CODE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-277 through G.S. 7A-289, and G.S. 7A-289.7 are repealed and the following new Articles are added to Chapter 7A:

“NORTH CAROLINA JUVENILE CODE.

“ARTICLE 41.

“Purpose; Definitions.

“§ 7A-506. *Purpose.*—This Article shall be interpreted and construed so as to implement the following purposes and policies:

(1) to divert juvenile offenders from the juvenile system through the intake services authorized herein so that juveniles may remain in their own homes and may be treated through community-based services when this approach is consistent with the protection of the public safety;

(2) to provide procedures for the hearing of juvenile cases that assure fairness and equity and that protect the constitutional rights of juveniles and parents; and

(3) to develop a disposition in each juvenile case that reflects consideration of the facts, the needs and limitations of the child, the strengths and weaknesses of the family, and the protection of the public safety.

“§ 7A-507. *Definitions.*—Unless the context clearly requires otherwise, the following words have the listed meanings:

(1) Abused juvenile. Any juvenile less than 18 years of age whose parent or other person responsible for his care:

(a) inflicts or allows to be inflicted upon the juvenile a physical injury by other than accidental means which causes or creates a substantial risk of death, disfigurement, impairment of physical health, or loss or impairment of function of any bodily organ; or

(b) creates or allows to be created a substantial risk of physical injury to the juvenile by other than accidental means which would be likely to cause death, disfigurement, impairment of physical health, or loss or impairment of the function of any bodily organ; or

(c) commits or allows the commission of any sexual act upon a juvenile in violation of law; or

(d) creates or allows to be created serious emotional damage to the juvenile and refuses to permit, provide for, or participate in treatment. Severe emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal or aggressive behavior toward himself or others; or

(e) encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.

(2) Aftercare. The supervision of a juvenile who has been returned to the community on conditional release after having been committed to the Division of Youth Services.

(3) Administrator for Juvenile Services. The person who is responsible for the planning, organization, and administration of a statewide system of juvenile intake, probation, and aftercare services.

(4) Director of the Division of Youth Services. The person responsible for the supervision of the administration of institutional and detention services.

(5) Caretaker. Any person, other than a parent, who is acting *in loco parentis* to 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.

(6) Chief court counselor. The person responsible for administration and supervision of juvenile intake, probation, and aftercare in each judicial district, operating under the supervision of the Administrator for Juvenile Services.

(7) Clerk. Any clerk of superior court, acting clerk, or assistant or deputy clerk.

(8) Community-based program. A program providing nonresidential or residential treatment to a juvenile in the community where his family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

(9) Court. The District Court Division of the General Court of Justice.

(10) Court counselor. A person responsible for probation and aftercare services to juveniles on probation or on conditional release from the Division of Youth Services under the supervision of the chief court counselor.

(11) Custodian. The person or agency that has been awarded legal custody of a juvenile by a court.

(12) Delinquent juvenile. Any juvenile less than 16 years of age who has committed a criminal offense under State law or under an ordinance of local government, including violation of the motor vehicle laws.

(13) **Dependent juvenile.** A juvenile in need of assistance or placement because he has no parent, guardian or custodian responsible for his care or supervision or whose parent, guardian, or custodian is unable to provide for his care or supervision.

(14) **Detention.** The confinement of a juvenile pursuant to an order for secure custody pending an adjudicatory or dispositional hearing or admission to a placement with the Division of Youth Services.

(15) **Detention home.** An authorized facility providing secure custody for juveniles.

(16) **Holdover facility.** A place in a jail which has been approved by the Department of Human Resources as meeting the State standards for detention as required in G.S. 153A-221 providing close supervision where the juvenile cannot converse with, see, or be seen by the adult population.

(17) **Intake counselor.** A person who screens a petition alleging that a juvenile is delinquent or undisciplined to determine whether the petition should be filed.

(18) **Interstate Compact on Juveniles.** An agreement ratified by 50 states and the District of Columbia providing a formal means of returning a juvenile, who is an absconder, escapee or runaway, to his home state.

(19) **Judge.** The district judge assigned by the chief district judge to hear juvenile cases.

(20) **Juvenile.** Any person who has not reached his 18th birthday and is not married, emancipated, or a member of the armed services of the United States. For the purposes of subsections (12) and (28) of this section, a juvenile is any person who has not reached his 16th birthday. Wherever the term 'juvenile' is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.

(21) **Neglected juvenile.** A juvenile who does not receive proper care, supervision, or discipline from his parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care or other remedial care recognized under State law, or who lives in an environment injurious to his welfare, or who has been placed for care or adoption in violation of law.

(22) **Petitioner.** The individual who initiates court action, whether by the filing of a petition or of a motion for review alleging the matter for adjudication.

(23) **Probation.** The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a court counselor, and may be returned to the court for violation of those conditions during the period of probation.

(24) **Prosecutor.** The assistant district attorney assigned by the district attorney to juvenile proceedings.

(25) **Protective supervision.** The status of a juvenile who has been adjudicated delinquent or undisciplined and is under the supervision of a court counselor.

(26) **Regional detention home.** A State-supported and administered regional facility providing detention care.

(27) **Shelter care.** The temporary care of a juvenile in a physically unrestricting facility pending court disposition.

(28) **Undisciplined juvenile.** A juvenile less than 16 years of age who is unlawfully absent from school; or who is regularly disobedient to his parent, guardian, or custodian and beyond their disciplinary control; or who is regularly

found in places where it is unlawful for a juvenile to be; or who has run away from home.

The singular includes the plural, the masculine singular includes the feminine singular and masculine and feminine plural unless otherwise specified.

#### “ARTICLE 42.

##### “Jurisdiction.

“§ 7A-508. *Jurisdiction.*—The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent, undisciplined, abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect. For purposes of determining jurisdiction, the age of the juvenile either at the time of the alleged offense or when the conditions causing the juvenile to be abused, neglected, or dependent arose, governs. There is no minimum age for juveniles alleged to be abused, dependent or neglected. For juveniles alleged to be delinquent or undisciplined, the minimum age is 6 years of age.

The court also has exclusive original jurisdiction of the following proceedings:

(1) proceedings under the Interstate Compact on Juveniles and the Interstate Parole and Probation Hearing Procedures for Juveniles;

(2) proceedings to determine whether a juvenile who is on conditional release and under the aftercare supervision of a court counselor has violated the terms of his conditional release established by the Division of Youth Services;

(3) proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when his parent, guardian, legal custodian, or other person standing *in loco parentis* refuses to consent for treatment to be rendered;

(4) proceedings to determine whether a juvenile should be emancipated;

(5) proceedings to terminate parental rights.

“§ 7A-509. *Retention of jurisdiction.*—When the court obtains jurisdiction over a juvenile, jurisdiction shall continue until terminated by order of the court or until he reaches his 18th birthday. Any juvenile who is under the jurisdiction of the court and commits a criminal offense after his 16th birthday is subject to prosecution as an adult. Any juvenile who is transferred to and sentenced by the superior court for a felony offense is subject to prosecution as an adult for all other crimes alleged to have been committed by him while he is under the active supervision of the superior court. Nothing herein shall be construed to divest the court of jurisdiction in abuse, neglect, or dependency proceedings.

#### “ARTICLE 43.

##### “Screening of Delinquency and Undisciplined Petitions.

“§ 7A-510. *Intake.*—The Chief Court Counselor, under the direction of the Administrator of Juvenile Services, shall establish intake services in each judicial district of the State for all delinquency and undisciplined cases.

The purpose of intake services shall be to determine from available evidence whether there are reasonable grounds to believe the facts alleged are true, to determine whether the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of the court, to determine whether the facts alleged are sufficiently serious to warrant court action and to obtain assistance from community resources when court referral is not necessary. The intake counselor shall not engage in field investigations to substantiate complaints or



to produce supplementary evidence but may refer complainants to law enforcement agencies for those purposes.

“§ 7A-511. *Preliminary inquiry.*—When a complaint is received, the intake counselor shall make a preliminary determination as to whether the juvenile is within the jurisdiction of the court as a delinquent or undisciplined juvenile. If the intake counselor finds that the facts contained in the complaint do not state a case within the jurisdiction of the court, that legal sufficiency has not been established, or that the matters alleged are frivolous, he shall, without further inquiry, refuse authorization to file the complaint.

When requested by the intake counselor, the prosecutor shall assist in determining the sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

If the intake counselor finds reasonable grounds to believe that the juvenile has committed one of the following offenses, he shall, without further inquiry, authorize the complaint to be filed as a petition: murder; rape; arson; any violation of Article 5, Chapter 90 of the North Carolina General Statutes which would constitute a felony if committed by an adult; first degree burglary; crime against nature; or any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon.

“§ 7A-512. *Evaluation.*—Upon a finding of legal sufficiency, except in the nondivertible offenses set out in G.S. 7A-511, the intake counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted to a community resource, or the case resolved without further action. He shall consider criteria which shall be provided by the Administrator of Juvenile Services in making his decision. The intake process shall include the following steps:

- (1) interviews with the complainant and the victim if someone other than the complainant;

- (2) interviews with the juvenile, his parent, guardian, or custodian;

- (3) interviews with persons known to have information about the juvenile or family which information is pertinent to the case.

Interviews required by this section shall be conducted in person unless it is necessary to conduct them by telephone.

“§ 7A-513. *Evaluation decision.*—The evaluation of a particular complaint shall be completed within 15 days, with an extension for a maximum of 15 additional days at the discretion of the Chief Court Counselor. The intake counselor must decide within this time period whether or not a complaint will be filed as a juvenile petition. If the intake counselor determines that a complaint should be filed as a petition, he shall assist the complainant when necessary with the preparation and filing of the petition, or help with the preparation and filing of the petition, shall endorse on it the date and the words ‘Approved for filing’, shall sign it beneath such words, and shall transmit it to the Clerk of Superior Court. If the intake counselor determines that a petition should not be filed, he shall immediately notify the complainant in writing with reasons for his decision and shall include notice of the complainant’s right to have the decision reviewed by the prosecutor. The intake counselor shall then sign his name on the complaint beneath the words ‘Not approved’.

Any complaint not approved for filing as a juvenile petition shall be destroyed by the intake counselor after holding the complaint for a temporary

period to allow follow-up and review as provided in G.S. 7A-514 and G.S. 7A-516.

“§ 7A-514. *Referral and follow-up.*—The intake counselor may refer any case to an appropriate public or private resource unless the offense is one in which a petition is required as set out in G.S. 7A-511. After making a referral, the intake counselor shall ascertain that the juvenile actually contacted or was seen by the resource to which he was referred. In the event that the juvenile does not contact or visit the community resource, the intake counselor may reconsider his decision to divert and may authorize the filing of a complaint as a petition within 60 days from the date of the referral. If the juvenile contacts or is seen by the resource, the intake counselor shall close the file.

“§ 7A-515. *Request for review.*—The complainant has five calendar days, from receipt of the intake counselor's decision not to approve the filing of a complaint, to request review by the prosecutor. The intake counselor shall notify the prosecutor immediately of such request and shall transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the complainant and the intake counselor of the time and place for the review.

“§ 7A-516. *Review of determination that a petition should not be filed.*—The prosecutor shall review the intake counselor's determination, that a juvenile petition should not be filed, no later than 20 days after the complainant is notified. Review shall include conferences with the complainant and the intake counselor. At the conclusion of the review, the prosecutor may either affirm the decision of the intake counselor or may direct the filing of a petition.

#### “ARTICLE 44.

##### “Screening of Abuse and Neglect Complaints.

“§ 7A-517. *Protective services.*—The Director of the Department of Social Services in each county of the State shall establish protective services for juveniles alleged to be abused, neglected, or dependent.

Protective services shall include the investigation and screening of complaints, casework or other counseling services to parents or other caretakers as provided by the director to help the parents or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents or caretakers, and to preserve and stabilize family life.

“§ 7A-518. *Duty to report child abuse or neglect.*—Any person or institution who has cause to suspect that any juvenile is abused or neglected shall report the case of that juvenile to the Director of the Department of Social Services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse or neglect and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give his name, address, and telephone number. Refusal of the person making the report to give his name shall not preclude the Department's investigation of the alleged abuse or neglect.

In the case of any report of abuse, the Director of Social Services, upon receipt of the report, may immediately provide the appropriate local law

enforcement agency with information on the nature of the report. The law enforcement agency may investigate the report, and upon request of the Director of the Department of Social Services, the law enforcement agency shall provide assistance with the investigation.

*“§ 7A-519. Investigation by director; notification of person making the report.—*When a report of abuse or neglect is received, the Director of the Department of Social Services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. The investigation and evaluation shall include a visit to the place where the juvenile resides. All information received by the Department of Social Services shall be held in strictest confidence by the Department.

If the investigation reveals abuse or neglect, the Director shall decide whether immediate removal of the juvenile or any other juveniles in the home is necessary for their protection. If immediate removal does not seem necessary, the Director shall immediately provide or arrange for protective services. If the parent or other caretaker refuses to accept the protective services provided or arranged by the Director, the Director shall sign a complaint seeking to invoke the jurisdiction of the court for the protection of the juvenile or juveniles.

If immediate removal seems necessary for the protection of the juvenile or other juveniles in the home, the Director shall sign a complaint which alleges the applicable facts to invoke the jurisdiction of the court. Where the investigation shows that it is warranted, a protective services worker may assume temporary custody of the juvenile for the juvenile's protection pursuant to Article 46 of this act.

In performing any of these duties, the Director may utilize the staff of the county Department of Social Services or any other public or private community agencies that may be available. The Director may also consult with the available State or local law enforcement officers who shall assist in the investigation and evaluation of the seriousness of any report of abuse or neglect when requested by the Director.

Unless a petition is filed within five working days after receipt of the report of abuse or neglect, the Director shall give written notice to the person making the report that:

(1) There is no finding of abuse or neglect; or

(2) The county Department of Social Services is taking action to protect the welfare of the juvenile and what specific action it is taking.

The notification shall include notice that, if the person making the report is not satisfied with the Director's decision, he may request review of the decision by the prosecutor within five working days of receipt. The person making the report may waive his right to this notification and no notification is required if the person making the report does not identify himself to the Director.

*“§ 7A-520. Evaluation for court.—*In all cases in which a petition is filed, the Director of the Department of Social Services shall prepare a report for the court containing a home placement plan and a treatment plan deemed by the Director to be appropriate to the needs of the juvenile. The report shall be available to the judge immediately following the adjudicatory hearing.

*“§ 7A-521. Request for review.—*The person making the report shall have five working days, from receipt of the decision of the Director of the Department of

Social Services not to petition the court, to notify the prosecutor that he is requesting a review. The prosecutor shall notify the person making the report and the Director of the time and place for the review and the Director shall immediately transmit to the prosecutor a copy of the investigation report.

“§ 7A-522. *Review by the prosecutor.*—The prosecutor shall review the Director's determination that a petition should not be filed within 20 days after the person making the report is notified. The review shall include conferences with the person making the report, the protective services worker, the juvenile, and other persons known to have pertinent information about the juvenile or his family. At the conclusion of the conferences, the prosecutor may affirm the decision made by the Director or may authorize the filing of a petition.

“§ 7A-523. *Duty of county Department of Social Services to report evidence of abuse.*—If the Director finds evidence that a juvenile has been abused as defined by statute, he shall immediately make a written report of his findings to the prosecutor who shall determine whether criminal prosecution is appropriate and who may request the Director to sign the appropriate criminal warrant. The Director of the Department of Social Services shall submit a report of alleged abuse or neglect to the central registry under the policies adopted by the Social Services Commission.

“§ 7A-524. *Authority of medical professionals in abuse cases.*—Any physician or administrator of a hospital, clinic, or other similar medical facility to which an 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 when the physician who examines the juvenile certifies in writing that the juvenile should remain for medical reasons or that in his opinion it may be unsafe for the juvenile to return to his parent, guardian, or caretaker. In such case, the physician or administrator shall notify the parent, guardian, or caretaker and the Director of the Department of Social Services of the county where the juvenile resides. If the parent, guardian, or caretaker contests this action, the Director shall request a hearing before the Chief District Court Judge or the judge designated by him within the judicial district in which the juvenile resides or where the hospital or institution is located, for determination of whether the juvenile shall be returned to his parent, guardian, or caretaker. Pending the hearing, the hospital, clinic, or other similar medical facility may retain temporary physical custody of the juvenile. The hospital, clinic, or medical facility:

(1) shall request the Director of the Department of Social Services in the county where the juvenile resides to petition the court in the district where the juvenile resides to award physical custody of the juvenile to the Director for placement with a relative or in a foster home under the supervision of the Department of Social Services; or

(2) shall request the Director of the Department of Social Services in the county where the hospital or other medical facility is located, to petition the court in the district where the hospital or other medical facility is located, to award physical custody of the juvenile to the Director for placement with a relative or in a foster home under the supervision of the Department of Social Services.

Upon receipt of a request pursuant to subsections (1) or (2), the Director of the Department of Social Services shall authorize the filing of such petition without delay.



“§ 7A-525. *Immunity of persons reporting.*—Anyone who makes a report pursuant to this Article, testifies in any judicial proceeding resulting from the report, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for such action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

“§ 7A-526. *Waiver of privileges.*—Neither the physician-patient privilege nor the husband-wife privilege shall be grounds for excluding evidence of abuse or neglect in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse or neglect is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as said privileges relate to the competency of the witness and to the exclusion of confidential communications.

“§ 7A-527. *Central registry.*—The Department of Human Resources shall maintain a central registry of abuse and neglect cases reported under this Article in order to compile data for appropriate study of the extent of abuse and neglect within the State and to identify repeated abuses of the same juvenile or of other juveniles in the same family. This data shall be furnished by county directors of social services to the Department of Human Resources and shall be confidential, subject to policies adopted by the Social Services Commission which provide for its appropriate use for study and research. Data shall not be used at any hearing or court proceeding unless based upon a final judgement of a court of law.

#### “ARTICLE 45.

##### “Venue; Petition; Summons.

“§ 7A-528. *Venue.*—(1) A proceeding in which a juvenile is alleged to be delinquent or undisciplined shall be commenced and adjudicated in the district in which the offense is alleged to have occurred.

When a proceeding in which a juvenile is alleged to be delinquent or undisciplined is commenced in a district other than that of the juvenile's residence, the judge shall proceed to adjudication in that district. After adjudication, these procedures shall be available to the court:

(a) The judge may transfer the proceeding to the court in the district where the juvenile resides for disposition.

(b) Where the proceeding is not transferred under subsection (a), the judge shall immediately notify the Chief District Judge in the district in which the juvenile resides. If the Chief District Judge requests a transfer within five days after receipt of notification, the judge shall transfer the proceeding.

(c) Where the proceeding is not transferred under (a) or (b), the judge, upon motion of the juvenile, shall transfer the proceeding to the court in the district where the juvenile resides for disposition. The judge shall advise the juvenile of the juvenile's right to transfer under this section.

(2) A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the district in which the juvenile resides or is present. When a proceeding is commenced in a district other than that of the juvenile's residence, the judge, in his discretion or upon motion of the juvenile, may transfer the proceeding to the court in the district where the juvenile resides. A transfer under this subsection may be made at any time.

“§ 7A-529. *Pleading and process.*—The pleading in a juvenile action is the petition. The process in a juvenile action is the summons.

“§ 7A-530. *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 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, the petitions shall be separate.

A petition in which delinquency is alleged shall contain a plain and concise statement, without allegations of an evidentiary nature, asserting facts supporting every element of a criminal offense and the juvenile's commission thereof with sufficient precision clearly to apprise the juvenile of the conduct which is the subject of the accusation.

Sufficient copies of the petition shall be prepared so that copies will be available for each juvenile, for each parent if living separate and apart, for the court counselor or social worker, and for any person determined by the court to be a necessary party.

“§ 7A-531. *Receipt of complaints; filing of petition.*—(1) All reports concerning a juvenile alleged to be delinquent or undisciplined shall be referred to the intake counselor for screening. Thereafter, if it is determined by the intake counselor that a petition should be drawn and filed, the petition shall be drawn by the intake counselor or the clerk, signed by the complainant and verified before an official authorized to administer oaths. If the circumstances indicate a need for immediate attachment of jurisdiction and if the intake counselor is out of the county or otherwise unavailable to receive a complaint and to draw a petition when it is needed, the clerk shall assist the complainant in communicating his complaint to the intake counselor by telephone and, with the approval of the intake counselor, shall draw a petition and file it when signed and verified. A copy of the complaint and petition shall be transmitted to the intake counselor. Procedures for receiving delinquency and undisciplined complaints and drawing petitions thereon, consistent with this Article and Article 43, shall be established by Administrative Order of the Chief Judge in each judicial district under G.S. 7A-146(3).

(2) All complaints concerning a juvenile alleged to be abused, neglected, or dependent shall be referred to the Director of the Department of Social Services for screening. Thereafter, if it is determined by the Director that a complaint should be filed as a petition, the petition shall be drawn by the Director, verified before an official authorized to administer oaths, and filed by the Clerk, recording the date of filing.

(3) 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 pursuant to G.S. 7A-516 or G.S. 7A-522. If the prosecutor, after making his review, shall authorize a complaint to be filed as a petition, he shall prepare the complaint to be filed with the Clerk as a petition, recording the day of filing.

“§ 7A-532. *Immediate need for petition when Clerk's office is closed.*—(1) All complaints which may arise when the office of the Clerk of Superior Court is closed shall be referred to the intake counselor or the Director of Social Services according to the nature of the complaint.

(2) When the office of the Clerk of Superior Court is closed, a magistrate may be authorized by the Chief District Judge to draw, verify, and issue petitions as follows:

(a) when an intake counselor requests a petition alleging a juvenile to be delinquent or undisciplined, or

(b) when the Director of the Department of Social Services requests a petition alleging a juvenile to be abused, neglected, or dependent.

(3) The authority of the magistrate under subsection (2) is limited to emergency situations when a petition is required in order to obtain a secure or nonsecure custody order. Any petition issued under this section shall be delivered to the Clerk's office for processing as soon as that office is open for business.

“§ 7A-533. *Commencement of action.*—An action is commenced by the filing of a petition in the Clerk's office when that office is open, or by the issuance of a juvenile petition by a magistrate when the Clerk's office is closed, which issuance shall constitute filing.

“§ 7A-534. *Issuance of summons.*—After a petition has been filed, the Clerk of Superior Court shall issue a summons to the juvenile, to the parent, and to the guardian, custodian, or caretaker requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons. The summons shall advise the parent that upon service, jurisdiction over him is obtained and that failure of the parent to comply with any order of the court pursuant to G.S. 7A-584 may cause the court to issue a show cause order for contempt.

A summons shall be directed to the person summoned to appear and shall be delivered to any law enforcement officer having authority and territorial jurisdiction to execute the process.

“§ 7A-535. *Service of summons.*—The summons shall be personally served upon the parent, the guardian, custodian, or caretaker, and the juvenile or counsel or guardian *ad litem*, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the judge.

If the parent, guardian, or custodian entitled to receive a summons cannot be found by a diligent effort, the judge may authorize service of the summons and petition by mail or by publication. The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the judge, in his discretion, may direct.

If the parent, guardian, or custodian is personally served as herein provided and fails without reasonable cause to appear and to bring the juvenile before the court, he may be proceeded against as for contempt of court.

The provisions of G.S. 15A-301 (a), (c), (d), and (e) relating to criminal process apply to juvenile process; provided the period of time for return of an unserved summons is 30 days.

#### “ARTICLE 46.

“Temporary Custody; Secure and Nonsecure Custody; Custody

#### Hearings.

“§ 7A-536. *Taking a juvenile into temporary custody.*—Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for secure or nonsecure custody can be obtained.

A juvenile may be taken into temporary custody under the following circumstances:

(1) A juvenile may be taken into temporary custody by a law enforcement officer without a court order if grounds exist for the arrest of an adult in identical circumstances under G.S. 15A-401 (b).

(2) A juvenile may be taken into temporary custody without a court order by a law enforcement officer or a court counselor if there are reasonable grounds to believe that he is an undisciplined juvenile.

(3) A juvenile may be taken into temporary custody without a court order by a law enforcement officer or a Department of Social Services worker if there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that he would be injured or could not be taken into custody if it were first necessary to obtain a court order.

(4) A juvenile may be taken into custody without a court order by a law enforcement officer, by a court counselor, or by personnel of the Division of Youth Services as designated by the Department of Human Resources if there are reasonable grounds to believe the juvenile is an absconder from any State training school or approved detention facility.

*“§ 7A-537. Duties of person taking juvenile into temporary custody.—(1) A person who takes a juvenile into custody without a court order under G.S. 7A-536 (1), (2), or (3) shall proceed as follows:*

- (a) notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of his right to be present with the juvenile until a determination is made as to the need for secure or nonsecure custody. Failure to notify the parent that the juvenile is in custody shall not be grounds for release of the juvenile;
- (b) release the juvenile to his parent, guardian, or custodian if the person having the juvenile in temporary custody decides that continued custody is unnecessary.
- (c) if the juvenile is not released under subsection (b), the person having temporary custody shall proceed as follows:
  1. in the case of a juvenile alleged to be delinquent or undisciplined, he shall request a petition be drawn pursuant to G.S. 7A-531 or if the Clerk's office is closed, the magistrate pursuant to G.S. 7A-532. Once the petition has been drawn and verified, the person shall communicate with the intake counselor who shall consider prehearing diversion. If the decision is made to file a petition, the intake counselor shall contact the judge for a determination of the need for continued custody.
  2. in the case of a juvenile alleged to be abused, neglected, or dependent, he shall communicate with the Director of the Department of Social Services who shall consider prehearing diversion. If the decision is made to file a petition, the director shall contact the judge for a determination of the need for continued custody.
- (d) A juvenile taken into temporary custody under this Article shall not be held for more than 12 hours unless:
  1. a petition or motion for review has been filed by an intake counselor or the Director of the Department of Social Services, and
  2. an order for secure or nonsecure custody has been entered by a judge.



(2) A person who takes a juvenile into custody under G.S. 7A-536 (4) shall, after contacting a judge and receiving an order for secure custody, transport the juvenile to the nearest approved facility providing secure custody. He shall then contact the administrator of the training school or detention facility from which the juvenile absconded, who shall be responsible for returning the juvenile to that facility.

“§ 7A-538. *Authority to issue custody orders; delegation.*—In the case of any juvenile alleged to be within the jurisdiction of the court, when the judge finds it necessary to place the juvenile in custody, he may order that the juvenile be placed in secure or nonsecure custody pursuant to criteria set out in G.S. 7A-539.

The Chief District Judge may delegate the court's authority to issue secure and nonsecure custody orders for juveniles. This authority may be delegated by administrative order which shall be filed in the office of the Clerk of Superior Court. The administrative order shall specify which officials shall be contacted for approval of continued custody and may include, but shall not be limited to, any available district judge, intake counselors and members of the Chief Court Counselor's staff.

“§ 7A-539. *Criteria for secure or nonsecure custody.*—(1) 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

- (a) the juvenile has been abandoned; or
- (b) the juvenile has suffered physical injury or sexual abuse or is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, or custodian has inflicted the injury or abuse; created the conditions causing the injury, abuse, or exposure; failed to provide, or is unable to provide, adequate supervision or protection; or
- (c) 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
- (d) 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.

(2) When a request is made for secure custody, the judge may order secure custody only where he finds there is a reasonable factual basis to believe that the juvenile actually committed the offense as alleged in the petition, and

- (a) the juvenile is charged with a nondivertible offense; or
- (b) that the juvenile is presently charged with one or more felonies; or
- (c) that the juvenile has willfully failed to appear on the pending delinquency charge or has a record of willful failures to appear at court proceedings; or
- (d) that by reason of the juvenile's threat to flee from the court's jurisdiction or circumstances indicating preparation or design to flee from the court's jurisdiction there is reasonable cause to believe the juvenile will not appear in court on a pending delinquency charge unless he is detained; or

- (e) that exhaustive efforts to identify the juvenile have been futile or by reason of his being a nonresident of the State of North Carolina there is reasonable cause to believe the juvenile will not appear in court on a pending delinquency charge unless he is detained; or
- (f) that the juvenile is an absconder from any State training school or detention facility in this or another state; or
- (g) that the juvenile has a recent record of adjudications for violent conduct resulting in serious physical injury to others, the petition pending is for delinquency, and the charge involves physical injury; or
- (h) that by reason of the juvenile's recent self-inflicted injury or attempted self injury there is reasonable cause to believe the juvenile should be detained for his own protection for a period of less than 24 hours while action is initiated to determine the need for inpatient hospitalization, provided that the juvenile has been refused admittance by one appropriate hospital; or
- (i) that the juvenile alleged to be undisciplined by virtue of his being a runaway should be detained for a period of less than 24 hours to facilitate reunion with his parents or to facilitate evaluation of the juvenile's need for medical or psychiatric treatment.

(3) When a juvenile has been adjudicated delinquent, the judge may order secure custody pending the dispositional hearing or pending placement of a delinquent juvenile pursuant to G.S. 7A-583.

(4) In determining whether secure custody should be ordered, the judge should consider the nature and circumstances of the offense; the weight of the evidence against the juvenile; the juvenile's family ties, character, mental condition, and school attendance record; and whether the juvenile is on conditional release. If the criteria for secure custody as set out in subsections (2) and (3) are met, the judge may enter an order directing an officer or other authorized person to assume custody of the juvenile and to take the juvenile to the place as is designated in the order.

“§ 7A-540. *Order for secure or nonsecure custody.*—The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. A copy of the order shall be given to the juvenile's parent, guardian, or custodian by the official executing the order. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms and need not inquire into its regularity or continued validity, nor does he incur criminal or civil liability for its due service.

“§ 7A-541. *Place of secure or nonsecure custody.*—(1) A juvenile meeting the criteria set out in G.S. 7A-539, subsection (1), may be placed in nonsecure custody with the Department of Social Services or a person designated in the order for temporary residential placement in:

- (a) a licensed foster home or a home otherwise authorized by law to provide such care or
- (b) a facility operated by the Department of Social Services or
- (c) any other home or facility approved by the court and designated in the order.

(2) A juvenile meeting the criteria set out in G.S. 7A-539 (2) may be temporarily detained in an approved county detention home or a regional detention facility which shall be separate from any jail, lockup, prison, or other adult penal institution. It shall be unlawful for a county or any unit of government to operate a juvenile detention home unless the facility meets the standards promulgated by the Department of Human Resources.

(3) Until July 1, 1983, if no juvenile detention home is available, a juvenile meeting the criteria set out in G.S. 7A-539 (2) may be detained in a holdover facility which shall be inspected pursuant to G.S. 108-79 through 81, and G.S. 153A-222, and shall meet the State standards provided for in G.S. 153A-221.

(4) Subsection (3) expires on June 30, 1983.

“§ 7A-542. *Hearing to determine need for continued secure or nonsecure custody.*—(1) No juvenile shall be held under a custody order for more than five calendar days without a hearing on the merits or a hearing to determine the need for continued custody. In every case in which an order has been entered by an official exercising authority delegated pursuant to G.S. 7A-538, 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 district where the order was entered if such session precedes the expiration of the five calendar day period.

(2) Any juvenile who is alleged to be delinquent shall be advised of his right to have an attorney represent him as provided in G.S. 7A-544 if he appears without counsel at the hearing.

(3) At a hearing to determine the need for continued custody, the judge shall receive testimony and shall allow the juvenile, and his parent, guardian, or custodian an opportunity to introduce evidence, to be heard in their own behalf, and to examine witnesses. The State shall bear the burden at every stage of the proceedings to provide clear and convincing evidence that restraints on the juvenile's liberty are necessary and that no less intrusive alternative will suffice. The judge shall not be bound by the usual rules of evidence at such hearings.

(4) The judge shall be bound by criteria set forth in G.S. 7A-539 in determining whether continued custody is warranted.

(5) The judge shall impose the least restrictive interference with the liberty of a juvenile who is released from secure custody including:

- (a) release on the written promise of the juvenile's parent, guardian, or custodian to produce him in court for subsequent proceedings; or
- (b) release into the care of a responsible person or organization; or
- (c) release conditioned on restrictions on activities, associations, residence or travel if reasonably related to securing the juvenile's presence in court; or
- (d) any other conditions reasonably related to securing the juvenile's presence in court.

(6) If the judge determines that the juvenile meets the criteria in G.S. 7A-539 and should continue in custody, he shall issue an order to that effect. The order shall be in writing with appropriate findings of fact. The findings of fact shall include the evidence relied upon in reaching the decision and the purposes which continued custody is to achieve.

(7) Pending a hearing on the merits, further hearings to determine the need for continued custody shall be held at intervals of no more than seven calendar days.

“§ 7A-543. *Telephonic communication authorized.*—All communications, notices, orders, authorizations, and requests authorized or required by G.S. 7A-537, G.S. 7A-539, and G.S. 7A-540 may be made by telephone when other means of communication are impractical. All written orders pursuant to telephonic communication shall bear the name and the title of the person communicating by telephone, the signature and the title of the official entering the order, and the hour and the date of the authorization.

“ARTICLE 47.

“Basic Rights.

“§ 7A-544. *Juvenile's right to counsel.*—(1) A juvenile alleged to be within the jurisdiction of the court has the right to be represented by counsel in all proceedings. In any proceeding in which delinquency is alleged, the judge shall appoint counsel unless counsel is retained for the juvenile.

(2) All juveniles shall be conclusively presumed to be indigent, and it shall not be necessary for the court to receive from any juvenile an affidavit of indigency.

“§ 7A-545. *Appointment of guardian.*—In any case when no parent appears in a hearing with the juvenile or when the judge finds it would be in the best interest of the juvenile, the judge may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for him and may represent the juvenile in legal actions before any court. The guardian shall also have authority to consent to certain actions on the part of the juvenile in place of the parent including marriage, enlisting in the armed forces, and undergoing major surgery. The authority of the guardian shall continue until the guardianship is terminated by order, until the juvenile is emancipated pursuant to Article 56, or until the juvenile reaches the age of majority.

“§ 7A-546. *Appointment 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 appear on behalf of the juvenile in the court proceeding and to perform necessary and appropriate legal services on his behalf; to present relevant facts to the judge at the adjudicatory hearing and to explore options with the judge at the dispositional hearing; to protect and promote the best interest of the juvenile until formally relieved of the responsibility by the judge; 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 appear with the juvenile in any criminal action wherein he may be called on to testify in a matter relating to abuse.



The guardian *ad litem* shall be an attorney-at-law, licensed to practice in the State of North Carolina. In no case may the judge appoint a public defender as guardian *ad litem*. 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.

“§ 7A-546.1. *Parent's right to counsel*.—In cases where the juvenile petition alleges that a juvenile is abused, neglected or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless the parent waives the right.

“§ 7A-547. *Payment of court appointed attorney or guardian ad litem*.—An attorney or guardian *ad litem* appointed pursuant to G.S. 7A-544, G.S. 7A-546 or G.S. 7A-546.1 of this Article shall be paid a reasonable fee fixed by the court in the same manner as fees for attorneys appointed in cases of indigency. The judge may require the parent or a custodian other than a Department of Social Services to pay the attorney's fee or reimburse the State unless the parent or custodian is indigent. The test of the parent's or custodian's ability to pay shall be the test applied to appointment of an attorney in cases of indigency. A person who does not comply with the court's order of payment may be punished for contempt as provided in G.S. 5A-21.

#### “ARTICLE 48.

##### “Law Enforcement Procedures in Delinquency Proceedings.

“§ 7A-548. *Role of the law enforcement officer*.—A law enforcement officer, when he takes a juvenile into temporary custody, should select the least restrictive course of action appropriate to the situation and needs of the juvenile from the following:

- (1) To divert the juvenile from the court by
  - (a) release;
  - (b) counsel and release;
  - (c) release to parents;
  - (d) referral to community resources;
- (2) To seek a petition;
- (3) To seek a petition and request a custody order.

“§ 7A-549. *Interrogation procedures*.—(1) Any juvenile in custody must be advised prior to questioning:

- (a) that he has a right to remain silent; and
- (b) that any statement he does make can be and may be used against him; and
- (c) that he has a right to have a parent, guardian or custodian present during questioning; and
- (d) that he has a right to consult with an attorney and that one will be appointed for him if he is not represented and wants representation.

(2) When the juvenile is less than 14 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney is not present, the parent,

guardian, or custodian as well as the juvenile must be advised of the juvenile's rights as set out in subsection (1); however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.

(3) If the juvenile indicates in any manner and at any stage of questioning pursuant to this section that he does not wish to be questioned further, the officer shall cease questioning.

(4) Before admitting any statement resulting from custodial interrogation into evidence, the judge must find that the juvenile knowingly, willingly, and understandingly waived his rights.

“§ 7A-550. *Authority to issue nontestimonial order in the case of juveniles alleged to be delinquent.*—Nontestimonial identification procedures shall not be conducted on any juvenile without a court order issued pursuant to this Article. A nontestimonial identification order authorized by this Article may be issued by any judge of the District Court or of the Superior Court upon request of a prosecutor. As used in this Article, ‘nontestimonial identification’ means identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, or other reasonable physical examination, handwriting exemplars, voice samples, photographs, and lineups or similar identification procedures requiring the presence of a juvenile.

“§ 7A-551. *Time of application.*—A request for a nontestimonial identification order may be made prior to taking a juvenile into custody or after custody and prior to the adjudicatory hearing or prior to trial in Superior Court where a case is transferred pursuant to Article 49 of this act.

“§ 7A-552. *Basis for order.*—An order may issue only on affidavit or affidavits sworn to before the judge and establishing the following grounds for the order:

(1) that there is probable cause to believe that an offense has been committed which if committed by an adult would be punishable by imprisonment for more than two years; and

(2) that there are reasonable grounds to suspect that the juvenile named or described in the affidavit committed the offense; and

(3) that the results of specific nontestimonial identification procedures will be of material aid in determining whether the juvenile named in the affidavit committed the offense.

“§ 7A-553. *Issuance of order.*—Upon a showing that the grounds specified in G.S. 7A-552 exist, the judge may issue an order following the same procedure as in the case of adults under G.S. 15A-274, G.S. 15A-275, G.S. 15A-276, G.S. 15A-277, G.S. 15A-278, G.S. 15A-279, G.S. 15A-280, and G.S. 15A-282.

“§ 7A-554. *Nontestimonial identification order at request of juvenile.*—A juvenile in custody for or charged with an offense which if committed by an adult would be punishable by imprisonment for more than two years may request that nontestimonial identification procedures be conducted upon himself. If it appears that the results of specific nontestimonial identification procedures will be of material aid to the juvenile's defense, the judge to whom the request was directed must order the State to conduct the identification procedures.

“§ 7A-555. *Destruction of records resulting from nontestimonial procedures.*—The results of any nontestimonial identification procedures shall be retained or disposed of as follows:

(1) If a petition is not filed against a juvenile who has been the subject of nontestimonial identification procedures, all records of such evidence shall be destroyed.

(2) If in the District Court or Superior Court pursuant to a transfer a juvenile is found not guilty, all records resulting from a nontestimonial order shall be destroyed. Further, in the case of a juvenile who is under 14 years of age and who is adjudicated to have committed a delinquent act, which would be less than a felony had the juvenile been an adult, all records shall be destroyed.

(3) If a juvenile 14 years of age or older is found to have committed a delinquent act which would be a felony if committed by an adult, all records resulting from a nontestimonial order may be retained in the court file. Special precautions shall be taken to ensure that these records will be maintained in such a manner and under such safeguards as to limit their use to inspection for comparison purposes by law enforcement officers only in the investigation of a crime.

(4) If the juvenile is transferred to Superior Court, all records resulting from nontestimonial identification procedures shall be processed as in the case of an adult.

(5) Any evidence seized pursuant to a nontestimonial order shall be retained by law enforcement officers until further order is entered by the court.

(6) Destruction of nontestimonial identification records pursuant to this section shall be performed by the law enforcement agency having possession of provisions of this Article which prohibit conducting nontestimonial identification procedures without an order issued by a judge shall be guilty of a misdemeanor."

#### "ARTICLE 49.

##### "Transfer to Superior Court.

"§ 7A-557. *Transfer of jurisdiction of juvenile to Superior Court.*—The court after notice, hearing, and a finding of probable cause may transfer jurisdiction over a juvenile 14 years of age or older to Superior Court if the juvenile was 14 years of age or older at the time he allegedly committed an offense which would be a felony if committed by an adult. If the alleged felony constitutes a capital offense and the judge finds probable cause, the judge shall transfer the case to the Superior Court for trial as in the case of adults.

"§ 7A-558. *Probable-cause hearing.*—(1) The judge shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was 14 years of age or older when the offense was allegedly committed unless counsel for the juvenile waives in writing his right to the hearing and stipulates to a finding of probable cause.

(2) At the probable-cause hearing,

(a) a prosecutor must represent the State;

(b) the juvenile may be represented by counsel in accordance with G.S. 7A-544;

(c) the juvenile may testify as a witness in his own behalf and call and examine other witnesses and produce other evidence in his behalf; and

(d) each witness must testify under oath or affirmation and be subject to cross-examination.

(3) The State must by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the juvenile committed it, except:

- (a) a report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in some other scientific, professional, or medical field, concerning the results of an examination, comparison, or test performed by him in connection with the case in issue, when stated by that person in a report made by him, is admissible in evidence;
- (b) if there is no serious contest, reliable hearsay is admissible to prove value, ownership of property, possession of property in another than the juvenile, lack of consent of the owner, possessor, or custodian of property to the breaking or entering of premises, chain of custody, and authenticity of signatures.

(4) The juvenile's attorney has the right to examine any court or probation records considered by the court in exercising its discretion to transfer the case.

"§ 7A-559. *Where probable cause is established.*—(1) If probable cause is found, the prosecutor or the juvenile may move that the case be transferred to the Superior Court for trial as in the case of adults. If the alleged felony does not constitute a capital offense, the judge may proceed to determine whether the needs of the juvenile or the best interest of the State will be served by transfer of the case to Superior Court for trial as in the case of adults.

(2) If probable cause is not found, the judge shall dismiss the proceeding.

(3) Any order of transfer shall specify the reasons for transfer.

(4) A finding of no probable cause shall not preclude the judge from adjudicating the juvenile delinquent for the commission of a lesser included offense.

"§ 7A-560. *Right to bail, detention.*—Once the order of transfer has been entered, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and G.S. 15A-534. Pending release under this Article, the judge may order that the juvenile be detained in a juvenile detention home or a separate section of a local jail as provided by G.S. 7A-541.

"§ 7A-561. *Double jeopardy prohibited.*—Jeopardy attaches in an adjudicatory hearing when the judge begins to hear evidence.

#### "ARTICLE 50.

##### "Discovery.

"§ 7A-562. *Disclosure of evidence by the petitioner.*—(1) Statement of the juvenile. Upon motion of a juvenile alleged to be delinquent, the judge shall order the petitioner:

- (a) to permit the juvenile to inspect and copy any relevant written or recorded statements within the possession, custody, or control of the petitioner made by the juvenile or any other party charged in the same action; and
- (b) to divulge, in written or recorded form, the substance of any oral statement made by the juvenile or any other party charged in the same action.

(2) Names of witnesses. Upon motion of the juvenile, the judge shall order the petitioner to furnish the names of persons to be called as witnesses. A copy of



the record of witnesses under the age of 16 shall be provided by the petitioner to the juvenile upon his motion if accessible to the petitioner.

(3) Documents and tangible objects. Upon motion of the juvenile, the judge shall order the petitioner to permit the juvenile to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof:

- (a) which are within the possession, custody, or control of the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged; and
- (b) which are material to the preparation of his defense, are intended for use by the petitioner as evidence, and were obtained from or belong to the juvenile.

(4) Reports of examinations and tests. Upon motion of a juvenile, the judge shall order the petitioner to permit the juvenile to inspect and copy results of physical or mental examinations or of tests, measurements or experiments made in connection with the case, within the possession, custody, or control of the petitioner. In addition upon motion of a juvenile, the judge shall order the petitioner to permit the juvenile to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it or tests or experiments made in connection with the evidence in the case if it is available to the petitioner, the prosecutor, or any law enforcement officer conducting an investigation of the matter alleged and if the petitioner intends to offer the evidence at trial.

(5) Except as provided in subsections (1) through (4), this Article does not require the production of reports, memoranda, or other internal documents made by the petitioner, law enforcement officers, or other persons acting on behalf of the petitioner in connection with the investigation or prosecution of the case or of statements made by witnesses or the petitioner to anyone acting on behalf of the petitioner.

(6) Nothing in this section prohibits a petitioner from making voluntary disclosures in the interest of justice.

“§ 7A-563. *Disclosure of evidence by the juvenile.*—(1) Names of witnesses. Upon motion of the petitioner, the judge shall order the juvenile to furnish to the petitioner the names of persons to be called as witnesses.

(2) Documents and tangible objects. If the court grants any relief sought by the juvenile under G.S. 7A-562, subsection (3), upon motion of the petitioner the judge shall order the juvenile to permit the petitioner to inspect and copy books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or portions thereof which are within the possession, custody, or control of the juvenile and which the juvenile intends to introduce in evidence.

(3) Reports of examinations and tests. If the court grants any relief sought by the juvenile under G.S. 7A-562, subsection (4), upon motion of the petitioner, the judge shall order the juvenile to permit the petitioner to inspect and copy results of physical or mental examinations or of tests, measurements or experiments made in connection with the case within the possession and control of the juvenile which he intends to introduce in evidence or which were prepared by a witness whom he intends to call if the results relate to the witness's testimony. In addition, upon motion of a petitioner, the judge shall order the juvenile to permit the petitioner to inspect, examine, and test, subject

to appropriate safeguards, any physical evidence or a sample of it if the juvenile intends to offer the evidence or tests or experiments made in connection with the evidence in the case.

“§ 7A-564. *Regulation of discovery; protective orders.*—(1) Upon written motion of a party and a finding of good cause, the judge may at any time order that discovery or inspection be denied, restricted, or deferred.

(2) The judge may permit a party seeking relief under subsection (1) to submit supporting affidavits or statements to the court for *in camera* inspection. If thereafter, the judge enters an order granting relief under subsection (1), the material submitted *in camera* must be available to the Court of Appeals in the event of an appeal.

“§ 7A-565. *Continuing duty to disclose.*—If a party, subject to compliance with an order issued pursuant to this Article, discovers additional evidence prior to or during the hearing or decides to use additional evidence, and if the evidence is or may be subject to discovery or inspection under this Article, he shall promptly notify the other party of the existence of the additional evidence or of the name of each additional witness.

#### “ARTICLE 51.

##### “Hearing Procedures.

“§ 7A-566. *Amendment of petition.*—The judge may permit a petition to be amended when the amendment does not change the nature of the offense alleged or the conditions upon which the petition is based. If a motion to amend is allowed, the juvenile shall be given a reasonable opportunity to prepare a defense to the amended allegations.

§ 7A-567. *Determination of incapacity to proceed; evidence; temporary commitment; temporary orders.*—The provisions of G.S. 15A-1001, G.S. 15A-1002, and G.S. 15A-1003 apply to all cases in which a juvenile is alleged to be delinquent. No juvenile committed under this section may be placed in a situation where he will come in contact with adults committed for any purpose.

“§ 7A-568. *Adjudicatory hearing.*—The adjudicatory hearing shall be held in the district at such time and place as the Chief District Judge shall designate. The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

“§ 7A-569. *Participation of the prosecutor.*—A prosecutor from the District Attorney's office shall represent the State in contested delinquency hearings.

“§ 7A-570. *Conduct of hearing.*—(1) The adjudicatory hearing shall be a judicial process designed to adjudicate the existence or nonexistence of any of the conditions alleged in a petition. In the adjudicatory hearing, the judge shall protect the following rights of the juvenile and his parent to assure due process of law: the right to written notice of the facts alleged in the petition, the right to counsel, the right to confront and cross-examine witnesses, the privilege against self-incrimination, the right of discovery and all rights afforded adult offenders except the right to bail, the right of self-representation, and the right of trial by jury.

“§ 7A-571. *Continuances.*—The judge may continue at any time any case to allow additional factual evidence, social information or other information needed in the best interest of the juvenile or in the interest of justice.

“§ 7A-572. *Where allegations of a delinquent or undisciplined act are admitted.*—(1) A judge may accept an admission from a juvenile only after first addressing him personally and

- (a) informing him that he has a right to remain silent and that any statement he makes may be used against him;
- (b) determining that he understands the nature of the charge;
- (c) informing him that he has a right to deny the allegations;
- (d) informing him that by his admissions he waives his right to be confronted by the witnesses against him;
- (e) determining that the juvenile is satisfied with his representation; and
- (f) informing him of the most restrictive disposition on the charge.

(2) By inquiring of the prosecutor, the juvenile's attorney, and the juvenile personally, the judge shall determine whether there were any prior discussions involving admissions, whether the parties have entered into any arrangement with respect to the admissions and the terms thereof, and whether any improper pressure was exerted. The judge may accept an admission from a juvenile only after determining that the admission is a product of informed choice.

(3) The judge may accept an admission only after determining that there is a factual basis for the admission. This determination may be based upon any of the following information: a statement of the facts by the prosecutor; a written statement of the juvenile; sworn testimony which may include reliable hearsay; or a statement of facts by the juvenile's attorney.

"§ 7A-573. *Rules of evidence.*—(1) Where delinquent or undisciplined behavior is alleged and the allegation is denied, the court shall proceed in accordance with the rules of evidence applicable to criminal cases. In addition, no statement made by a juvenile to the intake counselor during the preliminary inquiry and evaluation process shall be admissible against the juvenile prior to the dispositional hearing.

(2) Where the juvenile is alleged to be abused, neglected or dependent, the rules of evidence in civil cases shall apply.

"§ 7A-574. *Quantum of proof in adjudicatory hearing.*—The allegations of a petition alleging the juvenile is delinquent shall be proved beyond a reasonable doubt. The allegations in a petition alleging abuse, neglect, dependence, or undisciplined behavior shall be proved by clear and convincing evidence.

"§ 7A-575. *Record of proceedings.*—All adjudicatory and dispositional hearings and hearings on transfer to superior court shall be recorded by stenographic notes or by electronic or mechanical means. Records shall be reduced to a written transcript only when timely notice of appeal has been given. The judge may order that other hearings be recorded.

"§ 7A-576. *Adjudication.*—If the judge finds that the allegations in the petition have been proved as provided in G.S. 7A-574, he shall so state. If the judge finds that the allegations have not been proven, he shall dismiss the petition with prejudice and the juvenile shall be released from secure or nonsecure custody.

"§ 7A-577. *Legal effect of adjudication of delinquency.*—An adjudication that a juvenile is delinquent or commitment of a juvenile to the Division of Youth Services shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights.

"§ 7A-578. *Predisposition investigation and report.*—The judge shall proceed to the dispositional hearing upon receipt of sufficient social, medical, psychiatric, psychological, and educational information. No predisposition report shall be submitted to or considered by the judge prior to the completion

of the adjudicatory hearing. The judge shall permit the juvenile to inspect any predisposition report to be considered by him in making his disposition unless the judge determines that disclosure would seriously harm his treatment or rehabilitation or would violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be afforded the juvenile and his parent, guardian, or custodian at the dispositional hearing. The judge may order counsel not to disclose parts of the report to the juvenile or the juvenile's parent, guardian, or custodian if the judge finds that disclosure would seriously harm the treatment or rehabilitation of the juvenile or would violate a promise of confidentiality given to a source of information.

“§ 7A-579. *Dispositional hearing.*—The dispositional hearing may be informal, and the judge may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and his parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the judge concerning the disposition they believe to be in the best interest of the juvenile.

“ARTICLE 52.

“Dispositions.

“§ 7A-580. *Purpose.*—The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction. If possible, the initial approach should involve working with the juvenile and his family in their own home so that the appropriate community resources may be involved in care, supervision, and treatment according to the needs of the juvenile. Thus, the judge should arrange for appropriate community-level services to be provided to the juvenile and his family in order to strengthen the home situation.

In choosing among statutorily permissible dispositions for a delinquent juvenile, the judge shall select the least restrictive disposition both in terms of kind and duration, that is appropriate to the seriousness of the offense, the degree of culpability indicated by the circumstances of the particular case and the age and prior record of the juvenile. A juvenile should not be committed to training school or to any other institution if he can be helped through community-level resources.

“§ 7A-581. *Dispositional alternatives for the delinquent, undisciplined, abused, neglected, or dependent juvenile.*—The following alternatives for disposition shall be available to any judge exercising jurisdiction, and the judge may combine any two of the applicable alternatives when he finds such disposition to be in the best interest of the juvenile:

(1) The judge may dismiss the case, or continue the case in order to allow the juvenile, parent, or others to take appropriate action.

(2) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

- (a) require that he be supervised in his own home by the department of social services in his county, a court counselor or other personnel as may be available to the court, subject to conditions applicable to the parent or the juvenile as the judge may specify; or
- (b) place him in the custody of a parent, relative, private agency offering placement services, or some other suitable person; or
- (c) place him in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal



residence outside the State, in the physical custody of the department of social services in the county where he is found so that agency may return the juvenile to the responsible authorities in his home state. Any department of social services in whose custody or physical custody a juvenile is placed shall have the authority to arrange for and provide medical care as needed for such juvenile.

(3) In any case, the judge may order that the juvenile be examined by a physician, psychiatrist, psychologist or other qualified expert as may be needed for the judge to determine the needs of the juvenile. If the judge finds the juvenile to be in need of medical, surgical, psychiatric, psychological or other treatment, he shall allow the parent or other responsible persons to arrange for care. If the parent declines or is unable to make necessary arrangements, the judge may order the needed treatment, surgery or care, and the judge may order the parent to pay the cost of such care pursuant to G.S. 7A-584. If the judge finds the parent is unable to pay the cost of care, the judge may charge the cost to the county. If the judge believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is mentally retarded the judge shall refer him to the area mental health director or local mental health director for appropriate action. A juvenile shall not be committed directly to a State hospital or mental retardation center; and orders purporting to commit a juvenile directly to a State hospital or mental retardation center except for an examination to determine capacity to proceed shall be void and of no effect. The area mental health director or local mental health director shall be responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet his needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent or guardian. If the parent, guardian, or custodian refuses to consent to a mental hospital or retardation center admission after such institutionalization is recommended by the area mental health director, the signature and consent of the judge may be substituted for that purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by a judge and an area mental health director or discharges a juvenile previously admitted on court referral prior to completion of his treatment, the hospital shall submit to the judge a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question.

"§7A-582. *Dispositional alternatives for delinquent or undisciplined juvenile.*—In the case of any juvenile who is delinquent or undisciplined, the judge may:

(1) continue the case for no more than six months in order to allow the family an opportunity to meet the needs of the juvenile through more adequate home supervision, through placement in a private or specialized school or agency, through placement with a relative, or through some other plan approved by the court;

(2) place the juvenile under the protective supervision of a court counselor for no more than one year so that the court counselor may assist the juvenile in securing social, medical, and educational services and may work with the family as a unit to insure the juvenile is provided proper supervision and care;

(3) excuse the juvenile from compliance with the compulsory school attendance law when the judge finds that suitable alternative plans can be arranged by the family through other community resources for one of the following: an education related to the needs or abilities of the juvenile including vocational education or special education; a suitable plan of supervision or placement; or some other plan that the judge finds to be in the best interest of the juvenile.

“§ 7A-583. *Dispositional alternatives for delinquent juvenile.*—In the case of any juvenile who is delinquent, the judge may:

(1) suspend imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meet certain conditions agreed to by him and specified in the dispositional order. The conditions shall not exceed the maximum criminal sanction permissible for the offense;

(2) require restitution, full or partial, payable within a 12-month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile. The judge may determine the amount, terms, and conditions of the restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of restitution; however, the judge shall not require the juvenile to make restitution if the juvenile satisfies the court that he does not have, and could not reasonably acquire, the means to make restitution;

(3) impose a fine related to the seriousness of the juvenile's offense. If the juvenile has the ability to pay the fine, it shall not exceed the maximum fine for the offense if committed by an adult;

(4) order the juvenile to perform supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of the work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense and in no event may the obligation to work exceed 12 months;

(5) order the juvenile to a supervised day program, requiring him to be present at a specified place for all or part of every day or of certain days. The judge also may require the juvenile to comply with any other reasonable conditions specified in the dispositional order that are designed to facilitate supervision;

(6) order the juvenile to a community-based program of academic or vocational education or to a professional residential or nonresidential treatment program. Participation in the programs shall not exceed 12 months;

(7) impose confinement on an intermittent basis in an approved detention facility. Confinement shall be limited to:

(a) night custody for no more than a total of five nights; or

(b) weekend custody for no more than a total of two weekends;

Confinement in either case shall be completed within a period of 60 days from the date of disposition.

(8) place the juvenile on probation under the supervision of a court counselor. The judge shall specify conditions of probation that are related to the needs of the juvenile including any of the following which apply:

(a) that the juvenile shall remain on good behavior and not violate any laws;

- (b) that the juvenile attend school regularly;
- (c) that the juvenile not associate with specified persons or be in specified places;
- (d) that the juvenile report to a court counselor as often as required by a court counselor;
- (e) that the juvenile make specified financial restitution or pay a fine in accordance with subsections (2) and (3);
- (f) that the juvenile be employed regularly if not attending school.

An order of probation shall remain in force for a period not to exceed one year from the date entered. Prior to expiration of an order of probation, the judge may extend it for an additional period of one year after a hearing if he finds that the extension is necessary to protect the community or to safeguard the welfare of the juvenile:

(9) order that the juvenile shall not be licensed to operate a motor vehicle in the State of North Carolina for as long as the court retains jurisdiction over the juvenile or for any shorter period of time;

(10) commit the juvenile to the Division of Youth Services in accordance with G.S. 7A-586.

*“§ 7A-584. Authority over parents of juvenile adjudicated as delinquent, undisciplined, abused, neglected, or dependent.—(1) If the judge orders medical, surgical, psychiatric, psychological, or other treatment pursuant to G.S. 7A-581 (3), the judge may order the parent or other responsible parties to pay the cost of the treatment or care ordered.*

*(2) The judge may order the parent to provide transportation for a juvenile to keep an appointment with a court counselor.*

*(3) Whenever legal custody of a juvenile is vested in someone other than his parent, after due notice to the parent and after a hearing, the judge may order that the parent pay a reasonable sum that will cover in whole or in part the support of the juvenile after the order is entered. If the judge places a juvenile in the custody of a county department of social services and if the judge finds that the parent is unable to pay the cost of the support required by the juvenile, the cost shall be paid by the county department of social services in whose custody the juvenile is placed, provided the juvenile is not receiving care in an institution owned or operated by the State or federal government or any subdivision thereof.*

*(4) Failure of a parent who is personally served to participate in or comply with subsections (1) through (3) may result in a civil proceeding for contempt.*

*“§ 7A-585. Dispositional order.—The dispositional order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The judge shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration and the person who is responsible for carrying out the disposition and the person or agency in whom custody is vested.*

*“§ 7A-586. Commitment of a delinquent juvenile to the Division of Youth Services.—(1) A delinquent juvenile 10 years of age or more may be committed to the Division of Youth Services for placement in one of the residential facilities operated by the Division if the judge finds that the alternatives to commitment as contained in G.S. 7A-583 have been attempted unsuccessfully or are inappropriate and that the juvenile's behavior constitutes a threat to persons or property in the community.*

(2) Commitment shall be for:

- (a) an indefinite term not to exceed the eighteenth birthday of the juvenile; or
- (b) a definite term not to exceed two years if the judge finds that the juvenile is 14 years of age or older, has been previously adjudicated delinquent for two or more felony offenses, and has been previously committed to a residential facility operated by the Division of Youth Services. The Division may reduce the duration of the definite commitment by an amount not to exceed twenty-five percent (25%) if the juvenile has not committed any major infractions of the regulations of any facility to which he is assigned, and the Division of Youth Services may move for a reduction of more than twenty-five percent (25%) pursuant to G.S. 7A-593.

(3) In no event shall commitment be for a period of time in excess of that period for which an adult could be committed.

(4) The Chief Court Counselor shall have the responsibility for transporting the juvenile to the residential facility designated by the Division of Youth Services. The juvenile shall be accompanied to the residential facility by a person of the same sex.

(5) The Division of Youth Services shall accept all juveniles who have been committed for delinquency if the Director finds that the criteria specified in this section have been met. A commitment order accompanied by information requested by the Director shall be forwarded to the Division. The Director shall place the juvenile in the residential facility that would best provide for his needs and shall notify the committing court. The Secretary of the Department of Human Resources may assign a juvenile committed for delinquency to any institution or other program of the Department or licensed by the Department, which program is appropriate to the needs of the juvenile.

(6) When the judge commits a juvenile to the Division of Youth Services, the Director shall prepare a plan for care or treatment within 15 days after assuming custody of the juvenile.

(7) Commitment of a juvenile to the Division of Youth Services does not terminate the court's continuing jurisdiction rights over the juvenile and his parent or guardian. Commitment of a juvenile to the Division of Youth Services transfers only physical custody of the juvenile to the Division. Legal custody remains with the parent, guardian, agency or institution in whom it was vested.

“§ 7A-587. *Transfer authority of Governor.*—The Governor may order transfer of any person less than 18 years of age from any jail or penal facility of the State to one of the residential facilities operated by the Division of Youth Services in appropriate circumstances, provided the Governor shall consult with the Department of Human Resources concerning the feasibility of the transfer in terms of available space, staff, and suitability of program.

When an inmate, committed to the Department of Correction, is transferred by the Governor to a residential program operated by the Division of Youth Services, the Division of Youth Services may release the juvenile based on the needs of the juvenile and the best interests of the State. Transfer shall not divest the probation-parole officer of his responsibility to supervise the inmate on release.

“§ 7A-588. *Prerelease planning.*—The Director of the Division of Youth Services shall be responsible for evaluation of the progress of each juvenile at



least once every six months as long as the juvenile remains in the care of the Division. If the director determines that a juvenile is ready for release, he shall initiate a prerelease planning process. The prerelease planning process shall be defined by rules and regulations of the Division of Youth Services, but shall include the following:

- (1) written notification to the judge who ordered commitment;
- (2) a prerelease planning conference shall be held involving as many as possible of the following: the juvenile, his parent, court counselors who have supervised the juvenile on probation or will supervise him on aftercare, and staff of the facility that found the juvenile ready for release. The prerelease planning conference shall include personal contact and evaluation rather than telephonic notification.

“§ 7A-589. *Conditional release and final discharge.*—The Division of Youth Services shall release a juvenile either by conditional release or by final discharge. The decision as to which type of release is appropriate shall be made by the director based on the needs of the juvenile and the best interests of the State under rules and regulations governing release which shall be promulgated by the Division of Youth Services, according to the following guidelines:

(1) Conditional release is appropriate for a juvenile needing supervision after leaving the institution. As part of the prerelease planning process, the terms of conditional release shall be set out in writing and a copy given to the juvenile, his parent, the committing court, and the court counselor who will provide aftercare supervision.

(2) Final discharge is appropriate when the juvenile does not require supervision or is 18 years of age.

“§ 7A-590. *Revocation of conditional release.*—If a juvenile does not conform to the terms of his conditional release, the court counselor providing aftercare supervision may make a motion for review in the court in the district where the juvenile has been residing during aftercare supervision. The judge shall hold a hearing to determine whether there has been a violation. With respect to any hearing pursuant to this section, the juvenile:

(1) shall have reasonable notice in writing of the nature and content of the allegations in the petition, including notice that the purpose of the hearing is to determine whether the juvenile has violated the terms of his conditional release to the extent that his conditional release should be revoked;

(2) shall be permitted to be represented by an attorney at the hearing;

(3) shall have the right to confront and cross-examine any persons who have made allegations against him;

(4) may admit, deny, or explain the violation alleged and may present proof, including affidavits or other evidence, in support of his contentions. A record of the proceeding shall be made and preserved in the juvenile's record.

If the judge determines that the juvenile has violated the terms of his conditional release, the judge may revoke the conditional release or make any other disposition authorized by this act.

If the judge revokes the conditional release, the Chief Court Counselor shall have the responsibility for returning the juvenile to the facility specified by the Division of Youth Services.

“§ 7A-591. *Review of custody order.*—In any case where the judge removes custody from a parent or person standing *in loco parentis* because of dependency, neglect or abuse, the juvenile shall not be returned to the parent or

person standing *in loco parentis* unless the judge finds sufficient facts to show that the juvenile will receive proper care and supervision.

In any case where custody is removed from a parent, the judge shall conduct a review within six months of the date the order was entered, and shall conduct subsequent reviews at least every year thereafter. The Director of Social Services shall make timely requests to the clerk to calendar the case at a session of court scheduled for the hearing of juvenile matters within six months of the date the order was entered. The director shall make timely requests for calendaring of the yearly reviews thereafter. The clerk shall give 15 days' notice of the review to the parent or the person standing *in loco parentis*, the juvenile if 12 years of age or more, the guardian, foster-parent, custodian or agency with custody, the guardian *ad litem*, and any other person the court may specify, indicating the court's impending review.

The court shall consider information from the Department of Social Services; the juvenile court counselor, the custodian, guardian, the parent or the person standing *in loco parentis*, the foster-parent, the guardian *ad litem*; and any public or private agency which will aid it in its review.

In each case the court shall consider the following criteria:

- (a) services which have been offered to reunite the family;
- (b) where the juvenile's return home is unlikely, the efforts which have been made to evaluate or plan for other methods of care;
- (c) goals of the foster care placement and the appropriateness of the foster care plan;
- (d) a new foster care plan, if continuation of care is sought, that addresses the role the current foster parent will play in the planning for the juvenile;
- (e) reports on the placements the juvenile has had and any services offered to the juvenile and the parent;
- (f) when and if termination of parental rights should be considered;
- (g) any other criteria the court deems necessary.

The judge, after making findings of fact, shall enter an order continuing the placement under review or providing for a different placement as is deemed to be in the best interest of the juvenile. If at any time custody is restored to a parent, the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

“§ 7A-592. *Probation review.*—The judge may review the progress of any juvenile on probation at any time during the period of probation or at the end of probation. The conditions or duration of probation may be modified only as provided in this act and only after there is notice and a hearing. If a juvenile violates the conditions of his probation, he and his parent after notice, may be required to appear before the court and the judge may make any disposition of the matter authorized by this act. At the end of or at any time during probation, the judge may terminate probation by written order upon finding that there is no further need for supervision. The finding and order terminating probation may be entered in chambers in the absence of the juvenile and may be based on a report from the court counselor or at the election of the judge, it may be entered with the juvenile present after notice and a hearing.

“ARTICLE 53.

“Modification and Enforcement

of Dispositional Orders; Appeals.

“§ 7A-593. *Authority to modify or vacate.*—(1) Upon motion in the cause or petition, and after notice, the judge may conduct a review hearing to determine whether the order of the court is in the best interest of the juvenile, and the judge may modify or vacate the order in light of changes in circumstances or the needs of the juvenile.

(2) In a case of delinquency, the judge may reduce the nature or the duration of the disposition on the basis that it exceeds the statutory maximum, was imposed in an illegal manner or is unduly severe with reference to the seriousness of the offense, the culpability of the juvenile, or the dispositions given to juveniles convicted of similar offenses.

(3) In any case where the judge finds the juvenile to be delinquent, undisciplined, abused, neglected, or dependent, the jurisdiction of the court to modify any order or disposition made in the case shall continue during the minority of the juvenile or until terminated by order of the court.

“§ 7A-594. *Request for modification for lack of suitable services.*—If the Director of the Division of Youth Services finds that any juvenile committed to the Division's care is not suitable for its program the Director may make a motion in the cause so that the judge may make an alternative disposition.

“§ 7A-595. *Right to appeal.*—Upon motion of a proper party as defined in G.S. 7A-596, review of any final order of the court in a juvenile matter under this Article shall be before the Court of Appeals. Notice of appeal shall be given in open court at the time of the hearing or in writing within 10 days after entry of the order. However, if no disposition is made within 60 days after entry of the order, written notice of appeal may be given within 70 days after such entry. A final order shall include:

- (1) any order finding absence of jurisdiction;
- (2) any order which in effect determines the action and prevents a judgment from which appeal might be taken;
- (3) any order of disposition after an adjudication that a juvenile is delinquent, undisciplined, abused, neglected, or dependent; or
- (4) any order modifying custodial rights.

“§ 7A-596. *Proper parties for appeal.*—An appeal may be taken by the juvenile; the juvenile's parent, guardian, or custodian; the State or county agency. The State's appeal is limited to the following:

- (1) any final order in cases other than delinquency or undisciplined cases;
- (2) the following orders in delinquency or undisciplined cases:
  - (a) an order finding a State statute to be unconstitutional;
  - (b) any order which terminates the prosecution of a petition by upholding the defense of double jeopardy, by holding that a cause of action is not stated under a statute, or by granting a motion to suppress.

“§ 7A-597. *Disposition pending appeal.*—Pending disposition of an appeal, the release of the juvenile, with or without conditions, should issue in every case unless the judge orders otherwise. For compelling reasons which must be stated in writing, the judge may enter a temporary order affecting the custody or placement of the juvenile as he finds to be in the best interest of the juvenile or the State.

“§ 7A-598. *Disposition after appeal.*—Upon the affirmation of the order of adjudication or disposition of the court by the Court of Appeals or by the Supreme Court in the event of such an appeal, the judge shall have authority to

modify or alter his original order of adjudication or disposition as he finds to be in the best interest of the juvenile to reflect any adjustment made by the juvenile or change in circumstances during the period of time the appeal was pending. If the modifying order is entered *ex parte*, the court shall give notice to interested parties to show cause within 10 days thereafter as to why the modifying order should be vacated or altered.

“ARTICLE 54.

“Juvenile Records and Social Reports.

“§ 7A-599. *Confidentiality of records.*—(1) The Clerk of Superior Court shall maintain a complete record of all juvenile cases filed in his office to be known as the juvenile record, which shall be withheld from public inspection and may be examined only by order of the judge, except that the juvenile, his parent, guardian, custodian, or other authorized representative of the juvenile shall have a right to examine the juvenile's record. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the judge.

(2) The Chief Court Counselor shall maintain a record of the cases of juveniles under supervision by court counselors which shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or his family; a record of the probation reports of a juvenile; interviews with his family; or other information which the judge finds should be protected from public inspection in the best interest of the juvenile.

(3) The Director of the Department of Social Services shall maintain a record of the cases of juveniles under protective custody by his Department or under placement by the court. This file shall include material similar in nature to that described in subsection (2).

(4) The records maintained pursuant to subsections (2) and (3) may be examined only by order of the judge except that the juvenile shall have the right to examine them.

(5) Law enforcement records and files concerning a juvenile shall be kept separate from the records and files of adults except in proceedings when jurisdiction of a juvenile is transferred to Superior Court. Law enforcement records and files concerning juveniles shall be open only to the inspection of the prosecutor, court counselors, the juvenile, his parent, guardian, and custodian.

(6) All records and files maintained by the Division of Youth Services shall be withheld from public inspection and shall be open only to the inspection of the juvenile, professionals in that agency who are directly involved in the juvenile's case, and court counselors. The judge authorizing commitment of a juvenile shall have the right to inspect and order the release of records maintained by the Division of Youth Services on that juvenile.

(7) Disclosure of information concerning any juvenile under investigation or alleged to be within the jurisdiction of the court that would reveal the identity of that juvenile is prohibited except that publication of pictures of runaways is permitted with the permission of the parents.



(8) Nothing in this section shall preclude the necessary sharing of information among authorized agencies.

“§ 7A-600. *Expunction of records of juveniles adjudicated delinquent and undisciplined.*—(1) Any person who has attained the age of 16 years may file a petition in the court where he was adjudicated undisciplined for expunction of all records of that adjudication.

(2) Any person who has attained the age of 16 years may file a petition in the court where he was adjudicated delinquent for expunction of all records of that adjudication provided:

- (a) The offense for which he was adjudicated would have been a crime if committed by an adult.
- (b) The person has not subsequently been adjudicated delinquent or convicted as an adult of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.
- (3) The petition shall contain, but not be limited to, the following:
  - (a) an affidavit by the petitioner that he has been of good behavior since the adjudication and, in the case of a petition based on a delinquency adjudication, that he has not subsequently been adjudicated delinquent or convicted as an adult of any felony or misdemeanor other than a traffic violation under the laws of the United States, or the laws of this State or any other state;
  - (b) verified affidavits of two persons, who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives and that his character and reputation are good;
  - (c) a statement that the petition is a motion in the cause in the case wherein the petitioner was adjudicated delinquent or undisciplined.

The petition shall be served upon the district attorney in the district wherein adjudication occurred. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing on the petition.

(4) If the judge, after hearing, finds that the petitioner satisfies the conditions set out in subsections (1) or (2), he shall order and direct the Clerk of Superior Court and all law enforcement agencies to expunge their records of the adjudication including all references to arrests, complaints, referrals, petitions, and orders.

(5) The Clerk of Superior Court shall forward a certified copy of the order to the sheriff, chief of police, or other law enforcement agency.

(6) Records of a juvenile adjudicated delinquent or undisciplined being maintained by the Chief Court Counselor, an intake counselor or a court counselor shall be retained or disposed of as provided by the Juvenile Services Division.

(7) Records of a juvenile adjudicated delinquent or undisciplined being maintained by personnel at a residential facility operated by the Division of Youth Services, shall be retained or disposed of as provided by the Department of Human Resources.

“§ 7A-601. *Effect of expunction.*—(1) Whenever a juvenile's record is expunged, with respect to the matter in which the record was expunged, the juvenile who is the subject of the record and his parent may inform any person

or organization including employers, banks, credit companies, insurance companies, and schools that he was not arrested, he did not appear before the court, and he was not adjudicated delinquent or undisciplined.

(2) Notwithstanding subsection (1), in any criminal or delinquency case if the juvenile is the defendant and chooses to testify or if he is not the defendant and is called as a witness, the juvenile may be ordered to testify with respect to whether he was adjudicated delinquent.

“§ 7A-602. *Notice of expunction.*—Upon expunction of a juvenile’s record, the Clerk of Superior Court shall send a written notice to the juvenile at his last known address informing him that the record has been expunged and with respect to the matter involved, the juvenile may inform any person that he has no record. The notice shall inform the juvenile further that if the matter involved is a delinquency record, the juvenile may inform any person that he was not arrested or adjudicated delinquent except that upon testifying in a criminal or delinquency proceeding, he may be required by a judge to disclose that he was adjudicated delinquent.

#### “ARTICLE 55.

##### “Interstate Compact on Juveniles.

“§ 7A-603. *Execution of Compact.*—The Governor is hereby authorized and directed to execute a compact on behalf of this State with any other state or states legally joining therein in the form substantially as follows: The contracting states solemnly agree:.

“§ 7A-604. *Findings and purposes.*—That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this Compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

(1) cooperative supervision of delinquent juveniles on probation or parole;

(2) the return, from one state to another, of delinquent juveniles who have escaped or absconded;

(3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and

(4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively.

In carrying out the provisions of this Compact the party states shall be guided by the noncriminal, reformatory, and protective policies which guide their laws concerning delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states party to this Compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this Compact. The provisions of this Compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

“§ 7A-605. *Existing rights and remedies.*—That all remedies and procedures provided by this Compact shall be in addition to and not in substitution for other rights, remedies, and procedures, and shall not be in derogation of parental rights and responsibilities.

“§ 7A-606. *Definitions.*—That, for the purposes of this Compact, ‘delinquent juvenile’ means any juvenile who has been adjudged delinquent and who, at the

time the provisions of this Compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; 'probation or parole' means any kind of conditional release of juveniles authorized under the laws of the states party hereto; 'court' means any court having jurisdiction over delinquent, neglected, or dependent children; 'state' means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and 'residence' or any variant thereof means a place at which a home or regular place of abode is maintained.

“§ 7A-607. *Return of runaways.*—(1) That the parent, guardian, person, or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person, or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the State. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person, or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person, or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to

take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him, shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian *ad litem* for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer to whom the court demanding him shall have appointed to receive him. The judge however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this Compact without the consent of a parent, guardian, person, or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian *ad litem* for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this Compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(2) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(3) That 'juvenile' as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person, or agency entitled to the legal custody of such minor.

"§ 7A-608. *Return of escapees and absconders.*—(1) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by



affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provisions of the law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian *ad litem* for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this Compact, such person may be taken into custody in any other state party to this Compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian *ad litem* for such person and who shall determine after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this Compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(2) That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of transportation costs of such return.

“§ 7A-609. *Voluntary return procedure.*—That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this Compact, and any juvenile who has run away from any state party to this Compact, who is taken into custody without a requisition in another state party to this Compact under the provisions of G.S. 7A-607(1) or G.S. 7A-608(1), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian *ad litem*, if any, by executing or subscribing a writing in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian *ad litem*, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian *ad litem*, if any, shall inform the juvenile or delinquent juvenile of his rights under this Compact. When the consent has been duly executed, it shall be forwarded to and filed with the Compact Administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order, in such event a copy of the consent shall be forwarded to the Compact Administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

“§ 7A-610. *Cooperative supervision of probationers and parolees.*—(1) That the duly constituted judicial and administrative authorities of a state party to this Compact (herein called ‘sending state’) may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this Compact (herein called ‘receiving state’) while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian, or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this Compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian, or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted, the sending state may transfer the supervision accordingly.

(2) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(3) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this Compact, without interference.

(4) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

“§ 7A-611. *Responsibility for costs.*—(1) That the provisions of G.S. 7A-607(2), G.S. 7A-608(2), and G.S. 7A-609(4) of this Compact shall not be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(2) That nothing in this Compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to G.S. 7A-607(2), G.S. 7A-608(2), or G.S. 7A-609(4) of this Compact.

“§ 7A-612. *Detention practices.*—That, to every extent possible, it shall be the policy of states party to this Compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

“§ 7A-613. *Supplementary agreements.*—That the duly constituted administrative authorities of a state party to this Compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment, and rehabilitation. Such care, treatment, and rehabilitation may be provided, in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

(1) provide the rates to be paid for the care, treatment, and custody of such delinquent juveniles taking into consideration the character of facilities, services, and subsistence furnished;

(2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment, and custody;

(3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;

(4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;

(5) provide for reasonable inspection of such institutions by the sending state;

(6) provide that the consent of the parent, guardian, person, or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and

(7) make provisions for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

“§ 7A-614. *Acceptance of federal and other aid.*—That any state party to this Compact may accept any and all donations, gifts, and grants of money, equipment, and services from the federal or any local government, or any agency thereof and from any person, firm, or corporation, for any of the purposes and functions of this Compact, and may receive and utilize, the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

“§ 7A-615. *Compact administrators.*—That the governor of each state party to this Compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more efficiently the terms and provisions of this Compact.

“§ 7A-616. *Execution of Compact.*—That this Compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or (of) execution to be in accordance with the laws of the executing state.

“§ 7A-617. *Renunciation.*—That this Compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this Compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the Compact to the other states party hereto. The duties and obligations of a renouncing state under G.S. 7A-610 hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under G.S. 7A-613 hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present section.

“§ 7A-618. *Severability.*—That 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 participating state or of the United States or the applicability thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstances 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 remaining states and in full force and effect as to the state affected as to all severable matters.

“§ 7A-619. *Compact administrator.*—Pursuant to said Compact, the Governor is hereby authorized and empowered to designate an officer who shall be the Compact Administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the Compact. Said Compact Administrator shall serve subject to the pleasure of the Governor. The Compact Administrator is hereby authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the Compact or of any supplementary agreement or agreements entered into by this State hereunder.

“§ 7A-620. *Supplementary agreements.*—The Compact Administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the Compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this State or require or contemplate the provision of any service by this State, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

“§ 7A-621. *Discharging financial obligations imposed by Compact on agreement.*—The Compact Administrator, subject to the approval of the Director of the Budget, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this State by the Compact or by any supplementary agreement entered into thereunder.

“§ 7A-622. *Enforcement of Compact.*—The courts, departments, agencies, and officers of this State and subdivisions shall enforce this Compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

“§ 7A-623. *Additional procedure for returning runaways not precluded.*—In addition to any procedure provided in G.S. 7A-607 and G.S. 7A-609 of the Compact for the return of any runaway juvenile, the particular states, the juvenile or his parents, the courts, or other legal custodian involved may agree upon and adopt any other plan or procedure legally authorized under the laws of this State and the other respective party states for the return of any such runaway juvenile.

“§ 7A-624. *Proceedings for return of runaways under G.S. 7A-607 of Compact, 'juvenile' construed.*—The judge of any court in North Carolina to which an application is made for the return of a runaway under the provisions of G.S. 7A-607 of the Interstate Compact on Juveniles shall hold a hearing thereon to determine whether for the purposes of the Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor and whether or not it is in the best interest of the juvenile to compel his return to the state. The judge of any court in North Carolina finding that a requisition for the return of a juvenile under the provisions of G.S. 7A-607 of the Compact is in order shall upon request fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding. The period of time for holding a

juvenile in custody under the provisions of G.S. 7A-607 of the Compact for his own protection and welfare, subject to the order of a court of this State, to enable his return to another state party to the Compact pursuant to a requisition for his return from a court of that state, shall not exceed 30 days. In applying the provisions of G.S. 7A-607 of the Compact to secure the return of a runaway from North Carolina, the courts of this State shall construe the word 'juvenile' as used in this Article to mean any person who has not reached his or her eighteenth birthday.

"§ 7A-625. *Interstate parole and probation hearing procedures for juveniles.*—Where supervision of a parolee or probationer is being administered pursuant to the Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole or a probation violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this Article within a reasonable time, unless such hearing is waived by the parolee or probationer. The appropriate officer or officers of this State shall as soon as practicable, following termination of any such hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state. Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the parolee or probationer involved for a period not to exceed 10 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for retaking or the reincarceration.

"§ 7A-626. *Hearing officers.*—Any hearing pursuant to this Article may be before the Administrator of the Interstate Compact on Juveniles, a deputy of such Administrator, or any other person authorized pursuant to the juvenile laws of this State to hear cases of alleged juvenile parole or probation violations, except that no hearing officer shall be the person making the allegation of violation.

"§ 7A-627. *Due process at parole or probation violation hearing.*—With respect to any hearing pursuant to this Article, the parolee or probationer:

(1) shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that the purpose of the hearing is to determine whether there is probable cause to believe that he has committed a violation that may lead to a revocation of parole or probation;

(2) shall be permitted to advise with any persons whose assistance he reasonably desires, prior to the hearing;

(3) shall have the right to confront and examine any persons who have made allegations against him, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons;

(4) may admit, deny, or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions. A record of the proceedings shall be made and preserved.

"§ 7A-628. *Effect of parole or probation violation hearing outside the State.*—In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact on Juveniles, any

appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to this Article, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter.

“§ 7A-629. *Amendment to the Interstate Compact on Juveniles concerning interstate rendition of juveniles alleged to be delinquent.*—(1) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(2) All provisions and procedures of G.S. 7A-608 and G.S. 7A-609 of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in G.S. 7A-608 of the Compact shall be forwarded by the judge of the court in which the petition has been filed.

“§ 7A-630. *Out-of-State Confinement Amendment.*—(1) The Out-of-State Confinement Amendment to the Interstate Compact on Juveniles is hereby enacted into law and entered into by this State with all other states legally joining therein in the form substantially as follows:

- (a) Whenever the fully constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.
- (b) Escapees and absconders who would otherwise be returned pursuant to G.S. 7A-608 of the Compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to G.S. 7A-608, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in G.S. 7A-608 may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.
- (c) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.
- (d) As used in this amendment: 1. ‘sending state’ means sending state as that term is used in G.S. 7A-610 of the Compact or the state from which

a delinquent juvenile has escaped or absconded within the meaning of G.S. 7A-608 of the Compact; 2. 'receiving state' means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

- (e) Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a 'Compact Institution' and shall confine persons therein as provided in Paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to 'Compact Institutions' at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.
- (f) Persons confined in 'Compact Institutions' pursuant to the terms of this Compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said 'Compact Institution' for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.
- (g) All persons who may be confined in a 'Compact Institution' pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.
- (h) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.
- (i) This amendment shall take initial effect when entered into by any two or more states party to the Compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

(2) In addition to any institution in which the authorities of this state may otherwise confine or order the confinement of a delinquent juvenile, such



authorities may, pursuant to the Out-of-State Confinement Amendment to the Interstate Compact on Juveniles, confine or order the confinement of a delinquent juvenile in a Compact Institution within another party state.

“ARTICLE 56.

“Emancipation.

“§ 7A-631. *Who may petition.*—Any juvenile who is 16 years of age or older and who has resided in the same county in North Carolina or on federal territory within the boundaries of North Carolina for six months next preceding the filing of the petition may petition the court in that county for a judicial decree of emancipation.

“§ 7A-632. *Petition.*—The petition shall be signed and verified by the petitioner and shall contain the following information:

(1) the full name of the petitioner, his birth date, and state and county of birth;

(2) a certified copy of the petitioner's birth certificate;

(3) the name and last known address of the parent, guardian, or custodian;

(4) the petitioner's address and length of residence at that address;

(5) the petitioner's reasons for requesting emancipation; and

(6) the petitioner's plan for meeting his own needs and living expenses which plan may include a statement of employment and wages earned that is verified by his employer.

“§ 7A-633. *Summons.*—A copy of the filed petition along with a summons shall be served upon the petitioner's parent, guardian, or custodian who shall be named as respondents. The summons shall include the time and place of the hearing and shall notify the respondents to file written answer within 30 days after service of the summons and petition. In the event that personal service cannot be obtained, service shall be in accordance with G.S. 1A-1, Rule 4(j).

“§ 7A-634. *Hearing.*—The judge, sitting without a jury, shall permit all parties to present evidence and to cross-examine witnesses. The petitioner shall have the burden of showing by a preponderance of the evidence that emancipation is in his best interest. Upon finding that reasonable cause exists, the judge may order the juvenile to be examined by a psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate the juvenile's mental or physical condition. The judge may continue the hearing and order investigation by a court counselor or by the county Department of Social Services to substantiate allegations of the petitioner or respondents.

No husband-wife or physician-patient privilege shall be grounds for excluding any evidence in the hearing.

“§ 7A-635. *Considerations for emancipation.*—In determining the best interest of the petitioner and the need for emancipation, the judge shall review the following considerations:

(1) the parental need for the earnings of the petitioner;

(2) the petitioner's ability to function as an adult;

(3) the petitioner's need to contract as an adult or to marry;

(4) the employment status of the petitioner and the stability of his living arrangements;

(5) the extent of family discord which may threaten reconciliation of the petitioner with his family;

(6) the petitioner's rejection of parental supervision or support; and

(7) the quality of parental supervision or support.

“§ 7A-636. *Final decree of emancipation.*—After reviewing the considerations for emancipation, the judge may enter a decree of emancipation if he determines:

- (1) that all parties are properly before the court or were duly served and failed to appear and that time for filing an answer has expired; and
- (2) that the petitioner has shown a proper and lawful plan for adequately providing for his own needs and living expenses; and
- (3) that the petitioner is knowingly seeking emancipation and fully understands the ramifications of his act; and
- (4) that emancipation is in the best interest of the petitioner.

The decree shall set out the court's findings.

If the judge determines that the criteria in subsections (1) through (4) are not met, he shall order the proceeding dismissed.

“§ 7A-637. *Costs of court.*—The judge may tax the costs of the proceeding to any party or may, for good cause, order the costs remitted.

The Clerk of Superior Court may collect costs for furnishing to the petitioner a certificate of emancipation which shall recite the name of the petitioner and the fact of the petitioner's emancipation by court decree and shall have the seal of the Clerk of Superior Court affixed thereon.

“§ 7A-638. *Legal effect of final decree.*—As of entry of the final decree of emancipation:

(1) The petitioner has the same right to make contracts and conveyances, to sue and be sued, and to transact business as if he were an adult.

(2) The parent or guardian is relieved of all legal duties and obligations owed to the petitioner and is divested of all rights with respect to the petitioner.

(3) The decree is irrevocable.

Notwithstanding any other provision of this section, a decree of emancipation shall not alter the application of G.S. 14-322.2, G.S. 14-326.1, or the petitioner's right to inherit property by intestate succession.

“§ 7A-639. *Appeals.*—Any petitioner, parent, or guardian who is a party to a proceeding under this Article may appeal from any order of disposition to the Court of Appeals provided that notice of appeal is given in open court at the time of the hearing or in writing within 10 days after the hearing. Pending disposition of an appeal, the judge may enter a temporary order affecting the custody or placement of the petitioner as he finds to be in the best interest of the petitioner or the State.

“§ 7A-640. *Application of common law.*—A married juvenile is emancipated by this Article. All other common law provisions for emancipation are superceded by this Article.

## “ARTICLE 57.

“Judicial Consent For Emergency Surgical Or Medical Treatment.

“§ 7A-641. *Judicial authorization of emergency treatment; procedure.*—A juvenile in need of emergency treatment under Article 1A of Chapter 90 of the North Carolina General Statutes, whose physician is barred from rendering necessary treatment by reason of parental refusal to consent to treatment, may receive such treatment with court authorization under the following procedure:

(1) The physician shall sign a written statement setting out:

- (a) the treatment to be rendered and the emergency need for treatment; and

- (b) the refusal of the parent, guardian, or person standing *in loco parentis* to consent to the treatment; and
- (c) the impossibility of contacting a second physician for a concurring opinion on the need for treatment in time to prevent immediate harm to the juvenile.

(2) Upon examining the physician's written statement prescribed in subsection (1) and finding:

- (a) that the statement is in accordance with this Article, and
- (b) that the proposed treatment is necessary to prevent immediate harm to the juvenile.

A judge may issue a written authorization for the proposed treatment to be rendered.

(3) In acute emergencies in which time may not permit implementation of the written procedure set out in subsections (1) and (2), a judge may, in his discretion, authorize treatment in person or by telephone upon receiving the oral statement of a physician satisfying the requirements of subsection (1) and upon finding that the proposed treatment is necessary to prevent immediate harm to the juvenile.

(4) A judge's authorization for treatment overriding parental refusal to consent should not be given without attempting to offer the parent an opportunity to state his reasons for refusal; however, failure of the judge to hear the parent's objections shall not invalidate judicial authorization under this Article.

(5) A judge's authorization for treatment under subsections (1) and (2) shall be issued in duplicate. One copy shall be given to the treating physician and the other copy shall be attached to the physician's written statement and filed as a juvenile proceeding in the office of the Clerk of Superior Court.

(6) A judge's authorization for treatment under subsection (3) shall be reduced to writing as soon as possible, supported by the physician's written statement as prescribed in subsection (1) and shall be filed as prescribed in subsection (5).

A judge's authorization for treatment under this Article, shall have the same effect as parental consent for treatment.

Following a judge's authorization for treatment and after giving notice to the juvenile's parent, the judge shall conduct a hearing in order to provide for payment for the treatment rendered. The judge may order the parent or other responsible parties to pay the cost of such treatment. If the judge finds the parent is unable to pay the cost of treatment, such cost shall be a charge upon the county when so ordered.

This Article shall operate as a remedy in addition to the provisions in G.S. 7A-581(3)."

**Sec. 2.** The following sections of Chapter 110 are repealed: G.S. 110-22, G.S. 110-23.1, G.S. 110-24, G.S. 110-58 through G.S. 110-64.9, and G.S. 110-115 through G.S. 110-123.

**Sec. 3.** The following sections of Chapter 134A are repealed: G.S. 134A-18, G.S. 134A-19, G.S. 134A-23, G.S. 134A-24, G.S. 134A-27, G.S. 134A-28, and G.S. 134A-30 through G.S. 134A-33.

**Sec. 4.** If any section or provision of this act be declared unconstitutional or invalid by the courts, the same 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.

**Sec. 5.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 604

## CHAPTER 816

### AN ACT TO AUTHORIZE THE STATE BUREAU OF INVESTIGATION TO CHARGE A FEE FOR PERFORMING CERTAIN BACKGROUND INVESTIGATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4 of Chapter 114 of the General Statutes as the same appears in 1978 Replacement Volume 3A (Part II) is hereby amended by adding thereto the following new Section 114-19.1:

“§ 114-19.1. *Fees for performing certain background investigations.*—When the Department of Justice determines that any person is entitled by law to receive information, including criminal records, from the State Bureau of Investigation, for any purpose other than the administration of criminal justice, the State Bureau of Investigation shall charge the recipient of such information a reasonable fee for retrieving such information. The fee authorized by this subsection shall not exceed the actual cost of locating, editing, researching and retrieving the information, and may be budgeted for the support of the State Bureau of Investigation.

As used in this section, ‘administration of criminal justice’ means the performance of any of the following activities: the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of persons suspected of, accused of or convicted of a criminal offense. The term also includes screening for suitability for employment, appointment or retention of a person as a law enforcement or criminal justice officer.

Nothing in this section shall be construed as enlarging any right to receive any record of the State Bureau of Investigation. Such rights are and shall be controlled by G.S. 114-15, G.S. 114-19 and other applicable statutes.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 793

## CHAPTER 817

### AN ACT TO INCREASE THE MEMBERSHIP OF THE BOARD OF COMMISSIONERS OF PITT COUNTY DRAINAGE DISTRICT NUMBER THREE FROM THREE PERSONS AS IS PROVIDED BY G.S. 156-79 TO FIVE PERSONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 156-79, the Board of Commissioners of Pitt County Drainage District Number Three consists of five members, effective July 1, 1979.

**Sec. 2.** Four members of the Board of Commissioners of Pitt County Drainage District Number Three shall be appointed by the Clerk of Superior



Court of Pitt County for three-year terms. One member shall be appointed by the Clerk of Superior Court of Craven County for a three-year term. Vacancies shall be filled by the appointing officer.

**Sec. 3.** In order to expand the size of the Board from three members to five members, the Clerk of Superior Court of Pitt County shall, on or before July 1, 1979, appoint one person to serve from July 1, 1979, until September 30, 1982, and the Clerk of Superior Court of Craven County shall, on or before July 1, 1979, appoint one person to serve from July 1, 1979, until September 30, 1982.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 820

## CHAPTER 818

## AN ACT TO REWRITE THE PRIVATE PROTECTIVE SERVICES ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 74B, as it appears in the 1975 Replacement Volume 2C and the 1977 Cumulative Supplement to such volume, is hereby repealed in its entirety.

**Sec. 2.** There is hereby added to the General Statutes a new Chapter designated as Chapter 74C to read as follows:

“Chapter 74C.

“Private Protective Services Act.

“§ 74C-1. *Title.*—This act may be cited as the Private Protective Services Act.

“§ 74C-2. *Licenses required.*—(a) No private person, firm, association, or corporation shall engage in, perform any services as, or in any way represent or hold itself out as engaging in a private protective service business or activity in this State without having first complied with the provisions of this Chapter. Compliance with licensing requirements of this Chapter shall not relieve any person, firm, association or corporation from compliance with any other licensing law.

(b) An individual in possession of a valid private protective services license or private detective trainee permit issued prior to July 1, 1973, shall not be subject to forfeiture of such license by virtue of this Chapter. Such license shall, however, remain subject to suspension, denial, or revocation in the same manner in which all other licenses issued pursuant to this Chapter are subject to suspension, denial, or revocation.

(c) In its discretion, the Private Protective Services Board may issue a trainee permit in lieu of a private investigator license provided that the applicant works under the direct supervision of a licensee.

“§ 74C-3. *Private protective services business defined.*—(a) As used in this Chapter, the term ‘private protective services business’ means and includes the following:

- (1) ‘Armored car business’ means any person, firm, association, or corporation which provides secured transportation and protection from one place or point to another place or point of money, currency, coins, bullion, securities, checks, documents, stocks, bonds, jewelry, paintings, and other valuables for a fee or other valuable consideration. This definition does not include a person employed regularly and exclusively

as an employee by one employer in connection with the business affairs of such employer.

- (2) 'Alarm system business' means any person, firm, association, or corporation which installs, services, or responds to electrical, electronic, or mechanical alarm signal devices, burglar alarms, television cameras or still cameras used to detect burglary, breaking or entering or intrusion, shoplifting, pilferage, or theft, for a fee or other valuable consideration. Provided, however, it shall not include a business which merely sells or manufactures alarm systems unless such business services, installs, or responds to alarm systems at the protected premises. Provided further, this definition does not include a person, firm, association, or corporation which merely owns and installs an alarm system on property owned or leased by itself. Provided further, the regulation of alarm system businesses shall not include installation, servicing, or responding to fire alarm systems or any alarm device which is installed in a motor vehicle, aircraft, or boat. Provided further, the regulation of alarm system businesses shall be exclusive to the board, but any city or county shall not be prevented from requiring within its jurisdiction to register the alarm system companies' names and to file copies of board certification or from adopting an ordinance to require users of alarm systems to obtain permits when usage involves automatic signal transmission to a law enforcement agency.
- (3) 'Counterintelligence service business' means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration. This definition does not include a person employed regularly and exclusively as an employee by one employer in connection with the business affairs of such employer.
- (4) 'Courier service business' means any person, firm, association, or corporation which transports or offers to transport from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or other small items of value which require expeditious service for a fee or other valuable consideration. This definition does not include a person employed regularly and exclusively as an employee by one employer in connection with the business affairs of such employer.
- (5) 'Detection of deception examiner' means any person, firm, association, or corporation which uses any device or instrument, regardless of its name or design, for the purpose of detection of deception.
- (6) 'Security guard and patrol business' means any person, firm, association, or corporation engaging in the business of providing a private watchman, guard, or street patrol service on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:
  - a. prevention and/or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;
  - b. prevention, observation, or detection of any unauthorized activity on private property; and

- c. protection of patrons and persons lawfully authorized to be on the premises of the person, firm, association, or corporation for whom he contractually obligated to provide security services; and
- d. control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

This definition does not include a person employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer; provided, however, that nothing in this Chapter shall be construed to prohibit a law enforcement officer from being employed during his off-duty hours by a licensed security guard and patrol company on an employer-employee basis; provided further, that the police officer shall not wear his police officer's uniform or use police equipment while working for a security guard and patrol company. This definition does not include a law enforcement officer who provides security guard and patrol services on an individual employer-employee basis to a person, firm, association, or corporation which is not engaged in a security guard and patrol business.

- (7) 'Guard-dog service business' means any person, firm, association, or corporation which contracts with another person, firm, association, or corporation to place, lease, rent, or sell a trained dog for the purpose of protecting lives or property for a fee or other valuable consideration. This definition does not include a person employed regularly and exclusively as an employee by one employer in connection with the business affairs of such employer.
- (8) '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:
  - a. crime or wrongs done or threatened against the United States or any state or territory of the United States;
  - b. 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;
  - c. the location, disposition, or recovery of lost or stolen property;
  - d. 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;
  - e. securing evidence to be used before any court, board, officer, or investigation committee; or
  - f. 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 Chapter.

(b) 'Private protective services' shall not mean:

- (1) insurance adjusters legally employed as such and who engage in no other investigative activities unconnected with adjustment or claims against an insurance company;
- (2) an officer or employee of the United States, this State, or any political subdivision of either while such officer or employee is engaged in the performance of his official duties within the course and scope of his employment with the United States, this State, or any political subdivision of either;
- (3) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating or credit worthiness of persons; and a person who provides consumer reports in connection with:
  - a. credit transactions involving the consumer on whom the information is to be furnished and involving the extensions of credit to the consumer,
  - b. information for employment purposes,
  - c. information for the underwriting of insurance involving the consumer,
  - d. information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility, or
  - e. a legitimate business need for the information in connection with a business transaction involving the consumer;
- (4) an attorney at law licensed to practice in North Carolina while engaged in such practice and his agent, provided said agent is performing duties only in connection with his master's practice of law;
- (5) the legal owner or lien holder, and his agents and employees, of personal property which has been sold in a transaction wherein a security interest in personal property has been created to secure the sales transaction, who engage in repossession of said personal property;
- (6) company police or railroad police as defined in Chapter 74A of the General Statutes of North Carolina;
- (7) persons, firms, associations, or corporations operating under a motor carrier permit or certificate issued by the North Carolina Utilities Commission; or
- (8) employees of a licensee who are employed exclusively as undercover agents; provided that for purposes of this section, undercover agent means an individual hired by another person, firm, association, or corporation to perform a job in and/or for that person, firm, association, or corporation and, while performing such job, to act as an undercover operative, employee, or independent contractor of a licensee, but under the supervision of a licensee.

"§ 74C-4. *Private protective services board established; members, terms, vacancies, compensation; meetings.*—(a) The Private Protective Services Board is hereby established in the Department of Justice to administer the licensing and set educational and training requirements for persons, firms, associations, and corporations engaged in the private protective services businesses within this State.



(b) The board shall consist of eight members: the Attorney General or his designated representative, two persons appointed by the Attorney General, one person appointed by the Governor, one person appointed by the Lieutenant Governor, one person appointed by the President Pro Tem of the Senate and two persons appointed by the Speaker of the House of Representatives. Those persons appointed by the President Pro Tem of the Senate and the Speaker of the House of Representatives shall be licensees under this Chapter. All other persons appointed to the board may not be licensees of the board nor licensed by the board while serving as a board member. The terms of the board members shall begin as follows: the Attorney General shall appoint two persons to serve terms of two years beginning July 1, 1979; the person appointed by the Governor shall serve a term of four years beginning July 1, 1979; the person appointed by the Lieutenant Governor shall serve a term of four years beginning July 1, 1979; the person appointed by the President Pro Tem of the Senate shall serve a term of two years beginning July 1, 1979, and the Speaker of the House of Representatives shall appoint one person to serve a term of four years and one person to serve a term of two years beginning July 1, 1979. No person shall be eligible for reappointment to the board after eight years of continuous service as a member of the board established herein.

(c) Vacancies on the board occurring for any reason shall be filled by the authority making the original appointment of the person causing the vacancy.

(d) Each member of the board, before assuming the duties of his office, shall take an oath for the faithful performance of his duties. A board member may be removed at the pleasure of the authority making the original appointment or by the board for misconduct, incompetence, or neglect of duty.

(e) Members of the board who are State officers or employees shall receive no per diem compensation for serving on the board, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the board who are full-time salaried public officers or employees other than State officers or employees shall receive no per diem compensation for serving on the board, but shall be reimbursed for their expenses in accordance with G.S. 138-6 in the same manner as State officers or employees. All other board members shall receive per diem compensation and reimbursement in accordance with G.S. 93B-5.

(f) The board shall elect a chairman, vice-chairman, and other officers and committee chairmen from among its members as the board deems necessary and desirable at the first meeting after July 1 of each year. The chairman and vice-chairman shall be selected by the members of the board for a term of one year and shall be eligible for reelection. The board shall meet at the call of the chairman or a majority of the members of the board at such time, date, and location as may be decided upon by a majority of the board.

(g) All decisions heretofore made by the Private Protective Services Board, established pursuant to Chapter 74B, shall remain in full force and effect unless and until repealed or suspended by action of the Private Protective Services Board established herein. All rules and regulations heretofore adopted pursuant to the provisions of Chapter 150A of the General Statutes by the Private Protective Services Board, established pursuant to Chapter 74B, shall remain in full force and effect until, but not later than January 1, 1980, or until repealed or suspended by action of the Private Protective Services Board established herein.

“§ 74C-5. *Powers of the board.*—In addition to the powers conferred upon the board elsewhere in this Chapter, the board shall have the power to:

(1) promulgate rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter;

(2) determine minimum qualifications and establish minimum education, experience, and training standards for applicants and licensees under this Chapter;

(3) conduct investigations regarding alleged violations and to make evaluations as may be necessary to determine if licensees and trainees under this Chapter are complying with the provisions of this Chapter;

(4) adopt and amend bylaws, consistent with law, for its internal management and control;

(5) approve individual applicants to be licensed or registered according to this Chapter;

(6) deny, suspend, or revoke any license issued or to be issued under this Chapter to any applicant or licensee who fails to satisfy the requirements of this Chapter and/or the rules established by the board. The denial, suspension, or revocation of such license shall be in accordance with Chapter 150A of the General Statutes of North Carolina;

(7) issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. 5A-21 *et seq.* for acts occurring in matters pending before the Private Protective Services Board which would constitute civil contempt if the acts occurred in an action pending in court;

(8) the chairman of the board or his representative designated to be a hearing officer may conduct any hearing called by the board for the purpose of denial, suspension, or revocation of a license or trainee permit under this Chapter; and

(9) establish rules governing detection of deception schools located in this State.

“§ 74C-6. *Position of administrator created.*—The position of Administrator of the Private Protective Services Board is hereby created within the State Bureau of Investigation. The Attorney General shall appoint a person to fill this full-time position. The administrator's duties shall be to administer the directives contained in this Chapter and the rules promulgated by the board to implement this Chapter and to carry out the administrative duties incident to the functioning of the board in order to actively police the private protective services industry to ensure compliance with the law in all aspects.

“§ 74C-7. *Investigative powers of the Attorney General.*—The Attorney General for the State of North Carolina shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this Chapter involving individuals licensed, or to be licensed, under this Chapter.

“§ 74C-8. *Applications for an issuance of license.*—(a) Any person, firm, association, or corporation desiring to carry on or engage in a private protective services business in this State of a kind defined in G.S. 74C-3 shall make a verified application in writing to the board.

(b) The application shall include:

- (1) full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) if an applicant is a person other than an individual, the full name and address of each of its partners, principal officers, directors, and its business manager, if any;
- (5) the names of not less than three unrelated and disinterested persons as references of whom inquiry can be made as to the character, standing, and reputation of the persons making the application;
- (6) such other information, evidence, statements, or documents as may be required by the board; and
- (7) accompanying trainee permit applications only, a notarized statement signed by the applicant and his employer stating that the trainee applicant will at all times work with and under the direct supervision of a licensed private detective.

(c) A business entity other than a sole proprietorship shall not do business under this Chapter unless the business entity has in its employ a designated qualifying agent who meets the requirements for a license issued under this Chapter and who is in fact licensed under the provisions of this Chapter. For the purposes of this Chapter, a qualifying agent means an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the administrator. In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the administrator within 10 working days. The business entity must obtain a substitute qualifying agent within 30 days after the original qualifying agent ceases to serve as qualifying agent unless the board, in its discretion, extends this period for good cause for a period of time not to exceed three months. The certificate authorizing the business entity to engage in a private protective service shall list the name of at least one designated qualifying agent.

(d) Upon receipt of an application, the board shall cause a background investigation to be made during the course of which the applicant shall be required to show that he meets all the following requirements and qualifications hereby made prerequisite to obtaining a license:

- (1) that he is at least 18 years of age;
- (2) that he is of good moral character and temperate habits. The following shall be *prima facie* evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking and/or entering, burglary, larceny, any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection, 'conviction' means and includes the entry of a plea of guilty or a verdict rendered in open court by a judge and/or jury;

- (3) for a private detective license, that he has had at least three years experience within the past five years in private investigative work, or in lieu thereof, at least two years experience within the past five years in an investigative capacity as a member of the Federal Bureau of Investigation, the State Bureau of Investigation, any municipal police department, or any county sheriff's department; and
- (4) that he has the necessary training, qualifications, and/or experience in order to determine the applicant's competency and fitness as the board may determine by rule for all licenses to be issued by the board.
- (e) The board may require the applicant to demonstrate his qualifications by oral or written examination, or both.
- (f) Upon a finding that the application is in proper form, the completion of the background investigation, and the completion of an examination required by the board, the administrator shall submit to the board the application and his recommendations. The board shall determine whether to approve or deny the application for a license. Upon approval by the board, a license will be issued to the applicant upon payment by the applicant of the initial license fee and furnishing of the required cash bond or surety bond, and certificate of liability insurance. The grounds for the denial of a license include:
  - (1) commission of some act which if committed by a licensee, would be grounds for the suspension or revocation of a license under this Chapter;
  - (2) conviction of a crime involving fraud;
  - (3) lack of good moral character or temperate habits. The following shall be *prima facie* evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking and/or entering, burglary, larceny; any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection, 'conviction' means and includes the entry of a plea of guilty or a verdict rendered in open court by a judge and/or jury;
  - (4) previous denial of a license under this Chapter or previous revocation of a license for cause;
  - (5) knowingly making any false statement or misrepresentation in his application.

“§ 74C-9. *Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.*—(a) The license when issued shall be in such form as may be determined by the board and shall state:

- (1) the name of the licensee,
- (2) the name under which the licensee is to operate, and
- (3) the number and expiration date of the license.

(b) The license shall be issued for a term of two years. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the principal place of business of the licensee. A license issued under this Chapter is not assignable.



(c) No licensee shall conduct a private protective services business under a name other than the name under which his license was obtained under the provisions of this Chapter or the name of the business entity under which the licensee is doing business and which name and address of such business entity has been registered with the administrator.

(d) The operator or manager of any branch office shall be properly licensed, and his license shall be posted at all times in a conspicuous place in the branch office. Every business covered under the provisions of this Chapter shall file in writing with the board the addresses of each of its branch offices, if any, within 10 working days after the establishment, closing, or changing of the location of any branch office.

(e) The board is authorized to charge reasonable application and license fees as follows:

- (1) a nonrefundable initial application fee in an amount not to exceed seventy-five dollars (\$75.00);
- (2) a new or renewal license fee in an amount not to exceed two hundred fifty dollars (\$250.00);
- (3) a new or renewal trainee permit fee in an amount not to exceed seventy-five dollars (\$75.00);
- (4) a new or renewal fee for each license in addition to the basic license referred to in subsection (2) in an amount not to exceed twenty-five dollars (\$25.00);
- (5) a late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars (\$100.00), if the license has not been renewed on or before the expiration date of the licensee.

All fees collected pursuant to this section shall be expended, under the direction of the board, for the purpose of defraying the expense of administering this Chapter. All fees collected pursuant to G.S. 74B-11 which have not been expended upon the effective date of this Chapter shall be transferred to the board established by this Chapter to be expended, under the direction of the board, for the purpose of defraying the expenses of administering this Chapter.

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the administrator of intended renewal and the payment of the proper fee. The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

(g) Upon notification of approval of his application by the board, an applicant must furnish evidence that he has obtained the necessary bond and liability insurance required by G.S. 74C-10 and obtain the license applied for or his application shall lapse.

(h) Trainee permits shall not be issued to applicants that satisfy the experience requirement in G.S. 74C-8(d)(3). A licensed private detective may supervise no more than five trainees at any given time.

*“§ 74C-10. Bond and certificate of liability insurance required; form and approval; action on bonds; suspension for noncompliance.—(a) No licensee or applicant for a license shall be licensed under this Chapter unless the licensee or applicant for a license 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 or her agency. Only one bond shall be required of a licensee regardless of the number of licenses which he is issued under this Chapter.

(b) The bond shall be taken in the name of the people of the State of North Carolina. Every person injured by wrongful or illegal acts of the principal or his agents operating in the course and the scope of his or her agency may bring an action on the bond in his or her name to recover damages suffered by reason of such wrongful act. Provided, however, the aggregate liability of the surety for all breaches of the condition of bond shall, in no event, exceed the sum of said bond.

(c) Persons registered pursuant to G.S. 74C-11 shall not be required to obtain a surety bond or certificate of liability insurance. The holder of a private detective trainee permit must satisfy the bond requirements of this section within 90 days of the issuance of said permit.

(d) The surety on said bond shall have a right to cancel such bond upon giving a 30-day notice to the board. Provided, however, that such cancellation shall not affect any liability on the bond which accrued prior thereto. The bond shall be approved by the board as to form, execution, and sufficiency of the sureties thereon.

(e) No license shall be issued under this act unless the applicant files with the board evidence of a policy of liability insurance which policy must provide for the following minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his employment; subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency; twenty thousand dollars (\$20,000) because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his agents operating in the course and scope of his or her agency.

(f) An insurance carrier shall have the right to cancel such policy of liability insurance upon giving a 30-day notice to the board. Provided, however, that such cancellation shall not affect any liability on the policy which accrued prior thereto. The policy of liability shall be approved by the board as to form, execution, and terms thereon.

(g) The holder of a private detective trainee permit and persons registered pursuant to G.S. 74C-11 shall not be required to obtain a certificate of liability insurance.

(h) Every licensee shall at all times maintain on file with the board the surety bond and certificate of insurance required by this Chapter in full force and effect and upon failure to do so, the license of such licensee shall be automatically suspended and shall not be reinstated until an application therefor, in the form prescribed by the board, is filed together with a proper bond, insurance certificate, or both.

(i) The board may deny the application notwithstanding the applicant's compliance with this section:

- (1) for any reason which would justify refusal to issue or a suspension or revocation of a license; or
- (2) for the performance by applicant of any practice while under suspension for failure to keep this bond or insurance certificate in force, for which a license under this Chapter is required.

“§ 74C-11. *Registration of persons employed; temporary employment.*—(a) All licensees, within 10 days of the beginning of employment of an employee who will be engaged in the providing of private protective services covered by this Chapter unless the administrator, in his discretion, extends the time period for good cause, shall furnish the board with the following: two sets of classifiable fingerprints on standard F.B.I. applicant cards; two recent photographs of acceptable quality for identification; and statements of any criminal records obtained from the county sheriff, chief of police, or clerk of superior court in each county in North Carolina where the employee has resided within the immediately preceding 24 months.

(b) A security guard and patrol company may not employ a guard, watchman, or other patrol personnel unless the guard, watchman, or patrol personnel is properly registered in compliance with this section, unless otherwise exempted by another provision of this Chapter.

(c) The administrator shall be notified in writing of the termination of any employee registered under this Chapter within 10 days after said termination.

(d) A security guard, watchman, or patrol personnel shall make application to the administrator for a registration card which the administrator shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the board, in its discretion, deems to be necessary. The security guard registration card shall be in the form of a pocket card designed by the board, shall be issued in the name of the applicant, and shall have the applicant's photograph affixed thereto. The security guard registration card shall expire two years after its date of issuance and shall be renewed every two years. If a registered security guard changes employment to another security guard and patrol company, the security guard registration card shall remain valid. The board is authorized to charge the applicant a reasonable registration fee for initial registration, in an amount not to exceed fifteen dollars (\$15.00), and a renewal fee, in an amount not to exceed ten dollars (\$10.00).

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided that such licensee, prior to employing such security guard, submits to the administrator the name, address, and social security number of such guard, the name of the state of current registration or licensing, and the administrator approves the employment of the guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering said employee in accordance with this section; provided that the licensee submits to the administrator a quarterly report which provides the administrator with the name, address, social security number, and dates of employment of such employee.

“§ 74C-12. *Suspension or revocation of licenses, appeal.*—(a) The board may, after notice and an opportunity for hearing, suspend or revoke a license issued under this Chapter if it is determined that the licensee has:

- (1) made any false statement or given any false information in connection with any application for a license or trainee permit or for the renewal or reinstatement of a license or trainee permit;
- (2) violated any provision of this Chapter;
- (3) violated any rule promulgated by the board pursuant to the authority contained in this Chapter;
- (4) been convicted of any crime involving moral turpitude or any other crime involving violence or the illegal use, carrying, or possession of a dangerous weapon;
- (5) impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, or any of its political subdivisions;
- (6) engaged in or permitted any employee to engage in a private protective services business when not lawfully in possession of a valid license issued under the provisions of this Chapter;
- (7) willfully failed or refused to render to a client service or a report as agreed between the parties and for which compensation had been paid or tendered in accordance with the agreement of the parties;
- (8) knowingly made any false report to the employer or client for whom information is being obtained;
- (9) committed an unlawful breaking or entering, assault, battery, or kidnapping;
- (10) knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;
- (11) committed any other act which is a ground for the denial of an application for a license under this Chapter;
- (12) undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;
- (13) to issue, deliver, or utter any simulation of process of any nature which might lead a person or persons to believe that such simulation - written, printed, or typed - may be a summons, warrant, writ or court process, or any pleading in any court proceeding;
- (14) failure to maintain the cash bond, surety bond, or certificate of liability insurance required by this Chapter;
- (15) violation of the firearm provisions set forth in this Chapter;
- (16) committed any act prohibited under G.S. 74C-16;
- (17) failure to notify the administrator by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this Chapter;
- (18) failure to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;
- (19) any judgment of incompetency by a court having jurisdiction under Chapter 35 of the General Statutes or commitment to a mental health facility for treatment of mental illness, as defined in G.S. 122-36(d), by a



court having jurisdiction under Article 5A of Chapter 122 of the General Statutes.

(b) The revocation or suspension of a license by the board as provided in subsection (a) shall be in writing, signed by the administrator of the board stating the grounds upon which the board decision is based. The aggrieved person shall have the right to appeal from such decision as provided in Chapter 150A of the General Statutes.

“§ 74C-13. *Firearms*.—(a) It shall be unlawful for any person performing the duties of an armed private security officer to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the board. For the purposes of this section, the following terms are defined:

- (1) ‘Armed private security officer’ means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security guard, patrol, or watchman; armed armored car service guard; alarm system company responder; private detective; or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of his or her duties.
- (2) ‘Contract security company’ means any person, firm, association, or corporation engaging in a private protective services business as defined in this Chapter which provides said services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
- (3) ‘Proprietary security organization’ means any person, firm, association, or corporation or department thereof which employs watchmen, security guards or patrol personnel, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed private security officer and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed private security officer if the board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed private security officer to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

- (1) A firearms registration permit will grant authority to the armed security officer, while in the performance of his duties or travelling directly to and from work, to carry a standard .38 caliber or .32 caliber revolver or any other firearm approved by the board and not otherwise prohibited by law. The use of any firearm not approved by the board is prohibited.
- (2) All firearms carried by authorized armed security officers in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security officer in the performance of his duties.

(c) The applicant for an armed private security officer firearm registration permit shall submit an application to the board on a form provided by the

board. The board is authorized to charge a reasonable initial application fee, in an amount not to exceed ten dollars(\$10.00).

(d) Each armed private security officer firearm registration permit issued under this section shall be in the form of a pocket card designed by the board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. An armed private security officer firearm registration permit expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. The board is authorized to charge a reasonable renewal fee, in an amount not to exceed five dollars (\$5.00).

(e) If the holder of an armed private security officer firearm registration permit terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed private security officer pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the administrator. The board and the Attorney General shall provide by rule the procedure by which a contract security company or a proprietary security organization applicant may be issued a temporary firearm registration permit by the administrator of the board pending a determination by the board of whether to grant or deny an applicant a firearm registration permit.

(g) The board may suspend, revoke, or deny a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section and/or rules promulgated by the board to implement this section. The administrator may summarily suspend a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against an armed private security officer.

(h) The board and the Attorney General shall establish a training program to be conducted by agencies and institutions approved by the board and the Attorney General. The board and the Attorney General may approve training programs conducted by contract security companies and the security department of a proprietary security organization, if the contract security companies or security department of a propriety security organization offers the courses listed in subsection (1) of this paragraph (h) and if the instructors of the training program are qualified instructors approved by the board and the Attorney General:

(1) The basic training course approved by the board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:

- a. legal limitations on the use of hand guns and on the powers and authority of an armed private security officer,
- b. familiarity with this section,
- c. range firing and procedure and hand gun safety and maintenance, and

- d. any other topics of armed private security officer training curriculum which the board deems necessary.
- (2) An applicant for an armed security officer firearm registration permit must fire a minimum qualifying score to be determined by the board and the Attorney General on any approved target course approved by the board and the Attorney General.
- (3) An armed security officer must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.
- (4) The board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.
- (i) The board may not issue an armed private security officer registration permit to an applicant until the applicant's employer submits evidence satisfactory to the board that:
- (1) He has satisfactorily completed an approved training course.
  - (2) He meets all the qualifications established by this section and by the rules promulgated to implement this section.
  - (3) He is mentally and physically capable of handling a firearm within the guidelines set forth by the board and the Attorney General.
- (j) The board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued a firearm registration card by the board.
- (k) All fees collected pursuant to G.S. 74C-13(c) and (d) shall be expended, under the direction of the board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter. The board is authorized to charge a reasonable fee, in an amount not to exceed one hundred dollars (\$100.00), for the expenses of administering the firearms provisions of this Chapter when the board determines the fees collected pursuant to G.S. 74C-13(c) and (d) are not adequate to defray the expenses of administering the firearms provisions of this Chapter.
- “§ 74C-14. *Mace*.—It shall be lawful for security guards registered pursuant to the provisions of this Chapter to possess and use tear gas (mace) to the extent allowed under the provisions of G.S. 14-401.6.
- “§ 74C-15. *Identification cards, badges, and shields*.—(a) Upon the issuance of a license or trainee permit, a pocket identification card of design, size, and content approved by the board shall be issued by the board without charge to each licensee or trainee. The holder must have this card in his possession at all times when he is on duty and working within the scope of his employment. When a licensee or trainee to whom a card has been issued terminates his position as a licensee or trainee, the card must be surrendered to the administrator of the board within 10 working days thereafter.
- (b) No person licensed under the provisions of this Chapter as a private detective shall wear, carry, or accept any badge or shield purporting to indicate that such person is a private detective or a private investigator.
- “§ 74C-16. *Prohibited acts*.—(a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require incident to investigation of any criminal offense. However, he shall not

divulge to any other person, except as he may be required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained.

(b) Every advertisement by a licensee soliciting or advertising for business shall contain his name as it appears in the records of the board and the name in which the license was issued.

(c) It shall be unlawful for anyone not licensed and/or registered as required under this Chapter to:

- (1) advertise or to hold himself out to be a licensee;
- (2) advertise or to hold himself out to perform services for which a license is required; or
- (3) perform or aid and abet any other individual to perform services for which a license or registration under this Chapter is required, when, in fact, the individual is not licensed and/or registered in accordance with this Chapter.

(d) No law enforcement officer of the United States, this State, or any of its political subdivisions shall be licensed as a private detective or security guard and patrol business licensee under this Chapter; provided no law enforcement officer of the United States, this State, or any of its political subdivisions may use any motor vehicle owned or leased by a law enforcement agency in the course and scope of any private employment which is subject to regulation by the provisions of this Chapter; provided that nothing in this section shall be construed to prohibit the holder of a company police commission under Chapter 74A of the General Statutes from being licensed under this Chapter or being employed by a licensee under this Chapter.

“§ 74C-17. *Enforcement.*—(a) The board is authorized to apply in its own name to any judge of the Superior Court of the General Court of Justice for an injunction in order to prevent any violation or threatened violation of the provisions of this Chapter.

(b) Any person, firm, association, or corporation or their agents and employees violating any of the provisions of this Chapter or knowingly violating any rule promulgated to implement this Chapter shall be guilty of a misdemeanor and punishable by a fine of up to five hundred dollars (\$500.00), by imprisonment for a term not to exceed one year, or by both, in the discretion of the court. The Attorney General, or his representative, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter.

“§ 74C-18. *Reciprocity, temporary permit.*—(a) To the extent that other states which provide for licensing of any private protective services business provide for similar action for citizens of this State, the board, in its discretion, may grant a private protective services business license to a nonresident who holds a valid private protective services business license of the same type from another state upon satisfactory proof furnished to the board that the standards of licensure in such other states are at least substantially equivalent to those prevailing in this State. Applicants shall make application to the board on the form prescribed by the board for all applicants, shall comply with the provisions of G.S. 74C-10, and shall pay the fees required of all applicants.

(b) The administrator, in his discretion and subject to the approval of the board, may issue a temporary permit to a nonresident who has complied with the provisions of G.S. 74C-10 and who is validly licensed in another state to



engage in a private protective service activity incidental to a specific case originating in another state. A temporary permit may be issued for a period of no more than 30 days and may be renewed. A temporary permit may contain such restrictions which the board, in its discretion, deems appropriate. The board is authorized to charge a reasonable fee for a nonresident temporary permit, in an amount not to exceed fifty dollars (\$50.00).

“§ 74C-19. *Severability*.—If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

“§ 74C-20. *Repeal of Chapter*.—This Chapter is repealed effective July 21, 1983, by substitution of this Chapter in G.S. 143-34.13 and the other general provisions of Article 2 of Chapter 143 of the General Statutes, which requires periodic review of certain State agencies for Chapter 74B, which this Chapter supersedes.”

**Sec. 3.** This act shall become effective on July 1, 1979, with the exception of the provisions of G.S. 74C-10 and G.S. 74C-13, which shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

H. B. 1061

**CHAPTER 819****AN ACT TO AMEND CHAPTER 89C OF THE GENERAL STATUTES  
RELATING TO ENGINEERS AND LAND SURVEYORS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 89C-4 is rewritten to read:

“§ 89C-4. *State Board of Registration; appointments; terms*.—A State Board of Registration for Professional Engineers and Land Surveyors, whose duty it is to administer the provisions of this Chapter, is created. The Board shall consist of four registered professional engineers, three registered land surveyors and two public members, who are neither professional engineers nor land surveyors. Of the land surveyor members, one and only one may hold dual registration as a land surveyor and professional engineer. All of the members shall be appointed by the Governor. Appointments of the engineer and land surveyor members shall preferably, but not necessarily, be made from a list of nominees submitted by the professional societies for engineers and land surveyors in this State. Each member of the Board shall receive a certificate of appointment from the Governor and shall file with the Secretary of State his written oath or affirmation for the faithful discharge of his duties.

Members of the Board serve for staggered five-year terms, and no member may be appointed for more than two full terms. Members serve until the expiration of their respective terms and until their respective successors are appointed. If a vacancy occurs during a term, the Governor shall appoint a successor from the same classification as the person causing the vacancy to serve for the remainder of the unexpired term. If the vacancy is not filled within 90 days after it occurs, the Board may appoint a provisional member to serve until the appointment by the Governor becomes effective. The provisional member during his tenure has all the powers and duties of a regular member.”

**Sec. 2.** G.S. 89C-5 is amended on line 2 by deleting the phrase “shall be a citizen of the United States,” and further amended on lines 5 and 6 by deleting the phrase “shall be a citizen of the United States,” and by adding a new paragraph at the end of the section to read as follows: “Each public member of the Board shall be a resident of North Carolina.”

**Sec. 3.** G.S. 89C-17 is amended by deleting from line 10 the phrase “fifteen dollars (\$15.00)” and inserting in lieu thereof the phrase “thirty dollars (\$30.00)”.

**Sec. 4.** G.S. 89C-17 is further amended by striking out the second sentence of the section beginning with the word “It” in line 4 and ending with the word “certificate” in line 7, and by inserting in lieu thereof the following:

“When necessary to protect the public health, safety, or welfare, the Board shall require such evidence as it deems necessary to establish the continuing competency of engineers and land surveyors as a condition of renewal of licenses. When the Board is satisfied as to the continuing competency of an applicant, it shall issue a renewal of the certificate upon payment by the applicant of a fee fixed by the Board but not to exceed thirty dollars (\$30.00). The Secretary of the Board shall notify by mail every person registered under this Chapter of the date of expiration of his certificate, the amount of the fee required for its renewal for one year, and any requirement as to evidence of continued competency. The notice shall be mailed at least one month in advance of the expiration date of the certificate.”

**Sec. 5.** G.S. Chapter 89C is further amended by inserting the following new section:

“§ 89C-25.1. *Supervision of unregistered individuals by registered person.*—In all circumstances in which unregistered individuals are permitted under this Chapter to perform engineering or land surveying work, or both, under the supervision of a registered engineer, land surveyor, or both, the Board may by regulation establish a reasonable limit on the number of unregistered individuals which a registrant of the Board may directly or personally supervise at one time.

“§ 89C-25.2. *Program of licensure by discipline.*—The Board shall submit to the legislative committees of reference by July 1, 1981, a program of licensure by discipline and an analysis of the costs and merits thereof in order to permit the General Assembly to make a decision on the establishment of such a program. The ‘committees of reference’ shall be the Senate and House Committees on State Government respectively or such other committees as the respective presiding officers may determine.”

**Sec. 6.** Schedule. To achieve appropriate staggering of terms of members of the Board, those members serving at the time of ratification of this act shall continue to serve for the remainder of the terms for which they were appointed. As soon as practicable after ratification of this act, the Governor shall appoint one public member for an initial term of four years, and one public member for an initial term of five years.

**Sec. 7.** G.S. 143-34.11 is amended by deleting line 4 of the section, which reads as follows:

“Chapter 89C, entitled ‘Engineering and Land Surveying.’”

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 1324

## CHAPTER 820

AN ACT TO AMEND THE SUMMARY EJECTMENT STATUTES TO REQUIRE A REASONABLE BOND FOR APPEAL AND TO DELETE THE DOUBLE DAMAGES PENALTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 42-34(b) is rewritten to read as follows:

“(b) It shall be sufficient to stay execution of a judgment for ejectment that the defendant appellant sign an undertaking that he will pay into the office of the clerk of superior court the amount of the contract rent as it becomes due periodically after the judgment was entered and, where applicable, comply with subdivision (c) below. Any magistrate, clerk, or district court judge shall order stay of execution upon such undertaking. If either party disputes the amount of the payment or the due date in such undertaking, the aggrieved party may move for modification of the terms of the undertaking before the clerk of superior court or the district court. Upon such motion and upon notice to all interested parties, the clerk or court shall hold a hearing and determine what modifications, if any, are appropriate.”

**Sec. 2.** A new subdivision G.S. 42-34(c) is added after G.S. 42-34(b) as follows:

“(c) In an ejectment action based upon alleged nonpayment of rent where the judgment is entered more than five working days before the day when the next rent will be due under the lease, the appellant shall make an additional undertaking to stay execution pending appeal. Such additional undertaking shall be the payment of the prorated rent for the days between the day that the judgment was entered and the next day when the rent will be due under the lease. Notwithstanding, such additional undertaking shall not be required of an indigent appellant who prosecutes his appeal with an *in forma pauperis* affidavit that meets the requirements of G.S. 1-288.”

**Sec. 3.** A new subdivision G.S. 42-34(d) is added after G.S. 42-34(c), as follows:

“(d) The undertaking by the appellant and the order staying execution may be substantially in the following form:

‘State of North Carolina,

‘County of \_\_\_\_\_

‘\_\_\_\_\_, Plaintiff

vs.

‘\_\_\_\_\_, Defendant

Bond to

Stay Execution

On Appeal to

District Court

‘Now comes the defendant in the above entitled action and respectfully shows the court that judgment for summary ejectment was entered against the defendant and for the plaintiff on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by the Magistrate.

Defendant has appealed the judgment to the District Court.

‘Pursuant to the terms of the lease between plaintiff and defendant, defendant is obligated to pay rent in the amount of \$\_\_\_\_per\_\_\_\_, due on the\_\_\_\_ day of each\_\_\_\_.

‘Where an additional undertaking is required by G.S. 42-34(c), the defendant hereby tenders \$\_\_\_\_to the Court as required.

‘Defendant hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid terms of the lease and moves the Court to stay execution on the judgment for summary ejectment until this matter is heard on appeal by the District Court.

‘This the \_\_\_\_ day of \_\_\_\_, 19\_\_.

---

**Defendant**

‘Upon execution of the above bond, execution on said judgment for summary ejectment is hereby stayed until the action is heard on appeal in the District Court. If defendant fails to make any rental payment to the clerk’s office within five days of the due date, upon application of the plaintiff, the stay of execution shall dissolve and the sheriff may dispossess the defendant.

‘This \_\_\_\_ day of \_\_\_\_, 19\_\_.

---

Assistant Clerk of Superior Court”’.

**Sec. 4.** A new subdivision G.S. 42-34(e) is added after G.S. 42-34(d), as follows:

“(e) Upon application of the plaintiff, the clerk of superior court shall pay to the plaintiff any amount of the rental payments paid by the defendant into the clerk’s office which are not claimed by the defendant in any pleadings.”

**Sec. 5.** A new subdivision G.S. 42-34(f) is added after G.S. 42-34(e), as follows:

“(f) If the defendant fails to make a payment within five days of the due date according to the undertaking and order staying execution, the clerk, upon application of the plaintiff, shall issue execution on the judgment for possession.”

**Sec. 6.** A new subdivision G.S. 42-34(g) is added after G.S. 42-34(f), as follows:

“(g) When it appears by stipulation executed by all of the parties or by final order of the court that the appeal has been resolved, the clerk of court shall disburse any accrued monies of the undertaking remaining in the clerk’s office according to the terms of the stipulation or order.”

**Sec. 7.** G.S. 42-32 is amended to delete, in line 6, the word “double”.

**Sec. 8.** G.S. 42-44 is amended by deleting subdivision (b) in its entirety, by deleting from subdivision (c) the entire second sentence, and by renumbering subdivisions “(c)” and “(d)” to be subdivisions “(b)” and “(c)” respectively.

**Sec. 9.** G.S. 7A-227 is amended by adding the following sentence:

“This section shall not require any undertaking of appellants in summary ejectment actions other than those imposed by Chapter 42 of the General Statutes.”

**Sec. 10.** G.S. 1A-1, Rule 62(a), is amended by deleting from the first sentence the words “in summary ejectment cases and”.

**Sec. 11.** This act shall become effective September 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.



## H. B. 1424

## CHAPTER 821

AN ACT TO AMEND CHAPTER 115 OF THE GENERAL STATUTES TO ALLOW COUNTY AND CITY BOARDS OF EDUCATION TO REGULATE THE PARKING OF MOTOR VEHICLES ON SCHOOL PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 5 of Chapter 115 of the General Statutes is hereby amended by adding a new section therein to be numbered G.S. 115-35.1 and to read as follows:

“§ 115-35.1. *Powers of county and city boards to regulate parking of motor vehicles.*—(a) Any county or city 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 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 county or city 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 county or city 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 county or city 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 county or city 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 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.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

H. B. 1491

**CHAPTER 822**

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF WEST JEFFERSON, ASHE COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES SHALL BE OPERATED IN THE TOWN OF WEST JEFFERSON.

*The General Assembly of North Carolina enacts:*

**Section 1.** The governing body of the Town of West Jefferson shall call a special election to be held on the question of whether alcoholic beverage control stores may be operated in that town. The governing body may 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 Ashe 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 shall not be necessary, and all qualified voters who are properly registered prior to registration for the election and those who register for the election shall be 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 West Jefferson.

**Sec. 3.** There shall be submitted to the qualified voters of the Town of West Jefferson 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 such stores shall be set up or operated in the Town of West Jefferson 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 West Jefferson 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 Board of Alcoholic Beverage Control shall have all the powers and duties prescribed for county boards of alcoholic control by G.S. 18A-17, except to the extent that they may be in conflict with the provisions of this act, and shall be subject to the same powers and authority of the State Board of Alcoholic Control as are county boards of alcoholic control by the provisions of G.S. 18A-15. The Town of West Jefferson Board of Alcoholic Control, in the operation of any city alcoholic beverage control stores authorized under the provisions of this act, shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent that they may be in conflict with the provisions of this act. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of West Jefferson Board of Alcoholic 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. In addition, the board shall expend a sum of not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for rehabilitation of alcoholics. The remaining revenue, as determined by quarterly audit, shall be distributed quarterly by the Town Board of Alcoholic Beverage Control as follows:

(a) Eighty percent (80%) shall be paid over to the general fund of the Town of West Jefferson to be used for any and all purposes for which tax and nontax revenues may be legally expended by the town.

(b) Ten percent (10%) shall be paid to the West Jefferson Fire Department.

(c) Ten percent (10%) shall be paid to the Ashe County Rescue Squad.

**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 Alcoholic Beverage Control Board shall be closed immediately and no beverages shall be sold at retail or otherwise to citizens of Ashe County, and within three months from the canvassing of the votes and the declaration of the results thereof, 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 West Jefferson. Thereafter, all public, local, and private laws applicable to the sale of intoxicating beverages within the Town of West Jefferson, 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 the 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 West Jefferson 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 number of the registered and qualified voters of the Town of West Jefferson that voted in the election for the governing body of the town in the last election, 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 7th day of June, 1979.

H. B. 1494

## CHAPTER 823

### AN ACT REGARDING THE MEMBERSHIP OF THE PASQUOTANK COUNTY ABC BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding any provision of Chapter 18A of the General Statutes, Chapter 493 of the Public Laws of 1935, Chapter 49 of the Public Laws of 1937, Chapter 131 of the Public Laws of 1939, or any other public or local act, the Pasquotank County ABC Board shall have five members to be appointed as follows:

- (1) two members by the Pasquotank Board of County Commissioners;
- (2) two members by the Elizabeth City Council; and
- (3) one member jointly by the Pasquotank Board of County Commissioners and the Elizabeth City Council, who must have the approval of a majority of each body.

**Sec. 2.** Will B. Newbern's appointment to the County ABC Board is ratified, and he shall continue to serve until July 1, 1981.

**Sec. 3.** R. E. Pendleton's appointment to the County ABC Board is ratified, and he shall continue to serve until July 1, 1981.

**Sec. 4.** Initial appointees under Section 1 of this act shall serve as follows:

- (1) The member appointed under subdivision (3) of Section 1 of this act shall be appointed no later than July 1, 1979, and shall serve a three-year term beginning on that date.
- (2) One of the members appointed under subdivision (1) and one appointed under subdivision (2) of Section 1 of this act shall be appointed no later than July 1, 1979, and each shall serve a four-year term beginning on that date.
- (3) One of the members appointed under subdivision (1) and one appointed under subdivision (2) of Section 1 of this act shall replace R. E. Pendleton and Will B. Newbern, respectively, as their terms expire, and each shall serve a four-year term.

Thereafter, all members shall serve four-year terms.

**Sec. 5.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.



## S. B. 280

## CHAPTER 824

## AN ACT TO MODIFY AND EXTEND THE INSURANCE RATE REGULATION PROVISIONS IN CHAPTER 828 OF THE 1977 SESSION LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-124.19(2), as found in the 1977 Cumulative Supplement to Volume 2B, is rewritten to read:

“(2) Due consideration shall be given to actual loss and expense experience within this State for the most recent three-year period for which such information is available; to prospective loss and expense experience within this State; to the hazards of conflagration and catastrophe; to a reasonable margin for underwriting profit and to contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to investment income earned or realized by insurers from their unearned premium, loss, and loss expense reserve funds generated from business within this State; to past and prospective expenses specially applicable to this State; and to all other relevant factors within this State: Provided, however, that countrywide expense and loss experience and other countrywide data may be considered only where credible North Carolina experience or data is not available.”

**Sec. 2.** G.S. 58-124.20, as found in the 1977 Cumulative Supplement to Volume 2B, is amended by adding a new subsection to read:

“(e) The Commissioner may require the filing of supporting data including:

- (1) the Bureau's interpretation of any statistical data relied upon;
- (2) descriptions of the methods employed in setting the rates;
- (3) analysis of the incurred losses submitted on an accident year or policy year basis into their component parts; to wit, paid losses, reserves for losses and loss expenses, and reserves for losses incurred but not reported;
- (4) the total number and dollar amount of paid claims;
- (5) the total number and dollar amount of case basis reserve claims;
- (6) earned and written premiums at current rates by rating territory;
- (7) earned premiums and incurred losses according to classification plan categories; and
- (8) income from investment of unearned premiums and loss and loss expense reserves generated by business within this State.

Provided, however, that with respect to business written prior to January 1, 1980, the Commissioner shall not require the filing of such supporting data which has not been required to be recorded under statistical plans approved by the Commissioner.”

**Sec. 3.** G.S. 58-124.21(b), as found in the 1977 Cumulative Supplement to Volume 2B, is amended by rewriting lines 5 through 8 to read:

“be made with the policyholder either by collection of an additional premium or by refund, if the amount exceeds five dollars (\$5.00). The Commissioner may thereafter review any filing in the manner provided; but if so reviewed, no adjustment of any premium on any policy then in force may be ordered.”

**Sec. 4.** G.S. 58-124.22(b), as found in the 1977 Cumulative Supplement to Volume 2B, is amended as follows:

(a) on line 3 by inserting between the words "Bureau" and "shall" the following: ", in accordance with rules and regulations established and adopted by the governing committee,";

(b) by rewriting line 8 to read: "to be distributed appropriately, except that individual refunds that are five dollars (\$5.00) or less shall not be required."; and

(c) by rewriting lines 13 and 14 to read: "were put into effect."

**Sec. 5.** G.S. 58-124.26 is rewritten to read:

"§ 58-124.26. *Cap on insurance rate increases.*—Notwithstanding any other provision of this Article or Chapter, and with respect to the lines of insurance subject to this Article, neither the Rate Bureau nor any member thereof nor the Motor Vehicle Reinsurance Facility shall increase the general rate level for any such line by more than six percent (6%) per annum from the general rate level existing on the effective date of this section: Provided, that the provisions of this section with respect to workers' compensation insurance and employers' liability insurance written in connection therewith shall expire on July 1, 1980; provided further, that the provisions of this section with respect to the remaining lines of insurance subject to this Article shall expire on July 1, 1981."

**Sec. 6.** Article 12B of the General Statutes Chapter 58 is amended by adding two new sections to read:

"§ 58-124.29. *Policy forms.*—No policy form applying to insurance on risks or operations covered by this Article may be delivered or issued for delivery unless it has been filed with the Commissioner by the Bureau and either he has approved it, or 90 days have elapsed and he has not disapproved it.

"§ 58-124.30. *Payment of dividends not prohibited or regulated; plan for payment into rating system.*—Nothing in this Article will be construed to prohibit or regulate the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers. A plan for the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers will not be deemed a rating plan or system."

**Sec. 7.** G.S. 58-30.4, as found in the 1977 Cumulative Supplement to Volume 2B, is amended as follows:

(a) by rewriting lines 17 through 20 to read: "traffic violation or violations, or any combination thereof. The classification plans and"; and

(b) by rewriting line 24 to read: "G.S. 58-124.20, G.S. 58-124.21, and G.S. 58-124.22."

**Sec. 8.** Section 25 of Chapter 828 of the 1977 Session Laws is rewritten to read:

"Sec. 25. This act shall become effective on September 1, 1977, and shall not affect any existing policy during the existing term of said policy."

**Sec. 9.** If any provision of this act or its application to any person or circumstances is held invalid by any court of competent jurisdiction, the invalidity will 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 severable.

**Sec. 10.** This act will not affect any policy in existence on the effective date of this act.

**Sec. 11.** This act will not affect pending litigation.

**Sec. 12.** This act will become effective on June 30, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## S. B. 391

## CHAPTER 825

AN ACT TO PREVENT THE USE OF ARTIFICIAL LIGHT IN AREAS INHABITED BY GAME AND TO PROHIBIT THE TAKING OF FOXES OR DEER WITH DOGS IN ALAMANCE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any person who, from 30 minutes after sunset on any day until 30 minutes before sunrise on the following day, deliberately flashes or displays an artificial light from or attached to a motor-driven conveyance or from any means of conveyance attached to the motor-driven conveyance so as to cast the beam thereof beyond the surface of a roadway on any field, woodland or forest in an area frequented or inhabited by wild game animals shall be guilty of a misdemeanor. Every person occupying the vehicle or conveyance at the time of the violation shall be deemed prima facie guilty of such violation as a principal. The North Carolina Wildlife Resources Commission is authorized to issue permits to use lights for wildlife research purposes only.

**Sec. 2.** It is unlawful to pursue, hunt, take or kill deer or foxes with dogs.

**Sec. 3.** Each person violating the provisions of this act, shall, on the first conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). Upon a second or subsequent conviction, such persons shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) or imprisoned not more than 60 days, or both, at the discretion of the court.

**Sec. 4.** The provisions of Section 1 of this act shall not apply to the person while on land owned by him in fee simple or in which he has a life estate or a person who leases land for agricultural purposes. The fact of ownership shall be a matter of defense in any prosecution for violation of Section 1 of this act.

**Sec. 5.** All lawful peace officers of the county and State, including wildlife protectors, shall have authority to arrest for violations of this act.

**Sec. 6.** This act shall apply to Alamance County only.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## S. B. 882

## CHAPTER 826

AN ACT TO PERMIT COURT REPORTERS TO BUY IN TIME SERVED BEFORE THE ESTABLISHMENT OF THE UNIFORM COURT SYSTEM IN 1968.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-4 is amended by adding a new subsection, designated "(o)" to read as follows:

"(o) Notwithstanding any other provision of this Chapter, a member who is presently a court reporter may buy in time spent serving as court reporter prior to the establishment of the Uniform Court System in 1968 by purchasing service credits, provided that the purchase payment equals 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. Account shall be taken of the additional retirement allowance arising on account of the additional service credit commencing at the earliest date of which the member could retire or of a reduced retirement allowance as determined by the board of trustees upon the advice of the consulting actuary."

**Sec. 2.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 796

## CHAPTER 827

AN ACT TO CORRECT AN ERROR INADVERTENTLY INTRODUCED INTO CHAPTER 546 OF THE 1979 SESSION LAWS RELATING TO THE ANTLERLESS DEER SEASONS IN PENDER COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 546 of the 1979 Session Laws is amended to add the following sentence: "Section 2 of Chapter 258 of the 1969 Session Laws is repealed with respect to Pender County."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 1219

## CHAPTER 828

AN ACT TO AMEND THE COMPOSITION OF COMMUNITY SCHOOLS ADVISORY COUNCILS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-73.11, as the same now appears in 1978 Replacement Volume 3A, is hereby amended by adding after the word "established" and before the words, "The size", the following sentence:

"Wherever possible the local board of education is encouraged to include at least one high school student."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## H. B. 1409

## CHAPTER 829

AN ACT RELATING TO PROBATIONARY CERTIFICATES OF LOCAL BUILDING INSPECTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-151.13 is amended as follows:

(a) by deleting from line 6 of subsection (a) the words and punctuation "valid for one year only";

(b) by deleting from line 2 of subsection (d) the words "one year" and inserting in lieu thereof the words "such period (not less than one year nor more than three years) as specified by the Board's regulations";

(c) by deleting from lines 5 and 6 of subsection (d) the words "one year" and inserting in lieu thereof the words "the specified period".

**Sec. 2.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## S. B. 226

## CHAPTER 830

## AN ACT TO REVISE AND CONSOLIDATE THE LAWS OF NORTH CAROLINA RELATING TO THE CONSERVATION OF WILDLIFE RESOURCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 6 and Subchapters IIA and III of Chapter 113 of the General Statutes are repealed. Subchapter IV of Chapter 113 of the General Statutes is rewritten to read as indicated below; provisions which are not amended by this act are not set out below but are indicated as “(No change.)”; provisions which are repealed by this act are indicated below as “(Repealed.)”.

## “SUBCHAPTER IV.

“Conservation of Marine and Estuarine  
and Wildlife Resources.

## “ARTICLE 12.

## “General Definitions.

“§ 113-127. *Application of Article.*—(No change.)

“§ 113-128. *Definitions relating to agencies and their powers.*—The following definitions and their cognates apply to powers and administration of agencies charged with the conservation of marine and estuarine and wildlife resources:

(1) (Repealed.)

(2) (Repealed.)

(3) Department. The Department of Natural Resources and Community Development. References to the department include, when appropriate, the Marine Fisheries Commission.

(4) Executive director. (No change.)

(5) Inspector. Marine fisheries inspector.

(5a) Marine Fisheries Commission. The Marine Fisheries Commission of the department as established by Part 5 of Article 7 of Chapter 143B of the General Statutes.

(5b) Marine fisheries inspector. An employee of the department, other than a wildlife protector, sworn in as an officer and assigned duties which include exercise of law enforcement powers under this Subchapter. All references in statutes, regulations, contracts, and other legal and official documents to commercial fisheries inspectors and to commercial and sports fisheries inspectors apply to marine fisheries inspectors.

(6) Notice; notify. (No change.)

(7) Protector. (No change.)

(8) Secretary. (No change.)

(9) Wildlife protector. (No change.)

(10) Wildlife Resources Commission. The North Carolina Wildlife Resources Commission as established by Article 24 of Chapter 143 of the General Statutes and Part 3 of Article 7 of Chapter 143B of the General Statutes.

“§ 113-129. *Definitions relating to resources.*—The following definitions and their cognates apply in the description of the various marine and estuarine and wildlife resources:

(1) (Repealed.)

(1a) Animals. Wild animals, except when the context clearly indicates a contrary interpretation.

(1b) Big game. Deer, bear, wild boar, and wild turkey.

(1c) Birds. Wild birds, except when the context clearly indicates a contrary interpretation.

(1d) Boating and fishing access area. An area of land providing access to public waters owned, leased, controlled, or managed by the Wildlife Resources Commission.

(1e) Bushel. A dry measure containing 2,150.42 cubic inches.

(2) Coastal fisheries. (No change.)

(3) Coastal fishing. (No change.)

(4) Coastal fishing waters. The Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources Commission may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing waters apply to coastal fishing waters.

(5) Crustaceans. Crustacea, specifically including crabs, lobster, and shrimp.

(6) Fisheries resources. (No change.)

(7) Fish; fishes. (No change.)

(7a) Fur-bearing animals. Beaver, mink, muskrat, nutria, otter, skunk, and weasel; bobcat, opossum, and raccoon when lawfully taken with traps.

(7b) Game. Game animals and game birds.

(7c) Game animals. Bear, deer, fox, rabbit, squirrel, and wild boar; bobcat, opossum, and raccoon except when trapped in accordance with provisions relating to fur-bearing animals.

(7d) Game birds. Migratory game birds and upland game birds.

(8) Game fish. (No change.)

(8a) Game lands. Lands owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission for public hunting, trapping, or fishing.

(9) Inland fishing waters. All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:

a. The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or

b. North Carolina's boundary with another state.

(10) Inland game fish. (No change.)

(10a) Joint fishing waters. Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission in accordance with G.S. 113-132(e).

(11) Marine and estuarine resources. (No change.)

(11a) Migratory birds. All birds, whether or not raised in captivity, included in the terms of conventions between the United States and any foreign country for the protection of migratory birds and the Migratory Bird Treaty Act, as defined and listed in Part 10 of Title 50 of the Code of Federal Regulations.

(11b) Migratory game birds. Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the following families:

- a. Anatidae (wild ducks, geese, brant, and swans);
- b. Columbidae (wild doves and pigeons);
- c. Gruidae (little brown cranes);
- d. Rallidae (rails, coots, and gallinules); and
- e. Scolopacidae (woodcock and snipe).

The Wildlife Resources Commission is authorized to modify this definition from time to time by regulations only as necessary to keep it in conformity with governing federal laws and regulations pertaining to migratory game birds.

(11c) Nongame animals. All wild animals except game and fur-bearing animals.

(11d) Nongame birds. All wild birds except game birds.

(12) Nongame fish. (No change.)

(13) Private pond. A body of water arising within and lying wholly upon a single tract of privately owned land, from which fish cannot escape and into which fish cannot enter from public fishing waters at any time, except that all publicly owned ponds and lakes are classified as public fishing waters. In addition, the private owners of abutting tracts of land on which a pond not exceeding 10 acres is or has been established may by written agreement cooperate to maintain that pond as a private pond if it otherwise meets the requirements of this definition. If a copy of the agreement has been filed with the Wildlife Resources Commission and the pond in fact meets the requirements of this definition, it attains the status of private pond either 60 days after the agreement has been filed or upon the Commission's approving it as private, whichever occurs first.

(13a) Public fishing waters; public waters. Coastal fishing waters, inland fishing waters, or both.

(13b) Public hunting grounds. Privately owned lands open to the public for hunting under the terms of a cooperative agreement between the owner and the Wildlife Resources Commission.

(13c) Raptor. A migratory bird of prey authorized under federal law and regulations for the taking of quarry by falconry.

(14) Shellfish. (No change.)

(14a) (Reserved.)

(14b) Upland game birds. Grouse, pheasant, quail, and wild turkey.

(15) Wild animals. Game animals; fur-bearing animals; and all other wild mammals except marine mammals found in coastal fishing waters. In addition, this definition includes members of the following groups which are on the federal list of endangered or threatened species: wild amphibians, wild reptiles except sea turtles inhabiting or depending upon coastal fishing waters, and wild invertebrates except invertebrates declared to be pests under the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. Nothing in this definition is intended to abrogate G.S. 113-132(c), confer jurisdiction upon the Wildlife Resources Commission as to any subject exclusively regulated by any other agency, or to authorize the Wildlife Resources Commission by its regulations to supersede valid provisions of law or regulation administered by any other agency.

(15a) Wild birds. Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. The Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources.

(16) Wildlife. Wild animals; wild birds; all fish found in inland fishing waters; and inland game fish. Unless the context clearly requires otherwise, the definitions of wildlife, wildlife resources, wild animals, wild birds, fish, and the like are deemed to include species normally wild, or indistinguishable from wild species, which are raised or kept in captivity. Nothing in this definition is intended to abrogate the exclusive authority given the Department of Agriculture to regulate the production and sale of pen-raised quail for food purposes.

(16a) Wildlife refuge. An area of land or waters owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission which is closed to the taking of some or all species of wildlife.

(17) Wildlife resources. (No change.)

“§113-130. *Definitions relating to activities of public.*—The following definitions and their cognates apply to activities of the public in regard to marine and estuarine and wildlife resources:

(1) Individual. (Repealed.)

(1a) Falconry. The sport of taking quarry by means of a trained raptor.

(1b) Individual. A human being.

(1c) Landholder. Any individual, resident or nonresident, owning land in this State or, when he is the one principally engaged in cultivating the land, leasing land in this State for agricultural purposes.

(2) Owner; ownership. (No change.)

(3) Person. (No change.)

(4) Resident. In the case of:

- a. Individuals. One who at the time in question has resided in North Carolina for the preceding six months or has been domiciled in North Carolina for the preceding 60 days. When domicile in the State for a period of 60 days up to six months is the basis for establishing residence, the individual must sign a certificate on a form supplied by the department or the Wildlife Resources Commission, as the case may be, stating the necessary facts and the intent to establish domicile here.
- b. Corporations. A corporation which is chartered under the laws of North Carolina and has its principal office within the State.
- c. Partnerships. A partnership in which all partners are residents of North Carolina and which has its principal office in the State.
- d. Other Associations and Groups Fitting the Definition of Person. An association or group principally composed of individual residents of North Carolina, with its principal office, if any, in the State, and organized for a purpose that contemplates more involvement or contact with this State than any other state.
- e. Military Personnel and Their Dependents. A member of the armed forces of the United States stationed at a military facility in North Carolina, his spouse, and any dependent under 18 years of age residing with him are deemed residents of the State, of the county in which they



live, and also, if different, of any county in which the military facility is located.

(4a) To buy; purchase. Includes a purchase or exchange of property, or an offer or attempt to purchase or exchange, for money or any other valuable consideration.

(5) To fish. (No change.)

(5a) To hunt. To take wild animals or wild birds.

(6) To sell; sale. (No change.)

(7) To take. All operations during, immediately preparatory, and immediately subsequent to an attempt, whether successful or not, to capture, kill, pursue, hunt, or otherwise harm or reduce to possession any fisheries resources or wildlife resources.

(7a) To trap. To take wild animals or wild birds by trapping.

(8) Vessel. (No change.)

#### “ARTICLE 13.

##### “Jurisdiction of Conservation Agencies.

“§ 113-131. *Resources belong to public; stewardship of conservation agencies.*—(No change.)

“§ 113-132. *Jurisdiction of conservation agencies.*—(a) (No change.)

(b) (No change.)

(c) Notwithstanding the provisions of this Article, this Subchapter does not give the Marine Fisheries Commission or the Wildlife Resources Commission jurisdiction over matters clearly within the jurisdiction vested in the Department of Agriculture, the North Carolina Pesticide Board, the Commission for Health Services, the Environmental Management Commission, or other divisions of the department regulating air or water pollution.

(d) (No change.)

(e) Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission, may be denominated joint fishing waters. These waters are deemed coastal fishing waters from the standpoint of laws and regulations administered by the department and are deemed inland fishing waters from the standpoint of laws and regulations administered by the Wildlife Resources Commission. The Marine Fisheries Commission and the Wildlife Resources Commission may make joint regulations governing the responsibilities of each agency and modifying the applicability of licensing and other regulatory provisions as may be necessary for rational and compatible management of the marine and estuarine and wildlife resources in joint fishing waters.

(f) (No change.)

“§ 113-133. *Abolition of local coastal fishing laws.*—(No change.)

“§ 113-133.1. *Limitations upon local regulation of wildlife resources; certain local acts retained.*—(a) The enjoyment of the wildlife resources of the State belongs to all of the people of the State.

(b) The Wildlife Resources Commission is charged with administering the governing statutes in a manner to serve as equitably as may be the various competing interests of the people regarding wildlife resources, considering the interests of those whose livelihood depends upon full and wise use of renewable resources and the interests of the many whose approach is recreational. Thus, except as provided in subsection (e), all special, local, and private acts and

ordinances enacted prior to the ratification date of the act creating this section regulating the conservation of wildlife resources are repealed. Nothing in this section is intended to invalidate local legislation or local ordinances which exercise valid powers over subjects other than the conservation of wildlife resources, even though an incidental effect may consist of an overlapping or conflict of jurisdiction as to some particular provision not essential to the conservation objectives set out in this Subchapter. In particular, this section does not repeal local acts which restrict hunting primarily for the purpose of protecting travelers on the highway, landowners, or other persons who may be endangered or affected by hunters' weapons or ammunition or whose property may be damaged.

(c) This Subchapter is intended to express State policy relating to the conservation of wildlife resources. Nothing in this section is intended to repeal or prevent the enactment of any city or county ordinance otherwise validly authorized which has only a minor and incidental impact on the conservation of marine and estuarine and wildlife resources. This section does not repeal G.S. 153A-127, G.S. 153A-131, G.S. 160A-182, G.S. 160A-187, and G.S. 160A-188, nor any local act establishing bird sanctuaries, except that local authorities operating bird sanctuaries may not regulate the taking of game or otherwise abrogate valid laws and regulations pertaining to the conservation of wildlife resources.

(d) Nothing in this Subchapter is intended to repeal or abridge the regulatory authority of the Game Commission of Currituck County or the Dare County Game and Wildlife Commission.

(e) Because of strong community interest expressed in their retention, the local acts or portions of local acts listed in this section are not repealed. The following local acts are retained to the extent they apply to the county for which listed:

Alleghany: Session Laws 1951, Chapter 665; Session Laws 1977, Chapter 526; Session Laws 1979, Chapter 578.

Anson: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 286.

Ashe: Former G.S. 113-111; Session Laws 1951, Chapter 665.

Avery: Former G.S. 113-122.

Beaufort: Session Laws 1947, Chapter 466, as amended by Session Laws 1979, Chapter 219; Session Laws 1957, Chapter 1364; Session Laws 1971, Chapter 173; Session Laws 1977, Chapter 90.

Bertie: Session Laws 1955, Chapter 1376; Session Laws 1975, Chapter 287.

Bladen: Public-Local Laws 1933, Chapter 550, Section 2 (as it pertains to fox seasons); Session Laws 1961, Chapter 348, (as it applies to Bladen residents fishing in Robeson County); Session Laws 1961, Chapter 1023; Session Laws 1971, Chapter 384.

Brunswick: Session Laws 1975, Chapter 218.

Buncombe: Public-Local Laws 1917, Chapter 658, Section 2; Public-Local Laws 1933, Chapter 308; Public Laws 1935, Chapter 107, Section 2, as amended by Public Laws 1935, Chapter 238.

Burke: Public-Local Laws 1921, Chapter 454; Public-Local Laws 1921 (Extra Session), Chapter 213, Section 3 (with respect to fox seasons); Public-Local Laws 1933, Chapter 422, Section 3; Session Laws 1965, Chapter 608, as amended by Session Laws 1977, Chapter 68; Session Laws 1977, Chapter 636.

Caldwell: Former G.S. 113-122; Session Laws 1965, Chapter 608, as amended by Session Laws 1977, Chapter 68; Session Laws 1977, Chapter 636; Session Laws 1979, Chapter 507.

Camden: Session Laws 1955, Chapter 362 (to the extent it applies to inland fishing waters); Session Laws 1967, Chapter 441; Session Laws 1979, Chapter 582.

Carteret: Session Laws 1955, Chapter 1036; Session Laws 1977, Chapter 695.

Caswell: Public-Local Laws 1933, Chapter 311; Public-Local Laws 1937, Chapter 411.

Catawba: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 1037.

Chatham: Public-Local Laws 1937, Chapter 236; Session Laws 1963, Chapter 271.

Chowan: Session Laws 1979, Chapter 184; Session Laws 1979, Chapter 582.

Cleveland: Public Laws 1907, Chapter 388; Session Laws 1951, Chapter 1101; Session Laws 1979, Chapter 146; Session Laws 1979, Chapter 587.

Columbus: Session Laws 1951, Chapter 492, as amended by Session Laws 1955, Chapter 506.

Craven: Session Laws 1971, Chapter 273, as amended by Session Laws 1971, Chapter 629.

Cumberland: Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 471.

Currituck: Session Laws 1959, Chapter 545; Session Laws 1977, Chapter 494; Session Laws 1979, Chapter 582.

Dare: Session Laws 1973, Chapter 258; Session Laws 1973, Chapter 259; Session Laws 1979, Chapter 582.

Davie: Former G.S. 113-111, as amended by Session Laws 1947, Chapter 333.

Duplin: Session Laws 1965, Chapter 774; Session Laws 1973, (Second Session 1974), Chapter 1266; Session Laws 1979, Chapter 466.

Edgecombe: Session Laws 1961, Chapter 408.

Gates: Session Laws 1959, Chapter 298; Session Laws 1973, Chapter 124, amending Session Laws 1969, Chapter 121; Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 748.

Granville: Session Laws 1963, Chapter 670.

Greene: Session Laws 1975, Chapter 219; Session Laws 1979, Chapter 360.

Halifax: Public-Local Laws 1929, Chapter 571, Section 3 (with respect to fox-hunting seasons); Session Laws 1947, Chapter 954; Session Laws 1955, Chapter 1376; Session Laws 1959, Chapter 1304.

Harnett: Former G.S. 113-111, as modified by Session Laws 1977, Chapter 636.

Haywood: Former G.S. 113-111, as modified by Session Laws 1963, Chapter 322.

Henderson: Former G.S. 113-111.

Hertford: Session Laws 1959, Chapter 298; Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 67.

Hoke: Session Laws 1963, Chapter 267.

Hyde: Public-Local Laws 1929, Chapter 354, Section 1 (as it relates to foxes); Session Laws 1951, Chapter 932; Session Laws 1977, Chapter 412.

Iredell: Session Laws 1979, Chapter 577.

Jackson: Session Laws 1965, Chapter 765; Session Laws 1971, Chapter 424.

Jones: Session Laws 1979, Chapter 441.

Lee: Session Laws 1963, Chapter 271; Session Laws 1977, Chapter 636.

Lenoir: Session Laws 1979, Chapter 441.

Lincoln: Public-Local Laws 1925, Chapter 449, Sections 1 and 2; Session Laws 1955, Chapter 878.

Madison: Public-Local Laws 1925, Chapter 418, Section 4; Session Laws 1951, Chapter 1040.

Martin: Session Laws 1955, Chapter 1376; Session Laws 1977, Chapter 636; Session Laws 1979, Chapter 568.

Mitchell: Session Laws 1965, Chapter 608, as amended by Session Laws 1977, Chapter 68.

Montgomery: Session Laws 1955, Chapter 692; Session Laws 1977 (Second Session 1978), Chapter 1142.

Moore: Session Laws 1955, Chapter 692.

Nash: Session Laws 1961, Chapter 408.

New Hanover: Public-Local Laws 1917, Chapter 673; Session Laws 1971, Chapter 559; Session Laws 1975, Chapter 95.

Northampton: Session Laws 1955, Chapter 1376; Session Laws 1959, Chapter 1304; Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 67; Session Laws 1979, Chapter 548.

Onslow: Public-Local Laws 1939, Chapter 606.

Orange: Public-Local Laws 1913, Chapter 547.

Pamlico: Session Laws 1977, Chapter 636.

Pasquotank: Session Laws 1979, Chapter 582.

Pender: Session Laws 1961, Chapter 333; Session Laws 1967, Chapter 229; Session Laws 1969, Chapter 258, as amended by Session Laws 1973, Chapter 420; Session Laws 1977, Chapter 585; Session Laws 1977, Chapter 805; Session Laws 1979, Chapter 546.

Perquimans: Former G.S. 113-111; Session Laws 1973, Chapter 160; Session Laws 1973, Chapter 264; Session Laws 1979, Chapter 582.

Polk: Session Laws 1975, Chapter 397; Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 167; Session Laws 1979, Chapter 146.

Randolph: Public-Local Laws 1919, Chapter 76; Public-Local Laws 1941, Chapter 246; Session Laws 1947, Chapter 920.

Robeson: Public-Local Laws 1924 (Extra Session), Chapter 92; Session Laws 1961, Chapter 348.

Rockingham: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310.

Rowan: Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 106, and Session Laws 1977, Chapter 500; Session Laws 1979, Chapter 578.

Rutherford: Session Laws 1973, Chapter 114; Session Laws 1975, Chapter 397; Session Laws 1979, Chapter 146.

Sampson: Session Laws 1979, Chapter 373.

Scotland: Session Laws 1959, Chapter 1143; Session Laws 1977, Chapter 436.

Stokes: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310; Session Laws 1977, Chapter 434; Session Laws 1979, Chapter 578.

Surry: Public-Local Laws 1925, Chapter 474, Section 6 (as it pertains to fox seasons); Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 167.

Swain: Public-Local Laws 1935, Chapter 52; Public Laws 1935, Chapter 107, Section 2, as amended by Public Laws 1935, Chapter 238, as modified by Session Laws 1949, Chapter 228; Session Laws 1953, Chapter 270; Session Laws 1965, Chapter 765.



Transylvania: Public Laws 1935, Chapter 107, Section 2, as amended by Public Laws 1935, Chapter 238.

Tyrrell: Former G.S. 113-111; Session Laws 1953, Chapter 685; Session Laws 1979, Chapter 582.

Wake: Session Laws 1973 (Second Session 1974), Chapter 1382.

Washington: Session Laws 1947, Chapter 620; Session Laws 1979, Chapter 582.

Wayne: Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 342, as amended by Session Laws 1977, Chapter 43; Session Laws 1975, Chapter 343, as amended by Session Laws 1977, Chapter 45; Session Laws 1977, Chapter 695.

Wilkes: Former G.S. 113-111, as amended by Session Laws 1971, Chapter 385; Session Laws 19851, Chapter 665; Session Laws 1973, Chapter 106; Session Laws 1979, Chapter 507.

Yadkin: Former G.S. 113-111, as amended by Session Laws 1953, Chapter 199; Session Laws 1979, Chapter 507.

Yancey: Session Laws 1965, Chapter 522.

(f) The Wildlife Resources Commission is directed to review periodically all local acts affecting conservation of wildlife resources and notify local authorities and the General Assembly as to those that:

- (1) Substantially duplicate provisions of this Subchapter.
- (2) Seriously conflict with conservation policies set out in this Subchapter.
- (3) Seriously conflict with conservation policies developed for the people of this State as a whole by the Wildlife Resources Commission.

“§ 113-134. *Regulations.*—(No change.)

“§ 113-134.1. *Jurisdiction over marine fisheries resources in Atlantic Ocean.*—The department is directed to exercise all enforcement and regulatory authority over the conservation of marine fisheries resources in the Atlantic Ocean to the seaward extent of the State jurisdiction over the resources as now or hereafter defined. Marine fisheries inspectors may enforce these regulations and all other provisions of law applicable under the authority granted in this section in the same manner and with the same powers elsewhere granted them as enforcement officers.

“§ 113-135. *General penalties for violating Subchapter or regulations; increased penalty for prior convictions; interpretive provisions.*—(a) Any person who violates any provision of this Subchapter or any regulation adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the regulations of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. Unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

- (1) For a first conviction, a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or imprisonment not to exceed 30 days.
- (2) For a second or subsequent conviction within three years, a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), imprisonment not to exceed 90 days, or both.

(b) In interpreting this section, provisions elsewhere in this Subchapter making an offense a misdemeanor ‘punishable in the discretion of the court’ must be considered to set a different level of punishment, to be interpreted in the light of G.S. 14-3 or any equivalent or successor statute. Noncriminal

sanctions, however, such as license revocation or suspension, and exercise of powers auxiliary to criminal prosecution, such as seizure of property involved in the commission of an offense, do not constitute different levels of punishment so as to oust criminal liability. Any previous conviction of an offense under this Subchapter, or under regulations authorized by it, serves to increase the punishment under subsection (a) even though for a different offense than the second or subsequent one.

(c) For the purposes of this Subchapter, violations of laws or regulations administered by the Wildlife Resources Commission under any former general or local law replaced by the present provisions of this Subchapter are deemed to be violations of laws or regulations under this Subchapter.

*“§ 113-135.1. Limitation upon penalty for offense created by regulations of Wildlife Resources Commission in certain instances.—(a) To prevent unsuspecting members of the public from being subject to harsh criminal penalties for offenses created by regulations of the Wildlife Resources Commission, the penalty for an offense which is solely a violation of regulations of the Wildlife Resources Commission is limited to a fine of ten dollars (\$10.00) except that offenses set out in Section (b) are punished as set forth in G.S. 113-135 or other sections.*

(b) The limitation upon penalty does not apply to any regulation violation:

- (1) punishable under G.S. 113-294 or otherwise involving aggravating elements which result in a greater punishment than provided by G.S. 113-135;
- (2) which involves a defendant subject to the collection-license provisions of G.S. 113-272.4 or who is a dealer as defined in G.S. 113-273; or
- (3) relating to seasons, bag limits, creel limits, taking fish other than with hook and line, buying or selling wildlife, possessing or transporting live wildlife, taking wildlife at night or with the aid of a conveyance, or falconry.

*“§ 113-136. Enforcement authority of inspectors and protectors; refusal to obey or allow inspection by inspectors and protectors.—(a) Inspectors and protectors are granted the powers of peace officers anywhere in this State, and beyond its boundaries to the extent provided by law, in enforcing all matters within their respective subject-matter jurisdiction as set out in this section.*

(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the department set out in this Subchapter, Part 5 of Article 7 of Chapter 143B of the General Statutes, and Article 2 of Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the department which it directs inspectors to enforce. In addition, inspectors have jurisdiction over all offenses involving property of or leased to or managed by the department in connection with the conservation of marine and estuarine resources.

(c) The jurisdiction of protectors extends to all matters within the jurisdiction of the Wildlife Resources Commission, whether set out in this Chapter, Chapter 75A, Chapter 143, Chapter 143B, or elsewhere. The Wildlife Resources Commission is specifically granted jurisdiction over all aspects of:

- (1) boating and water safety;
- (2) hunting and trapping;
- (3) fishing, exclusive of fishing under the jurisdiction of the Marine Fisheries Commission; and

- (4) activities in woodlands and on inland waters governed by G.S. 113-60.1 to G.S. 113-60.3.

In addition, protectors have jurisdiction over all offenses involving property of or leased by the Wildlife Resources Commission or occurring on wildlife refuges, game lands, or boating and fishing access areas managed by the Wildlife Resources Commission. The authority of protectors over offenses on public hunting grounds is governed by the jurisdiction granted the Commission in G.S. 113-264(c).

- (d) (No change.)

(e) Inspectors and protectors may serve arrest warrants, search warrants, orders for arrest, criminal summonses, subpoenas, and all other process connected with any cases within their subject-matter jurisdiction. In the exercise of their law enforcement powers, inspectors are subject to provisions relating to police officers in general set out in Chapter 15, Chapter 15A, and elsewhere.

- (f) (No change.)

- (g) (No change.)

- (h) (Repealed.)

- (i) (Repealed.)

(j) The refusal of any person to stop in obedience to the directions of an inspector or protector acting under the authority of this section is unlawful. A violation of this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), imprisonment not to exceed 30 days, or both.

(k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or other law enforcement officer any item required to be carried by any law or regulation as to which inspectors or protectors have enforcement jurisdiction. The items that must be exhibited include boating safety or other equipment or any license, permit, tax receipt, certificate, or identification. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement officers to inspect weapons, equipment, fish, or wildlife that the officer reasonably believes to be possessed incident to an activity regulated by any law or regulation as to which inspectors and protectors have enforcement jurisdiction.

- (l) (No change.)

*“§ 113-137. Search on arrest; seizure and confiscation of property; disposition of confiscated property.—(a) (No change.)*

- (b) (No change.)

- (c) (No change.)

(d) The Marine Fisheries Commission and the Wildlife Resources Commission may provide by regulation for summary disposition of live or perishable fish or wildlife seized by an inspector or protector. If the property seized consists of live fish which may again be placed to the benefit of the public on public fishing bottoms or in public waters, the inspector or protector may require the person in possession of the seized live fish to transport it the distance necessary to effect placement on appropriate bottoms or waters. In the event of refusal by the person in question to transport the fish, the inspector or protector must take appropriate steps to effect the transportation. The steps may include seizure of any conveyance or vessel of the person refusing to transport the fish if the conveyance or vessel was one on which the fish were located or was used to take or transport the fish. When a conveyance or vessel is

seized, it is to be safeguarded by the inspector or protector seizing it pending trial and it becomes subject to the orders of the court. Transportation costs borne by the department or by the Wildlife Resources Commission, as the case may be, may be collected by the agency from the proceeds of the sale of any other property of the defendant seized and sold in accordance with the provisions of this section.

Except as provided in subsection (g), when the seizure consists of edible fish or wildlife which is not alive, may not live, or may not otherwise benefit conservation objectives if again placed on open lands, on public fishing bottoms, or in public fishing waters, the inspector or protector must dispose of the property in a charitable or noncommercial manner in accordance with the directions of his administrative superiors.

(e) (No change.)

(f) (No change.)

(g) (No change.)

(h) (No change.)

(i) Upon conviction of any defendant for a violation of the laws or regulations administered by the department or the Wildlife Resources Commission under the authority of this Subchapter, the court in its discretion may order the confiscation of all weapons, equipment, vessels, conveyances, fish, wildlife, and other evidence, fruits, and instrumentalities of the offense in question, whether or not seized or made subject to the orders of the court pending trial. If the confiscated property is lawfully saleable, it must be sold; otherwise it must be disposed of in a manner authorized in this section. Unless otherwise specified in the order of the court, sales are to be held by the department or the Wildlife Resources Commission, as the case may be.

The department and the Wildlife Resources Commission may administratively provide for an orderly public sale procedure of property which it may sell under this section. The procedure may include turning the property to be sold over to some other agency for sale, provided that the provisions of subsection (j) are complied with and there is proper accounting for the net proceeds of the sale. In the case of property that cannot lawfully be sold or is unlikely to sell for a sufficient amount to offset the costs of sale, the department and the Wildlife Resources Commission may provide either for destruction of the property or legitimate utilization of the property by some public agency.

(j) Except as provided in subsection (d), if property is seized under subsection (c) or it appears that a person not a defendant has an interest in any property to be sold, destroyed, or otherwise disposed of, the department and the Wildlife Resources Commission must provide for public notice of the description of the property and the circumstances of its seizure for a sufficient period prior to the time set for sale or other disposition to allow innocent owners or lienholders to assert their claims. The validity of claims are to be determined by the trial court in the event there is or has been a prosecution in connection with the seizure of the property. If there has been no prosecution and none is pending, the validity of claims must be determined by the secretary or by the executive director, as the case may be. When there has been a sale under subsection (g), the provisions of this subsection apply to the net proceeds of the sale.

(k) Except as provided in subsection (j) and in subdivision (3) of the first paragraph of subsection (e), the net proceeds of all sales made pursuant to this section must be deposited in the school fund of the county in which the property was seized.



“§ 113-138. *Enforcement jurisdiction of special officers.*—(No change.)

“§ 113-139. *Search warrants.*—(Repealed.)

G.S. 113-140 to G.S. 113-150. (Reserved for future codification purposes.)

Articles 14 through 19. (No change.)

“ARTICLE 20.

“Miscellaneous Regulatory Provisions.

“§ 113-261. *Taking fish and wildlife for scientific purposes; permits to take in normally unauthorized manner; cultural and scientific operations.*—(a) The department, the Wildlife Resources Commission, and agencies of the United States with jurisdiction over fish and wildlife are hereby granted the right to take marine, estuarine, and wildlife resources within the State, to conduct fish cultural operations and scientific investigations in the several waters of North Carolina, to survey fish and wildlife populations in the State, to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife, to propagate animals, birds, and fish, and to erect fish hatcheries and fish propagating plants without regard to any licensing or permit requirements of this Subchapter.

(b) The department with respect to fish in coastal fishing waters and the Wildlife Resources Commission with respect to wildlife may provide for the issuance of permits, on such terms as they deem just and in the best interests of conservation, authorizing persons to take such fish or wildlife through the use of drugs, poisons, explosives, electricity, or any other generally prohibited manner. Such permits need not be restricted solely to victims of depredations or to scientific or educational institutions, but should be issued only for good cause. No permit to take wildlife other than fish by means of poison may be issued, however, unless the provisions of Article 22A are met.

(c) The department, the Wildlife Resources Commission, and agencies of the United States with jurisdiction over fish and wildlife may, as necessary in their legitimate operations, take fish and wildlife in a manner generally prohibited by this Subchapter or by regulations made under the authority of this Subchapter.

“§ 113-262. *Taking fish or wildlife by poisons, drugs, explosives or electricity prohibited; exceptions; possession of illegally killed fish or wildlife prohibited.*—(a) Except as otherwise provided in this Subchapter, or in regulations permitting use of electricity to take certain fish, it is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), imprisonment not to exceed 90 days, or both to take any fish or wildlife through the use of poisons, drugs, explosives, or electricity. This subsection does not apply to any person lawfully using any poison or pesticide under the Structural Pest Control Act of North Carolina of 1955, as amended, or the North Carolina Pesticide Law of 1971, as amended.

(b) Except under a valid permit it is unlawful to possess any fish or wildlife:

- (1) bearing evidence of having been taken in violation of subsection (a); or
- (2) with knowledge or reason to believe that the fish or wildlife was taken in violation of subsection (a).

“§ 113-263. *Inspecting plans and specifications of dams.*—(No change.)

“§ 113-264. *Regulatory power over property of agency; public hunting grounds.*—(a) The department and the Wildlife Resources Commission are granted the power by regulation to license, regulate, prohibit, or restrict the public as to use and enjoyment of, or harm to, any property of the department or the Wildlife Resources Commission, and may charge the public reasonable fees for access to or use of such property. ‘Property’ as the word is used in this

section is intended to be broadly interpreted and includes lands, buildings, vessels, vehicles, equipment, markers, stakes, buoys, posted signs and other notices, trees and shrubs and artificial constructions in boating and fishing access areas, game lands, wildlife refuges, public waters, public mountain trout waters, and all other real and personal property owned, leased, controlled, or cooperatively managed by either the department or the Wildlife Resources Commission.

(b) Wilful removal of, damage to, or destruction of any property of the department or the Wildlife Resources Commission is a misdemeanor punishable in the discretion of the court.

(c) The Wildlife Resources Commission may cooperate with private landowners in the establishment of public hunting grounds. It may provide for the posting of these areas and of restricted zones within them, require that authorized hunters obtain written permission from the owner to hunt, enforce general laws concerning trespass by hunters and concerning damage or injurious activities by hunters and by others carrying weapons on or discharging weapons across public hunting grounds or restricted zones.

“§ 113-265. *Obstructing or polluting flow of water into hatchery; throwing fish offal into waters; robbing or injuring nets, seines, buoys, etc.*—(No change.)

“§ 113-266. (Reserved for future codification purposes.)

“§ 113-267. *Replacement costs of marine, estuarine, and wildlife resources; regulations authorized; prima facie evidence.*—To provide information to the courts and other officials taking action under G.S. 15A-1343(b)(16b), under G.S. 143-215.3(a)(7), or under any other pertinent authority of law, the Marine Fisheries Commission and the Wildlife Resources Commission are authorized to adopt regulations setting forth the factors that should be considered in determining the replacement costs of fish and wildlife and other marine, estuarine, and wildlife resources that have been taken, injured, removed, harmfully altered, damaged, or destroyed. The Marine Fisheries Commission and the Wildlife Resources Commission may make similar regulations respecting costs of investigations required by G.S. 143-215.3(a)(7) or which are made pursuant to a court order. For common offenses resulting in the destruction of marine, estuarine, and wildlife resources the Marine Fisheries Commission and the Wildlife Resources Commission may adopt schedules of costs which reasonably state the likely replacement costs and necessary investigative costs when appropriate. Regulations of the Marine Fisheries Commission and the Wildlife Resources Commission stating scheduled costs or cost factors must be treated as prima facie evidence of the actual costs, but do not prevent a court or jury from examining the reasonableness of the regulations or from assessing the special factors in a case which may make the true costs either higher or lower than the amount stated in the regulations. The term ‘replacement costs’ must be broadly construed to include indirect costs of replacement through habitat improvement or restoration, establishment of sanctuaries, and other recognized conservation techniques when direct stocking or replacement is not feasible.

G.S. 113-268 to G.S. 113-270. (Reserved for future codification purposes.)

#### “ARTICLE 21.

“Licenses and Permits Issued by the Wildlife Resources

## Commission.

“§ 113-270.1. *License agents.*—(a) The Wildlife Resources Commission may by regulation provide for the annual appointment of persons as license agents to sell licenses which it is authorized to issue by this Subchapter or by any other provisions of law. To facilitate the convenience of the public, the efficiency of administration, the need to keep statistics and records affecting the conservation of wildlife resources, boating, water safety, and other matters within the jurisdiction of the Wildlife Resources Commission, and the need to issue licenses containing special restrictions, the Wildlife Resources Commission may issue licenses in any particular category through:

- (1) License agents.
- (2) The Wildlife Resources Commission's headquarters.
- (3) Employees of the Wildlife Resources Commission.
- (4) Two or more such sources simultaneously.

When there are substantial reasons for differing treatment, the Wildlife Resources Commission may issue a type of license by one method in one locality and by another method in another locality.

(b) License agents may deduct from the amount collected for each license a fee of:

- (1) Twenty-five cents (25¢) for selling licenses that cost less than five dollars (\$5.00).
- (2) Fifty cents (50¢) for selling licenses that cost five dollars (\$5.00) or more but less than twenty-five dollars (\$25.00).
- (3) One dollar (\$1.00) for selling licenses that cost twenty-five dollars (\$25.00) or more.

(c) The Wildlife Resources Commission may provide qualifications and standards concerning license agents and delegate to the executive director the task of appointment and supervision. Annual appointments run from May 1 to April 30 each year. The Wildlife Resources Commission may require license agents to post bonds, keep records and make reports concerning licenses and receipts, be subject to such audits and inspections as may be necessary, pay penalties up to ten percent (10%) upon receipts as to which there is serious delay in remittance, and pay a penalty of five percent (5%) on any worthless checks given the Wildlife Resources Commission. The minimum penalty for a worthless check, however, is five dollars (\$5.00), and the maximum penalty is two hundred dollars (\$200.00).

(d) The Wildlife Resources Commission may make regulations in implementing the authority granted in subsection (c), but it need not set out in its regulations details as to forms of license, records and accounting procedures, and other reasonable requirements that may be administratively promulgated by employees of the Wildlife Resources Commission in implementation of the purposes of this Article in order for such administrative requirements to be deemed validly required. It is a misdemeanor punishable in the discretion of the court for a license agent:

- (1) to withhold or misappropriate funds from the sale of licenses;
- (2) to falsify records of licenses sold;
- (3) wilfully and knowingly to assist or allow a person to obtain a license for which he is ineligible;

- (4) wilfully to issue a backdated license;
- (5) wilfully on records or licenses to include false information or omit material information as to:
  - a. a person's entitlement to a particular license; or
  - b. the applicability or term of a particular license; or
- (6) to refuse to return all consigned licenses, or to remit the net value of consigned licenses sold or unaccounted for, upon demand from an authorized employee of the Wildlife Resources Commission.

(e) The executive director may temporarily suspend, revoke, or refuse to renew a person's appointment as a license agent if he fails in a timely manner to submit required reports, remit monies due the Wildlife Resources Commission, or otherwise comply with the qualifications and standards set by the Wildlife Resources Commission or with reasonable administrative directives of the executive director. The temporary suspension is effective immediately upon communication of that fact to the license agent or his representative handling the licenses. The communication as to suspension must state the grounds for suspension and that the license agent may request a hearing within five working days if he contests the grounds for suspension. If not in writing, the communication must be followed by written notice of suspension containing the same information. By personal service of an impoundment order upon a license agent or his representative handling the licenses, an employee or agent of the Wildlife Resources Commission may enter the premises and impound all licenses, monies, record books, reports, license forms, and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency being suspended. The executive director must make the impounded property, or copies of it, available to the licensee during the period of temporary suspension.

(f) If a hearing is requested, it is before the executive director or his designee to be held at Raleigh or some other place convenient to the parties specified by the executive director. The temporary suspension remains in effect until the hearing, and after the hearing may be rescinded or continued in effect, as the facts warrant, in the discretion of the executive director. A temporary suspension may not last longer than 30 days, but additional suspensions may be imposed if at the end of the suspension period the license agent is still not in compliance with appropriate standards, qualifications, and administrative directives. A license agent may at any time after a hearing appeal his suspension to the Wildlife Resources Commission.

(g) Notice of revocation or nonrenewal of the appointment may be sent the license agent in lieu of or in addition to temporary suspension. The notice must state the grounds for termination of the appointment and the license agent's right to a hearing if he has not previously been afforded one. If the appointment is to be revoked, the notice must state the effective date and hour of revocation. If the appointment is not to be renewed, the notice must state that the appointment expires at midnight on April 30. If he has not been previously afforded a hearing, a license agent is entitled to a hearing within 14 days before the executive director or his designee to be held at Raleigh or some other place convenient to the parties specified by the executive director. After the hearing, the executive director, applying appropriate standards, must take the action with respect to the appointment as license agent that the facts warrant. If the executive director upholds the decision to terminate the appointment, a license agent may appeal his termination to the Wildlife Resources Commission.



Pending the hearing and any appeal from it, the termination is held in abeyance, but no license sales may be made once the license agent's bond has expired.

(h) Upon termination of the appointment, the former agent must return to the Wildlife Resources Commission all record books, reports, license forms, monies, and other property pertaining to the license agency, and must allow agents of the Wildlife Resources Commission to conduct necessary inspections and audits required in terminating the license agency. Each day's refusal after termination to return, upon demand, the record books, reports, license forms, monies, and other property pertaining to the license agency is a separate offense. Each instance of refusal, after termination, to allow agents of the Wildlife Resources Commission to conduct necessary inspections and audits during regular business hours is a separate offense. A violation of this subsection is a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), imprisonment not to exceed 90 days, or both. Before termination, violations by license agents are punishable under G.S. 113-135, subsection (d) above, or other provision of this Subchapter, as appropriate.

(i) No person denied appointment or whose appointment was terminated under this section is eligible to apply again for an appointment as a license agent for two years. Upon application, the executive director may not grant the appointment as license agent unless the applicant produces clear evidence, convincing to the executive director, that he meets all standards and qualifications and will comply with all requirements of statutes, regulations, and reasonable administrative directives pertaining to license agents.

(j) The executive director or his designee holding any hearing under this section must keep a written record of evidence considered and findings made. Upon appeal to the Wildlife Resources Commission, the commission chairman or other presiding officer must cause such a written record of evidence and findings to be made and kept. Hearings and appeals under this section are internal matters concerning license agents of the Wildlife Resources Commission and are not governed by the North Carolina Administrative Procedure Act.

“§ 113-270.2. *Hunting licenses.*—(a) Except as otherwise specifically provided by law, no one may take wild animals or wild birds without having first procured a current and valid hunting license.

(b) Except when indicated otherwise, all hunting licenses are annual licenses issued beginning August 1 each year running until the following July 31.

(c) The hunting licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident sportsman combination license—\$25.00. This license is valid only for use by an individual resident of the State.
- (2) Resident combination hunting-fishing license—\$10.00. This license is valid only for use by an individual resident of the State.
- (3) Resident State hunting license—\$7.50. This license is valid only for use by an individual resident of the State.
- (4) Resident county hunting license—\$3.50. This license is valid for use by an individual resident of the State within the county in which he resides.

- (5) Controlled shooting preserve hunting license—\$10.00. This license is valid only for use by an individual hunting in special controlled shooting preserves licensed in accordance with this Subchapter.
- (6) Nonresident sportsman combination license—\$50.00. This license is valid for use by an individual within the State.
- (7) Nonresident State hunting license—\$25.00. This license is valid for use by an individual within the State.
- (8) Nonresident six-day hunting license—\$20.00. This license is valid only for use on six consecutive hunting days by an individual within the State. Consecutive hunting days do not include Sundays except on military reservations where Sunday hunting is permitted.
- (9) Disabled veteran lifetime combination hunting-fishing license—\$7.50. This license is valid only for use by an individual resident of the State who is a fifty percent (50%) or more disabled war veteran as determined by the Veterans Administration. The license is valid for the life of the individual so long as he remains fifty percent (50%) or more disabled.
- (10) (Reserved.)
- (11) Age 70 lifetime combination hunting-fishing license—\$10.00. This license is valid only for use by an individual resident of the State who has attained the age of 70 years. The license is valid for the life of the individual.
- (12) Totally disabled resident combination hunting-fishing license—\$7.50. This license is valid only for use by an individual resident of the State who is totally disabled (physically incapable of being gainfully employed). This license is valid for the life of the individual so long as he remains totally disabled.

(d) One dollar (\$1.00) of each nonresident State hunting license and nonresident six-day hunting license sold must be set aside by the Wildlife Resources Commission and contributed to a proper agency or agencies in the United States for expenditure in Canada for the propagation, management, and control of migratory waterfowl.

“§ 113-270.3. *Special activity licenses; big game kill reports.*—(a) In addition to any hunting, trapping, or fishing license that may be required, individuals engaging in specially regulated activities must have the appropriate special activity license prescribed in this section before engaging in the regulated activity. Special activity licenses are annual licenses issued beginning August 1 each year running until the following July 31.

(b) The special activity licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident big game hunting license—\$3.50. This license is valid only for use by an individual resident of the State and must be procured before taking any big game within the State.
- (2) Nonresident big game hunting license—\$15.00. This license is valid for use by an individual within the State and, unless the resident big game hunting license has been validly procured, must be procured before taking any big game within the State.
- (3) Primitive weapons hunting license—\$5.00. This license is valid for use by an individual within the State and must be procured before taking any wild animals or birds with a primitive weapon during any special season for hunting with primitive weapons established by the Wildlife

Resources Commission. During the regular season, a primitive weapon may be used without any special license unless its use is prohibited. For the purposes of this section a 'primitive weapon' includes a bow and arrow, muzzle-loading firearm, and any other primitive weapon specified in the regulations of the Wildlife Resources Commission.

- (4) Game land license—\$8.00. This license is valid for use by an individual within the State and must be procured before hunting or trapping on game lands or fishing in managed waters on game lands. Managed waters include public mountain trout waters and other public waters, or private ponds, lying wholly or partly on game lands and designated as managed waters by the Wildlife Resources Commission. Possession of this license does not exempt its holder from payment of any applicable special use fees that may be prescribed by the Wildlife Resources Commission under the authority of G.S. 113-264(a), such as fees for field trials on game lands.
- (5) Falconry license.—\$10.00. This license is valid for use by an individual within the State and must be procured before:
- taking, importing, transporting, or possessing a raptor; or
  - taking wildlife by means of falconry.

The Wildlife Resources Commission may issue classes of falconry licenses necessary to participate in the Federal/State permit system, require necessary examinations before issuing licenses or permits to engage in various authorized activities related to possession and maintenance of raptors and the sport of falconry, and regulate licensees as required by governing federal law and regulations. To defray the costs of administering required examinations, the Wildlife Resources Commission may charge reasonable fees upon giving them. To meet minimum federal standards plus other State standards in the interests of conservation of wildlife resources, the Wildlife Resources Commission may impose all necessary controls, including those set out in the sections pertaining to collection licenses and captivity licenses, and may issue permits and require reports, but no collection license or captivity license is needed in addition to the falconry license.

(c) Any individual who kills any species of big game must report the kill to the Wildlife Resources Commission. The commission may by regulation prescribe the method of making the report, prescribe its contents, and require positive identification of the carcass of the kill, by tagging or otherwise.

(d) Any individual who possesses a current and valid resident or nonresident sportsman combination license may at lawful times and places engage in any specially regulated activity without any of the licenses required by subdivisions (1) through (4) of subsection (b).

"§ 113-270.4. *Hunting guide license.*—(a) No one may serve for hire as a hunting guide without having first procured a current and valid hunting guide license. This license is valid only for use by an individual resident of the State meeting the criteria set by the Wildlife Resources Commission for issuance of the license. Possession of the hunting guide license does not relieve the guide from meeting other applicable license requirements.

(b) The hunting guide license is an annual license issued upon payment of five dollars and twenty-five cents (\$5.25) beginning August 1 each year running until the following July 31.

(c) The Wildlife Resources Commission may by regulation provide for the qualifications and duties of hunting guides. In implementing this section, the Wildlife Resources Commission may delegate to the executive director and his subordinates administrative responsibilities concerning the selection and supervision of hunting guides, except that provisions relating to revocation of hunting guide licenses must be substantially set out in the regulations of the Wildlife Resources Commission.

“§ 113-270.5. *Trapping licenses.*—(a) Except as otherwise specifically provided by law, no one may take fur-bearing animals by trapping, or by any other authorized special method that preserves the pelt from injury, without first having procured a current and valid trapping license. When the trapping license is required, it serves in lieu of a hunting license in the taking of fur-bearing animals. If fur-bearing animals are taken as game, at the times and by the hunting methods that may be authorized, hunting license requirements apply. All trapping licenses are annual licenses issued beginning August 1 each year running until the following July 31.

(b) The trapping licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident State trapping license—\$10.00. This license is valid only for use by an individual resident of the State.
- (2) Resident county trapping license—\$5.00. This license is valid only for use by an individual resident of the State within the county in which he resides.
- (3) Nonresident State trapping license—\$60.00. This license is valid for use by an individual within the State.

“§ 113-271. *Hook-and-line licenses in inland fishing waters.*—(a) (No change.)

(b) Except when indicated otherwise, all hook-and-line fishing licenses are annual licenses. Annual fishing licenses, except for the sportsman combination licenses and the resident combination hunting-fishing license, are issued beginning January 1 each year running until the following December 31.

(c) (Repealed.)

(d) The hook-and-line fishing licenses issued by the Wildlife Resources Commission are as follows:

(1) (Repealed.)

- (1a) Resident sportsman combination license—\$25.00. This license is valid only for use by an individual resident of the State. It is valid during the period set for annual hunting licenses in G.S. 113-270.2.
- (2) Resident combination hunting-fishing license—\$10.00. This license is valid only for use by an individual resident of the State. It is valid during the period set for annual hunting licenses in G.S. 113-270.2.
- (2a) Resident State fishing license—\$7.50. This license is valid only for use by an individual resident of the State.
- (3) Resident county fishing license—\$3.50. This license is valid only for use by an individual resident of the State within the county in which he resides.
- (4) Resident three-day fishing license—\$3.00. This license is valid only for use on three consecutive days by an individual resident of the State.
- (4a) Nonresident sportsman combination license—\$50.00. This license is valid for use by an individual within the State. It is valid during the period set for annual hunting licenses in G.S. 113-270.2.



- (5) Nonresident State fishing license—\$12.50. This license is valid for use by an individual within the State.
- (6) Nonresident three-day fishing license—\$5.50. This license is valid only for use on three consecutive days by an individual within the State.
- (7) (Repealed.)
- (8) Lifetime fishing license for the legally blind—No charge. This license is valid only for use by an individual resident of the State who has been certified by the Department of Human Resources as a person whose vision with glasses is insufficient for use in ordinary occupations for which sight is essential. This license is valid for the life of the individual so long as he remains legally blind.
- (9) Disabled veteran lifetime combination hunting-fishing license—\$7.50. This license is valid only for use by an individual resident of the State who is a fifty percent (50%) or more disabled war veteran as determined by the Veterans Administration. The license is valid for the life of the individual so long as he remains fifty percent (50%) or more disabled.
- (10) (Reserved.)
- (11) Age 70 lifetime combination hunting-fishing license—\$10.00. This license is valid only for use by an individual resident of the State who has attained the age of 70 years. The license is valid for the life of the individual.
- (12) Totally disabled resident combination hunting-fishing license—\$7.50. This license is valid only for use by an individual resident of the State who is totally disabled (physically incapable of being gainfully employed). This license is valid for the life of the individual so long as he remains totally disabled.

“§ 113-272. *Special trout licenses.*—(a) (No change.)

(b) Except as otherwise indicated, special trout licenses are annual licenses issued beginning January 1 each year running until the following December 31.

(c) Public mountain trout waters are those waters so designated by the Wildlife Resources Commission which are managed and regulated to sustain a mountain trout fishery.

(d) The special trout licenses issued by the Wildlife Resources Commission are as follows:

(1) (Repealed.)

(1a) Resident sportsman combination license—\$25.00.

This license is valid in public mountain trout waters for use only by an individual resident of the State. It is valid during the period set for annual hunting licenses in G.S. 113-270.2.

(1b) Resident special trout license—\$3.25. This license is valid only for use by an individual resident of the State in public mountain trout waters.

(1c) Nonresident sportsman combination license—\$50.00. This license is valid for use by an individual within the State in public mountain trout waters. It is valid during the period set for annual hunting licenses in G.S. 113-270.2.

(2) Nonresident special trout license—\$6.25. This license is valid for use by an individual within the State in public mountain trout waters.

(3) Lifetime fishing license for the legally blind—No charge. This license is valid in public mountain trout waters for use only by an individual

resident of the State. It is issued upon the terms set out in G.S. 113-271(d)(8).

“§ 113-272.1. *Sportsman's combination license.*—(Repealed.)

“§ 113-272.2. *Special device licenses.*—(a) Except as otherwise specifically provided by law, no one may fish in inland fishing waters with any special device without having first procured a current and valid special device license. Special devices are all devices used in fishing other than hook and line.

(b) All special device licenses are annual licenses issued beginning January 1 each year running until the following December 31.

(c) The special device licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident special device license—\$10.00. Except as regulations of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with special devices authorized by the regulations of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission may restrict the user of the license to specified registered equipment, require tagging of items of equipment, charge up to one dollar (\$1.00) per tag issued, and require periodic catch data reports. Unless specifically prohibited, nongame fish lawfully taken under this license may be sold.
- (2) Nonresident special device license—\$25.00. Except as regulations of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid for use by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (1) above.
- (3) Resident personal use special device license—\$3.00. This license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with special devices authorized by the regulations of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission may restrict the total amount of equipment used, and may require tagging of unattended equipment. Fish taken under this license may not be sold.
- (4) Nonresident personal use special device license—\$10.00. This license is valid for use by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (3) above.

“§ 113-272.3. *Special provisions respecting fishing licenses, grabbling, taking bait fish; use of landing nets.*—(a) The Wildlife Resources Commission by regulation may define the meaning of ‘hook and line’ and ‘special device’ as applied to fishing techniques. Any technique of fishing that may be lawfully authorized which employs neither the use of any special device nor hook and line must be pursued under the appropriate hook-and-line fishing license.

(b) In accordance with established fishing customs and the orderly conservation of wildlife resources, the Wildlife Resources Commission may by regulation provide for use of nets or other special devices which it may authorize as an incident to hook-and-line fishing or for procuring bait fish without requiring a special device license. In this instance, however, the individual fishing must meet applicable hook-and-line license requirements.

“§ 113-272.4. *Collection licenses.*—(a) In the interest of the orderly and efficient conservation of wildlife resources, the Wildlife Resources Commission may provide for the licensing of qualified individuals to take any of the wildlife resources of the State under a collection license that may serve in lieu of any other license required in this Article. This license authorizes incidental transportation and possession of the wildlife resources necessary to implement the authorized purposes of the taking, but the Wildlife Resources Commission in its discretion may additionally impose permit requirements under subsection (d) below and G.S. 113-274.

(b) The Wildlife Resources Commission may delegate to the executive director the authority to impose time limits during which the license is valid and restrictions as to what may be taken and method of taking and possession, in the interests of conservation objectives. The executive director through his responsible agents must determine whether a particular license applicant meets the standards and qualifications for licensees set by the Wildlife Resources Commission. Methods of taking under a collection license need not be restricted to those applicable to ordinary hunting, trapping, or fishing, but the licensee must observe the restrictions as to taking, transportation, and possession imposed by the executive director upon the granting of the license.

(c) When a more limited duration period is not set by the executive director in implementing the regulations of the Wildlife Resources Commission, collection licenses are valid from January 1 through December 31 in any year. This license is issued upon payment of five dollars (\$5.00), but the Wildlife Resources Commission may provide for issuance without charge to licensees who represent educational or scientific institutions or some governmental agency.

(d) As necessary, the executive director may administratively impose on licensees under this section restrictions upon individuals taking, transporting, or possessing under the license which will permit ready identification and control of those involved in the interest of efficient administration of laws pertaining to wildlife resources. Restrictions may include requirements as to record keeping, tagging, marking packages, cages, or containers and exhibition of additional limited-purpose and limited-time permits that may be issued without charge to cover particular activities and other actions that may be administratively required in the reasonable implementation of the objectives of this Subchapter.

(e) If the executive director deems it administratively appropriate and convenient to do so, in the interests of simplifying the administration of licensing requirements, he may grant particular licensees under this section the privilege of utilizing assistants in taking, transporting, or possessing wildlife resources who themselves are not licensed. Any assistants so taking, transporting, or possessing wildlife resources must have readily available for inspection a written authorization from the licensee to engage in the activity in question. The written authorization must contain information administratively required by the executive director, and a copy of the authorization must be placed in the mail addressed to the executive director or his designated agent before any assistant acts under the authorization. In his discretion the executive director may refuse to issue, refuse to renew, or revoke the privilege conferred in this subsection. If this is done, each individual engaged in taking,

transporting, or possessing wildlife resources under this section must meet all applicable licensing and permit requirements.

“§ 113-272.5. *Captivity license*.—(a) In the interests of humane treatment of wild animals and wild birds that are crippled, tame, or otherwise unfit for immediate release into their natural habitat, the Wildlife Resources Commission may license qualified individuals to hold a particular wild animal or wild bird alive in captivity. Before issuing this license, the executive director must satisfy himself that issuance of the license is appropriate under the objectives of this Subchapter, and that the wild animal or wild bird was not acquired unlawfully or merely as a pet. Upon refusing to issue the captivity license, the executive director may either take possession of the wild animal or wild bird for appropriate disposition or issue a captivity permit under G.S. 113-274(c)(1b) for a limited period until the holder makes proper disposition of the wild animal or wild bird.

(b) Unless a shorter time is set for a license upon its issuance under the provisions of subsection (c), captivity licenses are annual licenses issued beginning January 1 each year and running until the following December 31. This license is issued upon payment of five dollars (\$5.00) to the Wildlife Resources Commission.

(c) The Wildlife Resources Commission may require standards of caging and care and reports to and supervision by employees of the Wildlife Resources Commission as necessary to insure humane treatment and furtherance of the objectives of this Subchapter. The executive director in implementing the provisions of this section may administratively impose through responsible agents and employees restrictions upon the mode of captivity that he deems necessary, including prescribing methods of treatment and handling designed, if possible, to enable the wild animal or wild bird to become self-sufficient and requiring that the wild animal or wild bird be set free when self-sufficiency is attained. To this end, the executive director may issue the captivity license with an expiration date earlier than December 31 and may also act to terminate any captivity license earlier than the expiration date for good cause.

(d) Any substantial deviation from reasonable requirements imposed by regulation or administratively under the authority of this section renders possession of the wild animal or wild bird unlawful.

(e) No captivity license may be issued for any cougar (*Felis concolor*), except to:

(1) A bona fide publicly supported zoo.

(2) An educational or scientific research institution.

(3) An individual who lawfully possessed the cougar on June 29, 1977. The license may not be granted, however, for possession of a cougar within a municipality which prohibits such possession by ordinance.

(f) The licensing provisions of this section apply to black bears held in captivity, but, to the extent that it differs from this section, Article 2 of Chapter 19A of the General Statutes governs the keeping of black bears in captivity.

“§ 113-273. *Dealer licenses*.—(a) ‘Dealer’ Defined; All Licenses Annual. As used in this section, the word ‘dealer’ includes all persons or individuals required to be licensed under the terms of this section. Except when indicated otherwise, all dealer licenses are annual licenses. Annual dealer licenses are issued beginning January 1 each year running until the following December 31.



(b) License Required; Regulations Governing Licensee. Except as otherwise provided, no person may engage in any activity for which a dealer license is provided under this section without first having procured a current and valid dealer license for that activity. In implementing the provisions of this section, the Wildlife Resources Commission may by regulation govern every aspect of the licensee's dealings in wildlife resources. Specifically, these regulations may require dealers to:

- (1) implement a system of tagging or otherwise identifying and controlling species regulated under the license and pay a reasonable fee, not to exceed two dollars and twenty-five cents (\$2.25), for each tag furnished by the Wildlife Resources Commission;
- (2) keep records and statistics in record books furnished by the Wildlife Resources Commission, and pay a reasonable charge to defray the cost of furnishing the books;
- (3) be subject to inspection at reasonable hours and audit of wildlife resources and pertinent records and equipment;
- (4) make periodic reports;
- (5) post performance bonds payable to the Wildlife Resources Commission conditioned upon faithful compliance with provisions of law; and
- (6) otherwise comply with reasonable regulations and administrative requirements that may be imposed under the authority of this section.

(c) Commercial Trout Pond License. As used in this subsection, a 'commercial trout pond' is a fish tank meeting standards set by the Wildlife Resources Commission or an artificial impoundment of three acres or less lying on private land and not on a natural stream, but which may be supplied through screened and regulated supply lines. A commercial trout pond must be stocked exclusively with hatchery-reared mountain trout obtained from hatcheries approved by the Wildlife Resources Commission. The Wildlife Resources Commission may by regulation prescribe qualifications of operators of commercial trout ponds, standards of operation, and the conditions under which trout from such ponds may be taken, transported, possessed, bought, and sold. Commercial trout pond licenses issued by the Wildlife Resources Commission are as follows:

- (1) (No change.)
- (2) Commercial trout holding pond license, five dollars (\$5.00). Authorizes the responsible licensed pond owner or operator to hold live trout for sale under conditions prescribed by the Wildlife Resources Commission. No person holding a fish propagation license for trout under subsection (e) need also procure this license.

(d) Game Fish Sale License. (Repealed.)

(e) Fish Propagation License. The Wildlife Resources Commission may by regulation authorize and license the operation of fish hatcheries for species of fish which may be found in inland fishing waters. The Wildlife Resources Commission may prescribe standards of operation, qualifications of operators, and the conditions under which fish may be taken, transported, possessed, bought, and sold. Fish propagation licenses issued by the Wildlife Resources Commission are as follows:

- (1) Trout propagation license, twenty-five dollars (\$25.00). Authorizes artificial propagation and sale of all species of freshwater trout

permitted under the regulations of the Wildlife Resources Commission in accordance with those regulations.

- (2) Restricted propagation license, twenty-five dollars (\$25.00). Authorizes artificial propagation and sale of species of fish other than trout designated in the license, in accordance with governing regulations of the Wildlife Resources Commission.

(f) Fur-Dealer License. Except as otherwise provided in this subsection, any individual in this State who deals in furs must obtain an appropriate fur-dealer license. For the purposes of this subsection, 'dealing in furs' is engaging in the business of buying or selling fur-bearing animals or other wild animals that may lawfully be sold, the raw furs, pelts, or skins of those animals, or the furs, pelts, or skins of wild animals which may not themselves be sold but whose fur, pelt, or skin may lawfully be sold. A hunter or trapper who has lawfully taken wild animals whose fur, pelt, or skin is permitted to be sold under this subsection is not considered a fur dealer if he exclusively sells the animals or the furs, pelts, and skins, as appropriate, to licensed fur dealers. Fur-dealer licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident fur-dealer license, fifty dollars (\$50.00). Authorizes an individual resident of the State to deal in furs in accordance with the regulations of the Wildlife Resources Commission.
- (2) Nonresident fur-dealer license, one hundred fifty dollars (\$150.00). Authorizes an individual within the State to deal in furs in accordance with the regulations of the Wildlife Resources Commission.
- (3) Fur-dealer station license, one hundred dollars (\$100.00). Authorizes a person or individual to deal in furs at an established location where fur dealings occur under the supervision of a responsible individual manager named in the license. Individual employees of the business dealing in furs solely at the established location under the supervision of the manager need not acquire an individual license. Any employee who also deals in furs outside the established location must obtain the appropriate individual license. Individuals dealing in furs at an established location may elect to do so under their individual licenses.

The executive director may administratively provide for reissuance of a station license without charge for the remainder of the year when either a business continues at an established location under a new supervising manager or the business changes to a new location. Before reissuing the license, however, the executive director must satisfy himself that there is a continuation of essentially the same business previously licensed and that any new supervising manager meets the qualifications imposed by regulations of the Wildlife Resources Commission. The supervising manager must file the names of all employees of the business covered by a fur-dealer station license, whether temporary or permanent, including employees who process or skin the animals.

The executive director must furnish supervising managers and individual licensees with forms or record books for recording required information as to purchase, sale, importation, exportation, and other dealings, and make a reasonable charge to cover the cost of any record books furnished. It is unlawful for anyone dealing in furs to fail to

submit reports required by regulations or reasonable administrative directives.

(g) Controlled Shooting Preserve Operator License. The Wildlife Resources Commission is authorized by regulation to set standards for and to license the operation of controlled shooting preserves operated by private persons. A 'controlled shooting preserve' is an area on which only domestically raised game birds other than wild turkeys are taken. This license may be purchased for a fee of fifty dollars (\$50.00).

(h) Game Bird Propagation License. No person may propagate game birds in captivity or possess game birds for propagation without first procuring a license under this subsection. The Wildlife Resources Commission may by regulation prescribe the activities to be covered by the propagation license, which species of game birds may be propagated, and the manner of keeping and raising the birds, in accordance with the overall objectives of conservation of wildlife resources. Except as limited by this subsection, propagated game birds may be raised and sold for purposes of propagation, stocking, food, or taking in connection with dog training as authorized in G.S. 113-291.1(d). Migratory game bird operations authorized under this subsection must also comply with any applicable provisions of federal law and regulations. The Wildlife Resources Commission may impose requirements as to shipping, marking packages, banding, tagging, or wrapping the propagated birds and other restrictions designed to reduce the chance of illicit game birds being disposed of under the cover of licensed operations. The Wildlife Resources Commission may make a reasonable charge for any bands, tags, or wrappers furnished propagators. The game bird propagation license is issued by the Wildlife Resources Commission upon payment of a fee of five dollars (\$5.00). It authorizes a person or individual to propagate and sell game birds designated in the license, in accordance with the regulations of the Wildlife Resources Commission, except:

(1) Wild turkey and ruffed grouse may not be sold for food.

(2) Production and sale of pen-raised quail for food purposes is under the exclusive control of the Department of Agriculture. The Wildlife Resources Commission, however, may regulate the possession, propagation, and transportation of live pen-raised quail.

It is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) in addition to such other punishment the court may impose in its discretion to sell wild turkey or ruffed grouse for food purposes or to sell quail other than lawfully acquired pen-raised quail for food purposes.

(i) (Reserved.)

(j) (Reserved.)

(k) Taxidermy License. Any individual who engages in taxidermy involving wildlife for any compensation, including reimbursement for the cost of materials, must first procure a taxidermy license. This license is an annual license issued by the Wildlife Resources Commission for ten dollars (\$10.00). The Wildlife Resources Commission must require a licensee to keep records concerning any wildlife taken or possessed by him; to keep records of the names and addresses of persons bringing him wildlife, the names and addresses of persons taking the wildlife if different, and other information concerning the origin of the wildlife; to inspect any applicable licenses or permits pertaining to the taking and possession of wildlife brought to him; to restrict him to taxidermy upon lawfully acquired wildlife; and to keep other pertinent records.

No taxidermist subject to license requirements may sell any game or game fish in which he deals except that a taxidermist may acquire a valid possessory lien upon game or game fish under the terms of Chapter 44A of the General Statutes and, with a permit from the executive director, may sell the game or game fish under the procedure authorized in Chapter 44A. Wildlife acquired by a taxidermist is deemed 'personal property' for the purposes of Chapter 44A.

"§ 113-274. *Permits.*—(a) As used in this Article, the word 'permit' refers to a written authorization issued without charge by an employee or agent of the Wildlife Resources Commission to an individual or a person to conduct some activity over which the Wildlife Resources Commission has jurisdiction. When sale of wildlife resources is permitted, regulations or the directives of the executive director may require the retention of invoices or copies of invoices in lieu of a permit.

(b) Except as otherwise specifically provided, no one may engage in any activity for which a permit is required without having first procured a current and valid permit.

(c) The Wildlife Resources Commission may issue the following permits:

(1) (Repealed.)

(1a) Depredation Permit. Authorizes the taking, destruction, transfer, removal, transplanting, or driving away of undesirable, harmful, predatory, excess, or surplus wildlife or wildlife resources. The permit must state the manner of taking and the disposition of wildlife or wildlife resources authorized or required and the time for which the permit is valid, plus other restrictions that may be administratively imposed in accordance with regulations of the Wildlife Resources Commission. No depredation permit or any license is needed for the owner or lessee of property to take wildlife while committing depredations upon the property. The Wildlife Resources Commission may regulate the manner of taking and the disposition of wildlife taken without permit or license, including wildlife killed accidentally by motor vehicle or in any other manner.

(1b) Captivity Permit. Authorizes the possession of live wildlife that may lawfully be permitted to be retained alive, in accordance with governing regulations of the Wildlife Resources Commission. This permit may not substitute for any required collection license or captivity license, but may be temporarily issued for possession of wild animals or wild birds pending action on a captivity license or following its denial or termination. If this permit is issued for fish to be held indefinitely, the Wildlife Resources Commission may provide for periodic renewals of the permit, at least once each three years, to insure a review of the circumstances and conditions under which fish are kept. Wild animals and wild birds kept temporarily in captivity under this permit must be humanely treated and in accordance with any stipulations in the permit, but the standards of caging and care applicable to species kept under the captivity license do not apply unless specified in the permit. Any substantial deviation from reasonable requirements imposed by regulation or administratively under the authority of this section renders the possession of the wildlife unlawful.

(1c) Possession Permit. Authorizes the possession of dead wildlife or other wildlife resources lawfully acquired. The Wildlife Resources



Commission may by regulation implement the issuance and supervision of this permit, in accordance with governing laws and regulations respecting the possession of wildlife. Any substantial deviation from reasonable requirements imposed by regulation or administratively under the authority of this section renders the possession of the wildlife unlawful.

- (2) **Transportation Permit.** The Wildlife Resources Commission may require the use of transportation permits by persons required to be licensed under this Article, or by persons and individuals exempt from license requirements, while transporting wildlife resources within the State—as necessary to discourage unlawful taking or dealing in wildlife resources and to control and promote the orderly and systematic transportation of wildlife resources within, into, through, and out of the State. Transportation permits may be issued for wildlife transported either dead or alive, in accordance with restrictions that may be reasonably imposed. When convenient, regulations or administrative directives may require the retention and use of an invoice or memorandum of sale, or the license or permit authorizing the taking or acquisition of the wildlife resources, as a transportation permit. When circumstances warrant, however, a separate additional transportation permit may be required. Any substantial deviation from reasonable requirements imposed by regulation or administratively under the authority of this section renders the transportation of the wildlife resources unlawful.
- (3) **Exportation or Importation Permit.** Authorizes the exportation or importation of wildlife resources from or into the State or from county to county. The Wildlife Resources Commission may by regulation implement the issuance and supervision of this permit, in accordance with governing laws and regulations respecting the exportation and importation of wildlife resources. Any substantial deviation from reasonable requirements imposed by regulation or administratively under the authority of this section renders the importation or exportation of the wildlife resources unlawful.
- (3a) **Trophy Wildlife Sale Permit.** Authorizes the owner of lawfully taken and possessed dead wildlife specimens or their parts that are mounted, stuffed, or otherwise permanently preserved to sell identified individual specimens that may lawfully be sold under applicable laws and regulations.
- (3b) **Trout Sale Permit.** Authorizes the sale at wholesale or retail of dead artificially-propagated mountain trout for food purposes if the trout have been lawfully acquired from a hatchery approved by the Wildlife Resources Commission and are appropriately wrapped or otherwise identified as hatchery-reared trout as required by governing regulations. No person who holds a license that authorizes the sale of trout need purchase this permit.
- (4) **Other Permits.** In implementing the provisions of this Subchapter, the Wildlife Resources Commission may issue permits for taking, purchase, or sale of wildlife resources if the activity is lawfully authorized, if there is a need for control of the activity, and no other license or permit is applicable. In addition, if a specific statute so provides, a permit under

this subdivision may be required in addition to a license when there is a need for closer control than provided by the license.

“§ 113-275. *General provisions respecting licenses and permits.*—(a) The Wildlife Resources Commission is authorized to make agreements with other jurisdictions as to reciprocal honoring of licenses in the best interests of the conservation of wildlife resources.

(b) (No change.)

(c) (No change.)

(d) (No change.)

(e) (No change.)

(f) Except as otherwise specifically provided by statute or except as the Wildlife Resources Commission may by regulation prescribe to the contrary:

(1) (No change.)

(2) (No change.)

(3) (No change.)

(g) (No change.)

(h) (No change.)

(i) (No change.)

(j) (No change.)

“§ 113-276. *Exemptions and exceptions to license and permit requirements.*—(a) (Repealed.)

(b) (Repealed.)

(c) Except as otherwise provided in this Subchapter, every landholder, his spouse, and dependents under 18 years of age residing with him may take wildlife upon the land held by the landholder without any license required by G.S. 113-270.2, 113-270.3(b) except for subdivision (5), 113-270.5, 113-271, or 113-272.

(d) Except as otherwise provided in this Subchapter, individuals under 16 years of age are exempt from the hunting, trapping, and fishing license requirements of G.S. 113-270.2, 113-270.3(b) except for subdivision (5), 113-270.5, and 113-272 if:

(1) he is accompanied by a responsible adult who is in compliance with applicable license requirements; or

(2) he is carrying a current and valid license appropriate to the activity which has been issued to one of his parents or to his guardian.

Individuals under 16 years of age are exempt from the fishing license requirements of G.S. 113-271.

(e) (No change.)

(f) A special device license is not required when a landing net is used:

(1) to take nongame fish in inland fishing waters; or

(2) to assist in taking fish in inland fishing waters when the initial and primary method of taking is by the use of hook and line—so long as applicable hook-and-line fishing license requirements are met.

As used in this subsection, a ‘landing net’ is a net with a handle not exceeding eight feet in length and with a hoop or frame to which the net is attached not exceeding 60 inches along its outer perimeter.

(g) Bow nets covered by a special device license may be used in waters and during the seasons authorized in the regulations of the Wildlife Resources Commission by an individual other than the licensee with the permission of the licensee. The individual using another’s bow net must also secure the net

owner's special device license and keep it on or about his person while fishing in inland fishing waters.

(h) (Repealed.)

(i) A food server may prepare edible wildlife lawfully taken and possessed by a patron for serving to the patron and any guest he may have. The executive director may provide for the keeping of records by the food server necessary for administrative control and supervision with respect to wildlife brought in by patrons.

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

(1) Purchasing and using the resident fishing licenses provided by G.S. 113-271(d)(2a), (3), and (4); and

(2) Utilizing the natural-bait exemption in subsection (e) above.

(k) A person may participate in a field trial for beagles without a hunting license if approved in advance by the executive director, conducted without the use or possession of firearms, and on an area of not more than 100 acres of private land which is completely and permanently enclosed with a metal fence through which rabbits may not escape or enter at any time.

(l) The fishing license provisions of this Article do not apply upon the lands held in trust by the United States for the Eastern Band of the Cherokee Indians.

“§ 113-276.1. *Regulatory authority of Wildlife Resources Commission as to license requirements and exemptions.*—In its discretion and in accordance with the best interests of the conservation of wildlife resources, the Wildlife Resources Commission may implement the provisions of this Article with regulations that:

(1) (Reserved.)

(2) Regulate license requirements and exemptions applying to the taking of wildlife on particular waters forming or lying across a county boundary where there may be confusion as to the location of the boundary, hardship imposed as to the location of the boundary, or difficulty of administering or enforcing the law with respect to the actual boundary location.

(3) Require persons subject to license requirements, and persons exempt from license requirements, to carry, display, or produce identification that may be necessary to substantiate the person's entitlement to a particular license or to a particular exemption from license requirements.

(4) Require individuals aboard vessels or carrying weapons or other gear that may be used to take wildlife resources, and in an area at a time wildlife resources may be taken, to exhibit identification that includes the individual's name and current address. More than one piece of identification, including a vehicle driver license, may be required to be exhibited, if available.

(5) Implement a system of tagging and reporting fur-bearing animals and big game. Upon the implementation of a tagging system for any species

of fur-bearing animal, the Wildlife Resources Commission may charge a reasonable fee to defray its costs, not to exceed two dollars twenty-five cents (\$2.25) per tag, for each tag furnished. The price of the big game hunting license includes the cost of big game tags.

“§ 113-276.2. *Licensees and permittees subject to administrative control; refusal to issue or reissue, suspension, and revocation of their licenses and permits; court orders of suspension.*—(a) This section applies to the administrative control of:

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

(b) Before issuing any license or permit to persons subject to administrative control under this section, the executive director must satisfy himself that the person meets the qualifications set by statute, regulation, or his administrative guidelines. If the person fails to meet the qualifications or if the executive director learns of some other cause for believing that issuing the license or permit would be contrary to the best interests of the conservation of wildlife resources, he must refuse to issue the license or permit.

(c) Before reissuing any license or permit to any person subject to administrative control, the executive director must review all available information and apply the same standards that governed initial issuance of the license or permit before he may reissue it.

(d) Upon refusing to issue or reissue a license or permit under this section, the executive director must notify the person in writing of the reasons for his action and inform him that if he contests the executive director's action within 10 days he is entitled to a hearing in accordance with the provisions of the Administrative Procedure Act. The notice must be personally served by a law enforcement officer or an agent of the Wildlife Resources Commission or sent by mail with return receipt requested. If the person refused the license or permit notifies the executive director within 10 days of receiving notice that he does contest the action, the executive director must formally notify all appropriate parties that a hearing will be conducted in accordance with the provisions of Article 3 of Chapter 150A of the General Statutes and any applicable regulations of the Wildlife Resources Commission. The Wildlife Resources Commission may provide by regulation either for the appointment of a hearing officer or officers or may direct that hearings in some or all classes of cases be conducted by the commission itself. To the extent the procedure governing the hearing is not covered by this section, the Administrative Procedure Act, or regulations of the Wildlife Resources Commission, the executive director must direct that appropriate procedures be followed which are not inconsistent with governing statutes and regulations.

(e) If the executive director discovers that a person subject to administrative control does not meet, or no longer meets, the qualifications for issuance of the license or permit, has committed a substantial criminal violation of this Subchapter or of its regulations, or has seriously or persistently failed to comply with the terms and conditions upon which the license or permit was issued, he



must notify the person in writing of his findings and of his intention to revoke the license or permit unless the person contests the executive director's action within 10 days. Any revocation or suspension of a license or permit ordered by a court under G.S. 113-277 runs concurrently with any revocation under this section. The notice must be personally served by a law enforcement officer or an agent of the Wildlife Resources Commission or sent by mail with return receipt requested. If the person notifies the executive director that he contests the facts relied upon by the executive director or the appropriateness of revocation under the circumstances of the case, the executive director must afford the person a hearing in accordance with the provisions of the Administrative Procedure Act and the special provisions of subsection (d) above. If the person does not notify the executive director that he contests his action within 10 days of receiving notice, the executive director must revoke any license or permit in question as provided in subsection (g) below.

(f) If the decision to revoke the person's license is sustained after all proceedings under the Administrative Procedure Act, including judicial review, if any, the executive director must revoke any license or permit in question as provided in subsection (g) below.

(g) Upon revocation of a license or permit, the executive director or his agent must request return of the license or permit and all associated forms, tags, record books, inventories, invoice blanks, and other property furnished by the Wildlife Resources Commission or required to be kept by the commission solely in connection with the license or permit. If the person needs to retain a copy of the property returned to the Wildlife Resources Commission for tax purposes or other lawful reason, the person may copy items returned if the copies are clearly marked in a manner that they could not be mistaken for the originals. In securing property to be returned or in otherwise closing out the affairs conducted under the license or permit, agents of the Wildlife Resources Commission may enter at reasonable hours the premises of the person in which wildlife resources or items of property pertaining to the license or permit are kept, or reasonably believed to be kept, to inspect, audit, inventory, remove, or take other appropriate action. Any wildlife resources in the possession of the person which he may no longer possess must be disposed of in accordance with the most nearly appropriate provision of G.S. 113-137. If a person fails to return to an agent of the Wildlife Resources Commission all wildlife resources and other property covered by this subsection; refuses to allow entry by the agent to inspect, audit, remove property, or perform other duties; or otherwise obstructs an agent of the Wildlife Resources Commission in performing his duties under this subsection, he is guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisonment not to exceed 90 days, or both. Each day's violation is a separate offense.

(h) No person refused issuance or reissuance of a license or permit under this section, or whose license or permit was revoked, is eligible to apply again for that or any similar license or permit for two years. Upon application, the executive director may not grant the license or permit unless the person produces clear evidence, convincing to the executive director, that he meets all standards and qualifications and will comply with all requirements of statutes, regulations, and reasonable administrative directives pertaining to the license or permit.

(i) The executive director is required to make necessary investigations and cause necessary disclosure of information by all persons subject to administrative control, and all applicants for a license or permit that would place them in this category, to determine that the real party in interest is seeking or has been issued the license or permit. Any attempt to circumvent the provisions of this section is a misdemeanor punishable in the discretion of the court.

(j) So long as a license or permit has not expired, the person contesting any action to revoke retains it and may continue his operations under the license or permit. If the executive director determines that the effective conservation of wildlife resources would be seriously impaired by continued unfettered operations or by continued possession of property by the person subject to administrative control, the executive director may apply to the appropriate court for an order:

- (1) placing special reporting and inspection requirements on the person; or
- (2) impounding some or all of the records or other property associated with the license or permit; or
- (3) limiting the scope of operations under the license or permit; or
- (4) if there is clear evidence of a serious threat to the conservation of wildlife resources, suspending the operations of the person under the license or permit; or
- (5) placing other appropriate restrictions, prohibitions, or requirements upon the person.

“§ 113-276.3. *Mandatory suspension of entitlement to license or permit for fixed period upon conviction of specified offenses.*—(a) Upon conviction of a suspension offense under this section, the defendant's entitlement to any license or permit applicable to the type of activity he was engaging in that resulted in the conviction is suspended for the period stated in subsection (d). The period of suspension begins:

- (1) upon the surrender to an authorized agent of the Wildlife Resources Commission of all applicable licenses and permits; or
- (2) if no licenses or permits are possessed, the defendant fails or refuses to surrender all licenses or permits, or any license or permit is lost or destroyed, upon the executive director's placing in the mail the notification required by subsection (c).

(b) If the defendant does not wish to appeal, the presiding judge may order surrender of all applicable licenses and permits to an agent of the Wildlife Resources Commission. If the presiding judge does not order the surrender, or if there is for any other reason a failure by the defendant to surrender all applicable licenses and permits, an authorized agent of the Wildlife Resources Commission must demand surrender. Each day's failure or refusal to surrender a license or permit upon demand, in the absence of satisfactorily accounting for the failure to do so, is a separate offense. A charge under this subsection does not affect the power of the court to institute contempt proceedings if a failure or refusal to surrender a license or permit also violates a court order. Any agent of the Wildlife Resources Commission accepting surrender of licenses and permits, in the courtroom or at a subsequent time and place, must transmit them to the executive director with a written notation of the date of surrender and a report of other pertinent circumstances required by the executive director.

(c) The executive director must institute a procedure for the systematic reporting to him by protectors or other authorized agents of the Wildlife Resources Commission of all convictions of suspension offenses under this section. Upon obtaining information concerning conviction of a suspension offense and receiving any surrendered licenses and permits, the executive director must determine if all appropriate licenses and permits possessed by the defendant have been surrendered; if not, the executive director must notify the appropriate agent of the Wildlife Resources Commission to demand surrender or renew a demand for surrender under the terms of subsection (b) if it is feasible to do so. Upon satisfying himself that he has received all licenses and permits for which surrender may feasibly be obtained, if any, the executive director must mail the defendant a notice of the suspension of his entitlement to possess or procure any license or permit of the type applicable to the activity engaged in that resulted in conviction of the suspension offense. The notice must specify the commencement and termination dates of the period of suspension that apply under the terms of this section.

(d) Any violation of this Subchapter or of any regulation adopted by the Wildlife Resources Commission under the authority of this Subchapter which is subject to a penalty greater than the one provided in G.S. 113-135(a)(1) is a suspension offense. Conviction of any of the following suspension offenses results in a suspension for a period of two years:

- (1) A violation of G.S. 113-294(b).
- (2) A violation of G.S. 113-294(c).
- (3) A violation of G.S. 113-294(e).
- (4) A violation of G.S. 113-294(k).

A conviction of any other suspension offense results in a suspension for a period of one year.

*“§113-277. Suspension and revocation of licenses and permits in the discretion of the court; suspension of entitlement; court's power concurrent; definition of 'conviction'; penalties.—(a) (No change.)*

(a1) Upon conviction of any person who is not a licensee or permittee under this Article of a violation of any law or regulation administered by the Wildlife Resources Commission under the authority of this Subchapter, the court in its discretion may suspend the entitlement of the defendant to possess or procure any specified licenses and permits issued by the Wildlife Resources Commission for a period not to exceed two years.

(a2) The authority of a court to suspend entitlement or order suspension or revocation of a license or permit under this section does not preempt the power of the executive director or the Wildlife Resources Commission to act under G.S. 113-276.2 and G.S. 113-276.3, but the court may in its discretion suspend entitlement or order suspension or revocation of any license or permit under this section to be effective concurrently with any action taken under the authority of those two sections.

(a3) As used in this Article, the term 'conviction' has the same meaning assigned to it in G.S. 113-166(a).

(b) (No change.)

G.S. 113-278 to G.S. 113-290. (Reserved for future codification purposes.)

“ARTICLE 22.

## “Regulation of Wildlife.

“§ 113-291. *General restrictions.*—Except as specifically permitted in this Subchapter or in regulations made under the authority of this Subchapter, no person may take, possess, buy, sell, or transport any wildlife—whether dead or alive, in whole or in part. Nor may any person take, possess, buy, sell, or transport any nests or eggs of wild birds except as so permitted. No person may take, possess, buy, sell, or transport any wildlife resources in violation of the regulations of the Wildlife Resources Commission.

“§ 113-291.1. *Manner of taking wild animals and wild birds.*—(a) Except as otherwise provided, game may only be taken between a half hour before sunrise and a half hour after sunset and only by one or a combination of the following methods:

- (1) With a rifle.
- (2) With a shotgun not larger than number 10 gauge.
- (3) With a bow and arrow of a type prescribed in the regulations of the Wildlife Resources Commission.
- (4) With the use of dogs.
- (5) By means of falconry.

Fur-bearing animals may be taken at any time during open trapping season with traps authorized under G.S. 113-291.6. Nongame animals and birds open to hunting may be taken during the hours authorized by regulation during any open season by the methods for taking game. Use of pistols in taking wildlife is governed by subsection (g). The Wildlife Resources Commission may prescribe the manner of taking wild animals and wild birds on game lands and public hunting grounds.

(b) No wild animals or wild birds may be taken:

- (1) From or with the use of any vehicle; vessel, other than one manually propelled; airplane; or other conveyance except that the use of vehicles and vessels is authorized:

a. As hunting stands, subject to the following limitations. No wild animal or wild bird may be taken from any vessel under sail, under power, or with the engine running or while still in motion from such propulsion. No wild animal or wild bird may be taken from any vehicle if it is in motion, the engine is running, or the passenger area of the vehicle is occupied. The prohibition of occupying the passenger area of a vehicle does not apply to a disabled individual whose mobility is restricted.

b. For transportation incidental to the taking.

- (2) With the use or aid of any artificial light, net, trap, snare, electronic or recorded animal or bird call, or fire, except as may be otherwise provided by statute. No wild birds may be taken with the use or aid of salt, grain, fruit, or other bait, except as may be otherwise provided by statute. The taking of wild animals and wild birds with poisons, drugs, explosives, and electricity is governed by G.S. 113-261, G.S. 113-262, and Article 22A.

(c) It is a misdemeanor punishable in the discretion of the court for any person taking wildlife to have in his possession any:

- (1) Firearm equipped with a silencer or any device designed to silence, muffle, or minimize the report of the firearm. The firearm is considered equipped with the silencer or device whether it is attached to the



firearm or separate but reasonably accessible for attachment during the taking of the wildlife.

(2) Weapon of mass death and destruction as defined in G.S. 14-288.8.

(d) In accordance with governing regulations of the Wildlife Resources Commission imposing further restrictions that may be necessary, hunters may conduct field trials with dogs in areas and at times authorized with the use of approved weapons and ammunition. The Wildlife Resources Commission may authorize organized retriever field trials, utilizing domestically raised pheasants or waterfowl, to be held under its permit.

(d1) Except in areas closed to protect sensitive wildlife populations, hunters may train dogs during the closed season:

(1) with the use of approved weapons and ammunition; and

(2) if reasonable control is exercised to prevent the dogs from running unsupervised at large and from killing wild animals and wild birds.

(e) Raccoons and opossum may be taken at night with dogs during seasons set by regulations of the Wildlife Resources Commission with the use of artificial lights of a type designed or commonly used to aid in taking raccoon and opossum. No conveyance may be used in taking any raccoon or opossum at night, but incidental transportation of hunters and dogs to and from the site of hunting is permitted. The Wildlife Resources Commission may by regulation prescribe restrictions respecting the taking of frogs, or other creatures not classified as wildlife which may be found in areas frequented by game, with the use of an artificial light, and may regulate the shining of lights at night in areas frequented by deer as provided in subsection (e1).

(e1) After hearing sufficient evidence and finding as a fact that an area frequented by deer is subject to substantial unlawful night deer hunting or that residents in the area have been greatly inconvenienced by persons shining lights on deer, the Wildlife Resources Commission may by regulation prohibit the intentional sweeping of that area with lights, or the intentional shining of lights on deer, from 11:00 p.m. until one-half hour before sunrise. Before adopting this regulation, the Wildlife Resources Commission must propose it at a public hearing in the area to be closed and seek the reactions of the local inhabitants. The regulation must exempt necessary shining of lights by landholders, motorists engaged in normal travel on the highway, and campers and others legitimately in the area, who are not attempting to attract wildlife. This subsection does not limit the right of hunters to take raccoon and opossum with dogs lawfully at night with a light under the terms of subsection (e).

(f) To keep North Carolina provisions respecting migratory birds in substantial conformity with applicable federal law and regulations, the Wildlife Resources Commission may by regulation expand or modify provisions of this Article if necessary to achieve such conformity. In particular, the commission may prohibit the use of rifles, unplugged shotguns, live decoys, and sinkboxes in the taking of migratory game birds; vary shooting hours; adopt specific distances, not less than 300 yards, hunters must maintain from areas that have been baited, and fix the number of days afterwards during which it is still unlawful to take migratory game birds in the area; and adopt similar provisions with regard to the use of live decoys.

(g) If a season is open permitting such method of taking for the species in question, a hunter may take rabbits, squirrels, opossum, raccoons, fur-bearing animals, and nongame animals and birds open to hunting with a pistol of .22

caliber with a barrel not less than six inches in length and loaded with long-rifle ammunition. In addition, a hunter or trapper lawfully taking a wild animal or wild bird by another lawful method may use a knife, pistol, or other swift method of killing the animal or bird taken.

(h) In the interests of enhancing the enjoyment of sportsmen, and if consistent with conservation objectives, the Wildlife Resources Commission may by regulation relax requirements of this section on controlled shooting preserves and in other highly controlled situations.

(i) The intentional destruction or substantial impairment of wildlife nesting or breeding areas or other purposeful acts to render them unfit is unlawful. These prohibitions include cutting down den trees, shooting into nests of wild animals or birds, and despoliation of dens, nests, or rookeries.

(j) It is unlawful to take deer swimming or in water above the knees of the deer.

“§ 113-291.2. *Seasons and bag limits on wild animals and birds, including animals and birds taken in bag, possession and transportation of wildlife after taking.*—(a) In accordance with the supply of wildlife and other factors it determines to be of public importance, the Wildlife Resources Commission may fix seasons and bag limits upon the wild animals and wild birds authorized to be taken that it deems necessary or desirable in the interests of the conservation of wildlife resources. The authority to fix seasons includes the closing of seasons completely when necessary and fixing the hours of hunting. The authority to fix bag limits includes the setting of season and possession limits. Different seasons and bag limits may be set in differing areas; early or extended seasons and different or unlimited bag limits may be authorized on controlled shooting preserves, game lands, and public hunting grounds; and special or extended seasons may be fixed for those engaging in falconry, using primitive weapons, or taking wildlife under other special conditions.

(b) Any individual hunter or trapper who in taking a wild animal or bird has wounded or otherwise disabled it must make a reasonable effort to capture and kill the animal or bird. All animals and birds taken that can be retrieved must be retrieved and counted with respect to any applicable bag limits governing the individual taking the animal or bird.

(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, after the game is dead, possess and personally transport it for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:

- (1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.
- (2) The individual may possess and transport the game lawfully taken on a trip:
  - a. to his residence;
  - b. to a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;
  - c. from a place authorized in subparagraph b to his residence.
- (3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:
  - a. the applicable possession limit for each species; or
  - b. one half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence.

(d) Except in the situations specifically provided for above, the Wildlife Resources Commission may by regulation impose reporting, permit, and tagging requirements that may be necessary upon persons:

- (1) Possessing dead wildlife taken in open season after the close of that season.
- (2) Transporting dead wildlife from an area having an open season to an area with a closed season.
- (3) Transporting dead wildlife lawfully taken in another state into this State.
- (4) Possessing dead wildlife after such transportation.

The Wildlife Resources Commission in its discretion may substitute written declarations to be filed with agents of the commission for permit and tagging requirements.

“§ 113-291.3. *Possession, sale, and transportation of wildlife.*—(a) Live wildlife and the nests and eggs of wild birds may be taken, possessed, transported, bought, sold, imported, exported, or otherwise acquired or disposed of only as specifically authorized in this subchapter or its implementing regulations. The Wildlife Resources Commission may impose necessary reporting, permit, and tagging requirements in regulating activities involving live wildlife and the nests and eggs of wild birds. The Wildlife Resources Commission may charge a reasonable fee to defray the cost of any tagging procedure.

(b) With respect to dead wildlife:

- (1) Lawfully taken wildlife may be possessed and transported as provided in G.S. 113-291.2. Wildlife possessed under any dealer license may be possessed and transported in accordance with the provisions of law and regulations applicable to the license, and wildlife may be sold to qualified persons if authorized under provisions governing the license. In other situations, except as this subchapter may expressly provide, possession and transportation of wildlife may be regulated by the Wildlife Resources Commission.
- (2) Unless there is a specific restriction on the transfer of the species in question, an individual may accept the gift of wildlife lawfully taken within North Carolina if taking possession does not cause him to exceed applicable possession limits. If he notes and preserves in writing the name and address of the donor and under what license or exemption from license requirements the wildlife was taken, he may possess that wildlife without a permit in the places possession without a permit would be authorized in G.S. 113-291.2 had he taken the wildlife.
- (3) A licensed taxidermist or other licensed dealer taking temporary possession of wildlife of another may possess the wildlife that he is authorized to handle under his license in accordance with the regulations of the Wildlife Resources Commission. A person not a dealer

operating a preservation or processing facility, whether commercially or not, may possess the wildlife owned by another without any permit or license if he ascertains that the wildlife was lawfully taken within the State and keeps a written record of:

- a. The name and address of the owner of the wildlife and an adequate description of the wildlife left with him. If the description of the wildlife changes as the result of processing, the new description must be recorded.
  - b. The date, serial number, and type of the license under which the wildlife was taken or the applicable exemption from license requirements which the taker met.
  - c. The date all wildlife left with him is received and returned to the owner. If the receiving or returning of possession is to an agent or common carrier or otherwise occurs under circumstances in which permit requirements may apply, the type and date of the permit which authorizes the transaction must also be recorded.
- (4) The sale of rabbits and squirrels and their edible parts not for resale is permitted. If the Wildlife Resources Commission finds that affected game populations would not be endangered, it may authorize the sale of heads, antlers, horns, hides, skins, plumes, feet, and claws of one or more game animals or birds. In addition, it may authorize the sale of bobcats, opossums, and raccoons, and their parts, following their taking as game animals. No part of any bear or wild turkey may be sold under the above provisions, however, and no part of any fox taken in North Carolina may be sold except as provided in G.S. 113-291.4. In regulating sales, the Wildlife Resources Commission may impose necessary permit requirements.
- (5) Lawfully taken fur-bearing animals and their parts, including furs and pelts, may, subject to any tagging and reporting requirements, be possessed, transported, bought, sold, given or received as a gift, or otherwise disposed of without restriction. The Wildlife Resources Commission may regulate the importation of wildlife from without the State by fur dealers, and may regulate the sale of fox fur and other wildlife hides taken within the State if sale of them is authorized. Fox furs lawfully taken without the State may be imported, possessed, transported, bought, sold, and exported in accordance with reasonable regulations of the Wildlife Resources Commission. Processed furs acquired through lawful channels within or without the State by persons other than fur dealers are not subject to regulation.
- (6) Nongame animals and birds open to hunting and nongame fish lawfully taken, except as this subchapter and its implementing regulations expressly provide otherwise, may be possessed, transported, bought, sold, given or received as a gift, or otherwise disposed of without restriction.
- (7) The possession and disposition of wild animals and wild birds killed accidentally or to prevent or halt depredations to property are governed by G.S. 113-274(1a).
- (c) The Wildlife Resources Commission may make reasonable regulations governing the marking of packages, crates, and other containers in which wildlife may be shipped.



(d) Any person hiring a hunter or trapper to take game is deemed to be buying game. Any hunter or trapper who may be hired is deemed to be selling game.

“§ 113-291.4. *Regulation of foxes; study of fox and fur-bearer populations.*—(a) All of the regulatory powers granted the Wildlife Resources Commission generally with respect to game, wild animals, and wildlife apply to foxes unless there are specific overriding restrictions in this section.

(b) Except for any closed season under subsection (h), foxes may be taken with dogs both night and day on a year-round basis.

(c) Foxes may not be taken with firearms except:

(1) As provided in subsection (f).

(2) As an incidental method of humanely killing them following any lawful method of taking that does not result in death.

(3) When they are lawfully shot under laws and regulations pertaining to the destruction of animals committing depredations to property.

(d) Foxes may not be taken with the aid of any electronic calling device.

(e) The Wildlife Resources Commission is directed to improve its capabilities for studying fox and fur-bearer populations generally and, on the basis of its present knowledge and future studies, to implement management methods and impose controls designed to produce optimum fox and fur-bearer populations in the various areas of the State.

(f) If, on the basis of its studies and other information available, the Wildlife Resources Commission determines the population of foxes in an area is fully adequate to support a harvesting of that population, the Wildlife Resources Commission may, upon passage of local legislation permitting same, open a season for taking foxes by trapping. When the season is open for trapping, foxes may also be taken by the use of methods lawful for taking game animals, including the use of firearms. Any bag, possession, or season limits imposed on foxes taken from the area in question will apply in the aggregate to all foxes killed without regard to the method of taking.

(g) The Wildlife Resources Commission may provide for the sale of foxes lawfully taken in areas of open season as provided in subsection (f), under a system providing strict controls. These controls must include the tagging of foxes as required below and a system of permits to restrict those who may deal in foxes to dealers who meet high standards of integrity, reliability in keeping records and inventory, and promptness in submitting reports. The Wildlife Resources Commission must implement a system of tagging foxes and fox furs with a special fox tag, and the commission may charge two dollars and twenty-five cents (\$2.25) for each tag furnished to hunters, trappers, and fur dealers. The fox tag or tags must be procured before taking foxes by any method designed to kill foxes or when the intent is to harvest foxes. The number of tags furnished to any individual may be limited as to area and as to number in accordance with area, bag, possession, or season limits that may be imposed on foxes. No person may continue to hunt or trap foxes under this fox harvesting provision unless he still has at least one valid unused fox tag lawful for use in the area in question. A person hunting foxes with dogs not intending to kill them need not have any fox tag, but any fox accidentally killed by that hunter must be disposed of without sale as provided below, and no foxes not tagged may be sold. The Wildlife Resources Commission may by regulation provide reporting and controlled-disposition requirements, not including sale, of foxes killed accidentally by dog hunters, motor vehicles, and in other situations; it

may also impose strict controls on the disposition of foxes taken by owners of property under the laws and regulations relating to depredations, and authorize sale under controlled conditions of foxes taken under depredation permits.

(h) In any area of the State in which the Wildlife Resources Commission determines that hunting of foxes with dogs has an appreciably harmful effect upon turkey restoration projects, it may declare a closed season for an appropriate length of time upon the taking with dogs of all species of wild animals and birds. Except as otherwise provided in G.S. 113-291.1(d) or (d1), this subsection does not prohibit lawful field trials or the training of dogs.

“§ 113-291.5. *Regulation of dogs used in hunting; limitations on authority of Wildlife Resources Commission; control of dogs on game lands; control of dogs chasing deer; other restrictions.*—(a) Except as provided in G.S. 113-291.4, in the area described below, the Wildlife Resources Commission may regulate the use of dogs taking wildlife with respect to seasons, times, and places of use. The area covered by this subsection is that part of the State in and west of the following counties or parts of counties: Rockingham; Guilford; that part of Alamance and Orange lying south of Interstate Highway 85; Chatham; that part of Wake lying south of N.C. Highway 98; Lee; Randolph; Montgomery; Stanly; Union; and that part of Anson lying west of N.C. Highway 742.

(b) In the area of the State lying east of that described in subsection (a), the Wildlife Resources Commission may not restrict or prohibit the use of dogs in hunting or the training of dogs, in season or out, except during the breeding and raising seasons for game during the period April 15 through June 15.

(c) On game lands, wildlife refuges, and public hunting grounds the Wildlife Resources Commission may regulate the possession and use of dogs and may impound dogs found running at large without supervision or, if unsupervised, without means of identification.

(d) The Wildlife Resources Commission may not by its regulations anywhere in the State restrict the number of dogs used in hunting or require that any particular breed of dog be used in hunting.

(e) It is unlawful to allow dogs not under the control of the owner or the individual in possession of the dogs to run or chase deer during the closed deer season.

(f) Nothing in this section is intended to require the leashing or confining of pet dogs.

“§ 113-291.6. *Regulation of trapping.*—(a) No one may take wild animals by trapping upon the land of another without having in his possession written permission issued and dated within the previous year by the owner of the land or his agent. This subsection does not apply to public lands on which trapping is not specifically prohibited, including tidelands, marshlands, and any other untitled land.

(b) No one may take wild animals by trapping with any steel-jaw, leghold, or conibear trap unless it:

- (1) Has a jaw spread of not more than seven and one-half inches.
- (2) Is horizontally offset with closed jaw spread of at least three sixteenths of an inch for a trap with a jaw spread of more than five and one-half inches. This subdivision does not apply if the trap is set in the water with quick-drown type of set.

(3) Is smooth edged and without teeth or spikes.

(4) Has a weather-resistant permanent tag attached legibly giving the trapper's name and address.

If set on dry land with solid anchor, a trap 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, and in no event may a trap chain exceed two feet in length.

(c) No person may set or otherwise use a trap so that animals or birds when caught will be suspended. No hook of any type may be used to take wild animals or wild birds by trapping.

(d) Trap number 330 of the connibear type or size may only be set in the water and in areas in which beaver and otter may be lawfully trapped. For the purposes of this section:

(1) A water-set trap is one totally covered by water with the anchor secured in water deep enough to drown the animal trapped quickly.

(2) In areas of tidal waters, the mean high water is considered covering water.

(3) In reservoir areas, covering water is the low water level prevailing during the preceding 24 hours.

(4) Marshland, as defined in G.S. 113-229(n)(3), is not considered dry land.

(e) With respect to any lawfully placed trap of another set in compliance with the provisions of this section, no one without the express permission of the trapper may:

(1) Remove or disturb any trap; or

(2) Remove any fur-bearing animal from the trap.

This subsection does not apply to wildlife protectors or other law enforcement officers acting in the performance of their duties.

(f) Nothing in this section prohibits the use of steel- or metal-jaw traps by county or State public health officials or their agents to control the spread of disease when the use of these traps has been declared necessary by the Department of Human Resources.

(g) The Wildlife Resources Commission must include the trapping requirements of this section in its annual digest of hunting and trapping regulations provided to each person upon purchase of a license.

“§ 113-291.7. *Regulation of bears; limited retention of local acts closing bear seasons.*—Local acts closing the season on bears are exempted from the provisions of G.S. 113-133.1(b) until July 1, 1981. After that date any local acts setting a year-round closed season on bears which have not by their terms expired are temporarily retained until the Wildlife Resources Commission supersedes them by adopting regulations either opening a season in the county affected or carrying forward the closed-season provision.

“§ 113-292. *Authority of the Wildlife Resources Commission in regulation of inland fishing and the introduction of exotic species.*—(a) (No change.)

(b) (No change.)

(c) (No change.)

(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of exotic zoological or botanical species or specimens that may create a danger to or an imbalance in the environment

inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting regulations, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction.

“§ 113-293. *Obstructing rivers or creeks, keeping open fishways in dams.*—(a) (Repealed.)

(b) (Repealed.)

(c) (No change.)

“§ 113-294. *Specific violations.*—(a) Any person who unlawfully sells, possesses for sale, or buys any wildlife is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisonment not to exceed 90 days, or both.

(b) Any person who unlawfully sells, possesses for sale, or buys any bear, cougar (*Felis concolor*), deer, or wild turkey is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment the court may impose in its discretion.

(c) Any person who unlawfully takes, possesses, or transports any bear, cougar (*Felis concolor*), or wild turkey is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment the court may impose in its discretion.

(d) Any person who unlawfully takes, possesses, or transports any antlerless deer is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than one hundred dollars (\$100.00) in addition to such other punishment the court may impose in its discretion.

(e) Any person who unlawfully takes deer between a half hour after sunset and a half hour before sunrise with the aid of an artificial light is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment the court may impose in its discretion.

(f) Any person who unlawfully takes, possesses, transports, sells, or buys any beaver, or violates any regulation of the Wildlife Resources Commission adopted to protect beavers, is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), imprisonment not to exceed 90 days, or both.

(g) Any person who unlawfully takes wild animals or birds from or with the use of a vessel equipped with a motor or with motor attached is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisonment not to exceed 90 days, or both.



(h) Any person who wilfully makes any false or misleading statement in order to secure for himself or another any license, permit, privilege, exemption, or other benefit under this Subchapter to which he or the person in question is not entitled is guilty of a misdemeanor punishable in the discretion of the court.

(i) Any person who violates any provision of G.S. 113-291.6, regulating trapping, is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), imprisonment not to exceed 90 days, or both.

(j) Any person who takes any fox by unlawful trapping or with the aid of any electronic calling device is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), imprisonment not to exceed 90 days, or both.

(k) Any person who has been convicted of one of the fox offenses listed below who subsequently commits the same or another one of the fox offenses listed below is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted of a second or subsequent fox offense under this subsection is punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment the court may impose in its discretion. The fox offenses covered by this subsection are unlawfully selling, possessing for sale, or buying a fox; taking a fox by unlawful trapping; or unlawfully taking a fox with the aid of any electronic calling device.

G.S. 113-295 to G.S. 113-300. (Reserved for future codification purposes.)

#### “ARTICLE 22A.

##### “Use of Poisons and Pesticides.

“§ 113-300.1. *Use of poisons and pesticides in general.*—No one may take any wild animal or bird with the use of any poison or pesticide except as provided in this Article. The taking of fish by the use of poison is governed by G.S. 113-261 and G.S. 113-262, and the prohibitions of those sections against the taking of the wildlife by poison apply unless specifically permitted under this Article. Otherwise, the Wildlife Resources Commission may, by regulations consistent with the North Carolina Pesticide Law of 1971 and the Structural Pest Control Act of 1955, regulate, prohibit, or restrict the use of poisons or pesticides upon or severely affecting wildlife resources.

“§ 113-300.2. *Declaring wild animal or bird a pest; concurrence of Wildlife Resources Commission required before poison or pesticide may be used.*—(a) When there is a factual basis for the declaration, any wild animal or bird may be declared a pest by:

- (1) the Commissioner of Agriculture under the Structural Pest Control Act of North Carolina of 1955, as amended, in Article 4C of Chapter 106 of the General Statutes, in accordance with any regulations or restrictions imposed by the Structural Pest Control Committee; or
- (2) the Pesticide Board under the North Carolina Pesticide Law of 1971, as amended, in Article 52 of Chapter 143 of the General Statutes.

(b) When a wild animal or bird is declared a pest, the Commissioner of Agriculture or the Pesticide Board, as the case may be, must notify the Wildlife Resources Commission in writing of the action taken; the areas in which the declaration is effective; the type, amount, and mode of application of any poison

or pesticide proposed for use against the pest; and other information pertinent to the declaration.

(c) Upon receiving notification under subsection (b), the Wildlife Resources Commission may:

- (1) Hold a timely public hearing on the question whether it should concur in the declaration that the wild animal or bird is a pest and should be open to taking with the type or types of poison or pesticide specified or authorized in the notice, in the areas and under the circumstances specified. After holding the public hearing the Wildlife Resources Commission must decide, within 60 days after receiving the notice under subsection (b), whether it concurs or refuses to concur in the declaration that the wild animal or bird is a pest.
- (2) Take no action. In this event, 60 days after the Wildlife Resources Commission receives notice of the declaration under subsection (b), the concurrence of the Wildlife Resources Commission will occur automatically.

(d) Upon the concurrence of the Wildlife Resources Commission in the declaration under subsection (b), the wild animal or bird may be taken with the use of any poison or pesticide specified in the notice in accordance with applicable restrictions in statutes and regulations and in accordance with any special restrictions imposed by the Commissioner of Agriculture, the Structural Pest Control Committee, or the Pesticide Board. If the Wildlife Resources Commission refuses to concur, no poison or pesticide may be used to take the wild animal or bird.

(e) After holding a public hearing on the subject, the Wildlife Resources Commission may rescind its concurrence to a declaration under subsection (b) or grant its concurrence previously withheld.

(f) With the approval of the Structural Pest Control Committee or the Pesticide Board, as the case may be, the Wildlife Resources Commission may grant a qualified concurrence to a declaration, imposing further restrictions as to the use of poison or pesticide in taking the wild animal or bird in question.

“§ 113-300.3. *Penalties for violations of Article; repeated offenses.*—(a) Each day in which poisons or pesticides are used unlawfully in taking wild animals or birds constitutes a separate offense.

(b) Any taking of a wild animal or bird in wilful violation of this Article or in wilful violation of any restrictions imposed by the Commissioner of Agriculture, the Structural Pest Control Committee, the Pesticide Board, or the Wildlife Resources Commission is punishable under G.S. 113-262(a). For the purposes of prosecutions under that subsection, the term ‘poison’ includes pesticides.

(c) Any person taking a wild animal or bird declared a pest with the use of poison or pesticide who neglects to observe applicable restrictions imposed by the Commissioner of Agriculture, the Structural Pest Control Committee, the Pesticide Board, or the Wildlife Resources Commission is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not more than one hundred dollars (\$100.00), imprisonment not to exceed 30 days, or both.

#### “ARTICLE 23.

“Administrative Provisions; Regulatory Authority

of Wildlife Resources Commission.

“§ 113-301. *Filing and publication of regulations.*—(Repealed.)

“§ 113-301.1. *Wildlife Resources Commission obligated to make efforts to notify members of the public who may be affected by operative provisions of statutes and regulations.*—(a) The Wildlife Resources Commission must prepare and distribute to license agents informational materials relating to hunting, fishing, trapping, and boating laws and regulations administered by the Wildlife Resources Commission. The materials furnished an agent should be appropriate to the types of licenses he customarily handles, and in a quantity reasonably anticipated to be sufficient to meet the needs of licensees obtaining licenses from the agent.

(b) In issuing new licenses and permits from the Raleigh office by mail, the Wildlife Resources Commission must generally inform the licensee or permittee of governing provisions of law and regulations applicable to the type of license or permit secured. In issuing renewal licenses and permits by mail, the Wildlife Resources Commission must inform the licensee or permittee of any substantial changes in the law or regulations which may affect the activities of the licensee or permittee.

(c) After adopting regulations which impose new restrictions upon the activities of members of the public who do not normally hold licenses or permits to engage in the activity in question, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions. These steps may include press releases to the media, informing local authorities, and other forms of communication that give promise of reaching the segment of the public affected.

(d) After adopting new restrictions on hunting, fishing, trapping, or boating at a time other than when usual annual changes in the regulations affecting those activities are adopted, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions in a manner designed to reach persons who may be affected.

“§ 113-302. *Prima facie evidence provisions.*—(a) Except as provided below, possession of game or game fish in any hotel, restaurant, cafe, market, or store, or by any produce dealer, constitutes prima facie evidence of possession for the purpose of sale. This subsection does not apply to:

- (1) possession of propagated game birds or hatchery-reared trout that is in accordance with licensing requirements and wrapping or tagging provisions that may apply; or
- (2) game or game fish brought in by patrons in accordance with G.S. 113-276(i).

(b) The flashing or display of any artificial light between a half hour after sunset and a half hour before sunrise in any area which is frequented or inhabited by wild deer by any person who has accessible to him a firearm, crossbow, or other bow and arrow constitutes prima facie evidence of taking deer with the aid of an artificial light. This subsection does not apply to the headlights of any vehicle driven normally along any highway or other public or private roadway.

“§ 113-302.1. *Inspection of licensed or commercial premises, authority to secure inspection warrants.*—(a) Protectors are authorized to enter and make a reasonable inspection at an appropriate time of day of any premises in which a person subject to administrative control under G.S. 113-276.2 conducts his

operations to determine whether any wildlife on the premises is possessed in accordance with applicable laws and regulations, required records are being kept, and other legal requirements are being observed. It is an appropriate time of day for inspection if the establishment is open for business or if a proprietor or employee is on the premises.

(b) In cases not controlled by subsection (a), protectors who believe that wildlife may be on the premises of any public refrigeration storage plant, meat shop, store, produce market, hotel, restaurant, or other public food-storage or eating place may request permission to enter the nonpublic areas of the premises to make a reasonable inspection to determine whether any wildlife on the premises is possessed in accordance with applicable laws and regulations. If the person in charge of the premises refuses the inspection request of a protector, he is authorized to procure and execute an administrative search warrant issued under the terms of Article 4A of Chapter 15 of the General Statutes or under any successor legislation.

(c) In cases controlled by subsection (a), an administrative search warrant may be secured in the protector's discretion or if case law requires it. Nothing in this section is intended to prevent a lawful search of premises, with or without a search warrant under Chapter 15A of the General Statutes, when the circumstances so justify.

"§ 113-303. *Arrest, service of process, and witness fees of protectors.*—(No change.)

"§ 113-304. *Reciprocal agreements by Wildlife Resources Commission.*—(No change.)

"§ 113-305. *Cooperative agreements by Wildlife Resources Commission.*—(No change.)

"§ 113-306. *Administrative authority of Wildlife Resources Commission; disposition of license funds, delegation of powers, injunctive relief.*—(a) (No change.)

(b) (No change.)

(c) (No change.)

(d) (No change.)

(e) Subject to any policy directives adopted by the members of the Wildlife Resources Commission, the executive director in his discretion may institute an action in the name of the Wildlife Resources Commission in the appropriate court for injunctive relief to prevent irreparable injury to wildlife resources or to prevent or regulate any activity within the jurisdiction of the Wildlife Resources Commission which constitutes a public nuisance or presents a threat to public health or safety.

"§ 113-307. *Adoption of federal laws and regulations.*—(No change.)

"§ 113-307.1. *Legislative assent to specific federal acts.*—(a) The consent of the General Assembly of North Carolina is hereby given to the making by the Congress of the United States, or under its authority, of all such rules and regulations as the Federal Government shall determine to be needful in respect to game animals, game and nongame birds, and fish on such lands in the western part of North Carolina as shall have been, or may hereafter be, purchased by the United States under the terms of the act of Congress of March 1, 1911, entitled 'An act to enable any state to cooperate with any other state or states, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the



purposes of conserving the navigability of navigable rivers' (36 Stat. 961), and acts of Congress supplementary thereto and amendatory thereof, and in or on the waters thereon.

Nothing in this subsection shall be construed as conveying the ownership of wildlife from the State of North Carolina or permit the trapping, hunting, or transportation of any game animals, game or nongame birds, or fish by any person, including any agency, department, or instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall have been or may hereafter be purchased by the United States under the terms of any act of Congress, except in accordance with the provisions of this Subchapter and its implementing regulations. Provided, that the provisions of G.S. 113-39 apply with respect to licenses.

Any person, including employees or agents of any department or instrumentality of the United States, violating the provisions of this subsection is guilty of a misdemeanor punishable in the discretion of the court.

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

(c) Assent is hereby given to the provisions of the act of Congress entitled 'An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes', approved August 9, 1950 (Public Law 681, 81st Congress), and the Wildlife Resources Commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in said act of Congress, in compliance with said act and rules and regulations promulgated by the Secretary of the Interior thereunder; and no funds accruing to the State of North Carolina from license fees paid by fishermen shall be directed for any other purpose than the administration of the Wildlife Resources Commission and for the protection, propagation, preservation, and investigation of fish and wildlife.

(d) If as a precondition to receiving funds under any cooperative program there must be a separation of license revenues received from certain classes of licensees and utilization of such revenues for limited purposes, the Wildlife Resources Commission is directed to make such arrangements for separate accounting within the Wildlife Resources Fund, or for separate funding, as may be necessary to insure the use of the revenues for the required purposes and eligibility for the cooperative funds. This subsection applies whether the cooperative program is with a public or private agency and whether the Wildlife Resources Commission acts alone on behalf of the State or in conjunction with some other State agency.

“Articles 23A and 23B. (No change.)

“ARTICLE 24.

“Miscellaneous Transitional Provisions.

“§ 113-316. *General statement of purpose and effect of revisions of Subchapter IV made in 1965 and 1979.*—To clarify the conservation laws of the State and the authority and jurisdiction of the Department of Natural Resources and Community Development and the North Carolina Wildlife Resources Commission: commercial fishing waters are renamed coastal fishing waters and the department is given jurisdiction over and responsibility for the marine and estuarine resources in coastal fishing waters; the laws pertaining to commercial fishing operations and marine fishing and fisheries regulated by the department are consolidated and revised generally and broadened to reflect the jurisdictional change respecting coastal fisheries; laws relating to the conservation of wildlife resources administered by the Wildlife Resources Commission are consolidated and revised; and the enforcement authority of marine fisheries inspectors and wildlife protectors is clarified, including the authority of wildlife protectors over boating and other activities other than conservation within the jurisdiction of the Wildlife Resources Commission.

“§ 113-317. (Repealed.)

G.S. 113-318 to G.S. 113-320. (Repealed by Session Laws 1973, c. 1262, s. 28.)

“§ 113-321. *Retention of boundary line between inland and commercial fishing waters; application of provisions as to commercial fishing waters; regulation of fishing in joint fishing waters.*—(Repealed.)

“§ 113-322. *River designated as commercial fishing water.*—(Repealed.)

G.S. 113-323 to G.S. 113-330. (Reserved for future codification purposes.)

“ARTICLE 25.

G.S. 113-331 to G.S. 113-377. (Reserved for future codification purposes.)

“ARTICLE 26.

G.S. 113-377.1 to G.S. 113-377.7. (Transferred to G.S. 113-252 to G.S. 113-258 by Session Laws 1965, c. 957.)”

**Sec. 2.** The repeal of Article 6 and Subchapters IIA and III and of parts of Subchapter IV of Chapter 113 of the General Statutes and of all special, local, and private acts and ordinances regulating the conservation of wildlife resources is made subject to such temporary retention of local acts and former provisions of Chapter 113 of the General Statutes as may be specified in Subchapter IV. The repeal of acts which themselves repeal former acts is not intended to revive the former acts.

**Sec. 3.** G.S. 160A-188 is rewritten to read as follows:

“§ 160A-188. *Bird sanctuaries.*—A city may by ordinance create and establish a bird sanctuary within the city limits. The ordinance may not protect any birds classed as a pest under Article 22A of Chapter 113 of the General Statutes and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. When a bird sanctuary has been established, it shall be unlawful for any person to hunt, kill, trap, or otherwise take any protected birds within the city limits except pursuant to a permit issued by the North Carolina Wildlife Resources Commission under G.S. 113-274(c)(1a) or under any other license or permit of the Wildlife Resources Commission specifically made valid for use in taking birds within city limits.”

**Sec. 4.** G.S. 66-58(b)(9) is amended to add the following sentence:

“The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.”

**Sec. 5.** G.S. 113-24 is repealed.

**Sec. 6.** G.S. 113-39 is amended to delete the reference to “G.S. 113-113” and to substitute “G.S. 113-307.1(a)”.

**Sec. 7.** The last sentence of G.S. 143-246 is repealed.

**Sec. 8.** As the substance of G.S. 143-254.1 is restated in G.S. 113-307.1(c) under the provisions of this act, G.S. 143-254.1 is repealed.

**Sec. 9.** G.S. 75A-16 is repealed.

**Sec. 10.** G.S. 143-442(h) is rewritten to read as follows:

“(h) A pesticide may be registered by the board for experimental use, including use to control wild animal or bird populations, even though the Wildlife Resources Commission may not have concurred in the declaration of the animal or bird populations as pests under the terms of Article 22A of Chapter 113 of the General Statutes.”

**Sec. 11.** The provisions of Article 10A of Chapter 113 of the General Statutes are transferred to Chapter 14 of the General Statutes as Article 22A of that Chapter, to consist of G.S. 14-159.1 to G.S. 14-159.4. In addition, the following section is added to the Article:

“§ 14-159.5. *Enforcement of Article by peace officers, wildlife protectors authorized to execute process.*—This Article may be enforced by deputy sheriffs and other peace officers with general subject-matter jurisdiction. Law enforcement officers of the North Carolina Wildlife Resources Commission may execute process issued by the court for violations of this Article.”

**Sec. 12.** G.S. 15A-1343(b) is amended to add a new subdivision (16b) to read as follows:

“(16b) Compensate the Department of Natural Resources and Community Development or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged, or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Natural Resources and Community Development or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).”

**Sec. 13.** G.S. 103-2 is amended to add at the end a sentence as follows: “Wildlife protectors are granted authority to enforce the provisions of this section.”

**Sec. 14.** Notwithstanding G.S. 113-133.1(b), Chapter 565 of the Session Laws of 1977 is retained in effect. The following local conservation acts which specify that they must be specifically repealed are so repealed: Chapters 434 and 441 of the Session Laws of 1977. To provide for their retention or repeal in accordance with provisions applying to all other local wildlife acts, the following acts are amended to repeal the cited sections: Section 11, Chapter 258, Session Laws of 1969; and Section 4, Chapter 585, Session Laws of 1977.

**Sec. 15.** Chapter 106 of the General Statutes of North Carolina is amended to add a new Article as follows:

**"ARTICLE 49G.**

**"Production and Sale of Pen-Raised Quail.**

*"§ 106-549.91. Regulation of pen-raised quail by Department of Agriculture, certain authority of North Carolina Wildlife Resources Commission not affected.—(a) The North Carolina Department of Agriculture is given exclusive authority to regulate the production and sale of pen-raised quail for food purposes. The Board of Agriculture shall promulgate rules and regulations for the production and sale of pen-raised quail for food purposes in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling pen-raised quail for food purposes.*

*(b) The North Carolina Wildlife Resources Commission shall retain its authority to regulate the possession and transportation of live pen-raised quail."*

**Sec. 16.** The Michie Company or any successor organization publishing the codification of North Carolina statutes following the adoption of this act is directed to reprint the Articles of Subchapter IV of Chapter 113 of the General Statutes amended by this act in their entirety in the pocket supplement to the volume containing Chapter 113 of the General Statutes.

**Sec. 17.** The provisions of this act generally take effect July 1, 1980. Those provisions that specifically apply to annual licenses which expire on July 31 of each year take effect on August 1, 1980. Persons exercising rights under annual licenses renewable each January 1 on the effective date of this act, however, may continue to utilize those licenses until their expiration subject to the provisions of this act relating to restrictions upon and suspension, revocation, and termination of licenses. The North Carolina Wildlife Resources Commission may administratively provide for the continued use or the orderly replacement, or both, of permanent licenses and permits outstanding upon the effective date of this act. The Wildlife Resources Commission is empowered to promulgate regulations and take administrative actions to implement the provisions of this act as may be necessary prior to the effective dates set out in this section. Immediately upon ratification the commission may expend funds available to it to initiate the studies of fox and fur-bearer populations mandated by G.S. 113-291.4(e). The falconry provisions of this act and G.S. 113-291.1(e1) take effect July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

S. B. 397

**CHAPTER 831**

**AN ACT TO ESTABLISH A NEW ARTICLE IN CHAPTER 14, CRIMINAL LAW, TO CONTROL COMPUTER-RELATED CRIME.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 14 of the General Statutes is amended by adding a new Article to read as follows:

**"Article 60.**



## “Computer-Related Crime.

“§ 14-448. *Definitions.*—As used in this section, unless the context clearly requires otherwise, the following terms have the meanings specified:

- (1) ‘access’ means to approach, instruct, communicate with, cause input, cause output, or otherwise make use of any resources of a computer, computer system or computer network.
- (2) ‘computer’ means an internally programmed, automatic device that performs data processing.
- (3) ‘computer network’ means the interconnection of communication systems with a computer through remote terminals, or a complex consisting of two or more interconnected computers.
- (4) ‘computer program’ means an ordered set of data that are coded instructions or statements that when executed by a computer cause the computer to process data.
- (5) ‘computer software’ means a set of computer programs, procedures and associated documentation concerned with the operation of a computer system.
- (6) ‘computer system’ means a set of related, connected or unconnected computer equipment and devices.
- (7) ‘financial statement’ includes but is not limited to any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card of marketable security, or any electronic data processing representation thereof.
- (8) ‘property’ includes but is not limited to, financial instruments, information, including electronically processed or produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value.
- (9) ‘services’ includes, but is not limited to, computer time, data processing and storage functions.

“§ 14-449. *Accessing computers.*—(a) A person is guilty of a felony if he willfully, directly or indirectly, accesses or causes to be accessed any computer, computer system, computer network, or any part thereof, for the purpose of:

- (1) devising or executing any scheme or artifice to defraud, unless the object of the scheme or artifice is to obtain educational testing material, a false educational testing score, or a false academic or vocational grade, or
- (2) obtaining property or services other than educational testing material, a false educational testing score, or a false academic or vocational grade for himself or another, by means of false or fraudulent pretenses, representations or promises.

(b) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any computer, computer system, computer network, or any part thereof, for any purpose other than those set forth in subsection (a) above, is guilty of a misdemeanor.

“§ 14-450. *Damaging computers and related materials.*—(a) A person is guilty of a felony if he willfully and without authorization alters, damages or destroys a computer, computer system, computer network, or any part thereof.

(b) A person is guilty of a misdemeanor if he willfully and without authorization alters, damages, or destroys any computer software, program or

data residing or existing internal or external to a computer, computer system or computer network.

“§ 14-451. *Denial of computer services to an authorized user.*—Any person who willfully and without authorization denies or causes the denial of computer system services to an authorized user of such computer system services, is guilty of a misdemeanor.

“§ 14-452. *Extortion.*—Any person who verbally or by a written or printed communication, maliciously threatens to commit an act described in G.S. 14-450 with the intent to extort money or any pecuniary advantage, or with the intent to compel any person to do or refrain from doing any act against his will, is guilty of a felony.”

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## S. B. 479

## CHAPTER 832

AN ACT TO RAISE THE MINIMUM AMOUNTS OF FINANCIAL RESPONSIBILITY FOR AUTOMOBILE LIABILITY INSURANCE THAT ARE REQUIRED UNDER THE MOTOR VEHICLE SAFETY AND FINANCIAL RESPONSIBILITY ACT OF 1953.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-279.1(11) is amended as follows:

(a) in line 4, by substituting the word, “twenty-five” for the word, “fifteen”;

(b) in line 5, by substituting the amount, “(\$25,000)” for the amount, “(15,000)”;

(c) by rewriting line 7 to read: “in the amount of fifty thousand dollars (\$50,000) because of bodily”; and

(d) by rewriting line 9 to read: “the amount of ten thousand dollars (\$10,000) because of injury to or”.

**Sec. 2.** G.S. 20-279.5 is amended in the final paragraph as follows:

(a) by rewriting line 19 to read: “of not less than twenty-five thousand dollars (\$25,000) because of bodily injury to”; and

(b) by rewriting line 21 to read: “person, to a limit of not less than fifty thousand dollars (\$50,000) because of”; and

(c) by rewriting line 24 to read: “less than ten thousand dollars (\$10,000) because of injury to or destruction of”.

**Sec. 3.** G.S. 20-279.15(1) is amended by rewriting line 1 to read: “(1) When twenty-five thousand dollars (\$25,000) has been credited upon any”.

**Sec. 4.** G.S. 20-279.15(2) is amended as follows:

(a) by rewriting line 1 to read: “(2) When, subject to such limit of twenty-five thousand dollars (\$25,000) because”; and

(b) in line 2 by substituting the word, “fifty” for the word, “thirty”; and

(c) in line 3, by substituting the amount, “(\$50,000)” for the amount, “(\$30,000)”.

**Sec. 5.** G.S. 20-279.15(3) is amended by rewriting the first line to read: “(3) When ten thousand dollars (\$10,000) has been credited upon any”.

**Sec. 6.** G.S. 20-279.21(b)(2) is amended as follows:

(a) in line 8, by substituting the word, "twenty-five" for the word, "fifteen";

(b) in line 9, by substituting the amount, "\$25,000" for the amount "\$15,000"; and

(c) by rewriting line 11 to read: "fifty thousand dollars (\$50,000) because of bodily injury to or death"; and

(d) in line 12, by substituting the word "ten" for the word, "five"; and

(e) in line 13, by substituting the amount, "\$10,000" for the amount, "\$5,000".

**Sec. 7.** G.S. 20-279.21(b)(3) is amended as follows:

(a) by rewriting line 13 to read: "twenty-five thousand dollars (\$25,000) because of bodily injury to or death"; and

(b) by rewriting line 15 to read: "person, fifty thousand dollars (\$50,000) because of bodily injury to or"; and

(c) by rewriting line 23 to read: "accident of ten thousand dollars (\$10,000) and subject, for each insured,".

**Sec. 8.** G.S. 20-279.25(a) is amended by rewriting the first sentence to read:

"(a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him sixty thousand dollars (\$60,000) in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of sixty thousand dollars (\$60,000)."

**Sec. 9.** G.S. 20-280(b) is amended as follows:

(a) in line 10, by substituting the word, "twenty-five" for the word, "fifteen";

(b) in line 11, by substituting the amount, "\$25,000" for the amount, "\$15,000"; and

(c) by rewriting line 12 to read: "and, subject to said limit for one person, fifty thousand dollars (\$50,000); and

(d) by rewriting line 14 to read: "and ten thousand dollars (\$10,000) because of injury to or destruction of property".

**Sec. 10.** G.S. 20-280(c) is amended as follows:

(a) by rewriting line 10 to read: "shall be as follows: twenty thousand dollars (\$20,000) because of bodily injury to"; and

(b) by rewriting line 12 to read: "person, forty thousand dollars (\$40,000) because of bodily injury to or death"; and

(c) by rewriting line 13 to read: "of two or more persons in any one accident, and ten thousand dollars (\$10,000)".

**Sec. 11.** G.S. 20-281 is amended as follows:

(a) by rewriting line 13 to read: "subject to the following minimum limits: twenty-five thousand dollars (\$25,000);

(b) in line 14 by substituting the word, "fifty" for the word, "thirty"; and

(c) in line 15 by substituting the amount, "\$50,000" for the amount, "\$30,000"; and

(d) by rewriting line 16 to read: "persons in any one accident, and ten thousand dollars (\$10,000) because of injury".

**Sec. 12.** This act will not affect any policy in effect on the effective date of this act nor will this act affect pending litigation.

**Sec. 13.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

S. B. 617

## CHAPTER 833

### AN ACT TO GUARANTEE FAIR PRACTICES IN HEALTH SPAS, DANCE STUDIOS, AND SIMILAR BUSINESSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 66 of the General Statutes is amended by adding a new Article, to be entitled "Prepaid Entertainment Contracts," to read as follows:

"§ 66-111. *Definition.*—For purposes of this Article, a 'prepaid entertainment contract' is any contract in which:

(a) the buyer of a service pays for or is obligated to pay for service prior to the buyer's receipt of or enjoyment of any or all of the service; and

(b) the seller is other than a licensed nonprofit school, college, or university; the State or any subdivision thereof; or a nonprofit religious, ethnic, or community organization; and

(c) the services to be performed are related to any one of the following:

(1) dance lessons or facilities, or any related services or events;

(2) matching, dating, or social club services or facilities, including any service represented as providing names of, introductions to, or opportunity to meet members of the opposite sex;

(3) martial arts training;

(4) health or athletic club services or facilities.

"§ 66-112. *Contract requirements.*—Every prepaid entertainment contract shall:

(a) be in writing, fully completed, dated and signed by all contracting parties. A copy of the contract shall be given to the buyer at the time he signs the contract;

(b) have a duration of service that is a precisely measured period of years or any definite part of a year;

(c) contain a full statement of the buyer's rights under G.S. 66-113;

(d) contain, in immediate proximity to the space reserved for the signature of the buyer, in bold face type of a minimum size of 10 points, a statement of the buyer's rights under G.S. 66-114, in substantially the following form:

'You the buyer, 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 seller in writing not later than midnight of (Date).'

"§ 66-113. *Buyer's rights.*—Every seller of a prepaid entertainment contract must:

(a) deliver to the buyer all information of a personal or private nature, including but not limited to answers to tests or questionnaires, photographs, evaluations, and background information, within 30 days after request therefor;

(b) refund to the buyer at least ninety percent (90%) of the pro rata cost of any unused services, within 30 days after request therefor, if:

(1) the buyer is unable to receive benefits from the seller's services by reason of death or disability; or

(2) the buyer relocates more than eight miles from his present location, and more than 30 miles from the seller's facility and any substantially



similar facility that will accept the seller's obligation under the contract and this Article; or

(3) the seller relocates his facility more than eight miles from its present location, or the services provided by the seller are materially impaired.

(c) Refund to the buyer the pro rata cost of any unused services under all contracts between the parties, within 30 days after request therefor, if the aggregate price of all contracts in force between the parties exceeds one thousand five hundred dollars (\$1,500). Provided, if the contract so provides, the seller may retain a cancellation fee of not more than 25 percent (25%) of the pro rata cost of unused services on all contracts, not to exceed five hundred dollars (\$500.00).

"§ 66-114. *Buyer's right to cancel.*—(a) In addition to any right otherwise to revoke an offer or cancel a sale or contract, the buyer has the right to cancel a prepaid entertainment contract sale until midnight of the third business day after the buyer signs a contract which complies with G.S. 66-112(d).

(b) Cancellation occurs when the buyer gives written notice of cancellation to the seller 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 and postage prepaid.

(d) Notice of cancellation need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the buyer 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 seller's facility is not open to the buyer.

"§ 66-115. *Rights and responsibilities after cancellation.*—Within 30 days after a prepaid entertainment contract has been cancelled in accordance with G.S. 66-114, the seller must tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness.

"§ 66-116. *Prohibited practices.*—(a) No person shall sell any prepaid entertainment contract or contracts which, when taken together with all other contracts in force between the parties have an aggregate duration of service in excess of three years.

(b) No person shall sell any prepaid entertainment contract unless performance of that contract is to begin within 180 days.

"§ 66-117. *Services not available until future date.*—If, for any reason, services under a prepaid entertainment contract are not available to the buyer on the date of sale, then:

(a) The seller must establish a surety bond issued by a surety company authorized to do business in this State, or establish a trust account with a licensed and insured bank or savings institution located in this State. The amount of the bond or trust account shall equal all consideration received from the buyer. The bond or trust account must remain in force until 60 days after all services of the seller are available to the buyer. The bond or trust account shall be in favor of the State of North Carolina. Any person who is damaged by any violation of this Article, or by the seller's breach of the contract for sale or any obligation arising therefrom may bring an action against the bond or trust account to recover damages suffered; provided, however, that the aggregate liability of the surety or trustee shall be only for actual damages and in no event shall exceed the amount of the bond or trust account.

(b) The buyer's right to cancel the contract pursuant to G.S. 66-114 shall be extended until midnight of the third business day after the date upon which the services become available and the buyer is so notified. However, the buyer may waive the extension of his right to cancel by initialing a written contract provision to that effect, if in consideration for such waiver he has been allowed to buy the seller's services at a price at least twenty-five percent (25%) below the lowest price the seller will charge for similar services when the facility is available.

"§ 66-118. *Remedies.*—(a) Any buyer injured by any violation of this Article may bring an action for recovery of damages, including reasonable attorney's fees.

(b) The remedies herein shall be in addition to any other remedies provided for by law or in equity, but the damages assessed shall not exceed the largest amount of damages available by any single remedy.

(c) The violation of any provisions of this Article shall constitute an unfair practice under G.S. 75-1.1."

**Sec. 2.** This act shall become effective September 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## S. B. 694

## CHAPTER 834

### AN ACT TO REVISE ARTICLE 2 OF CHAPTER 87 OF THE GENERAL STATUTES RELATING TO PLUMBING AND HEATING CONTRACTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 87-16 is rewritten to read:

"§ 87-16. *Board of Examiners, appointment; term of office.*—There is created the State Board of Examiners of Plumbing and Heating Contractors consisting of seven members appointed by the Governor: one member from a school of engineering of The Greater University of North Carolina, one member who is a plumbing inspector from a city in North Carolina, one licensed air conditioning contractor, one licensed plumbing contractor, one licensed heating contractor, and two persons who have no ties with the construction industry to represent the interests of the public at large. Members serve for terms of seven years, with the term of one member expiring each year. No member appointed after the date of ratification of this act shall serve more than one complete consecutive term. Vacancies occurring during a term are filled by appointment of the Governor for the remainder of the unexpired term."

**Sec. 2.** G.S. 87-17 is amended by deleting from line 3 the phrase "a citizen of the United States and".

**Sec. 3.** G.S. 87-17 is further amended by deleting the words "provided by G.S. 138-5" from the 5th and 6th lines and inserting a new sentence at the end of the section as follows: "Payment of compensation and reimbursement of expenses of Board members shall be governed by G.S. 93B-5."

**Sec. 4.** G.S. 87-21(a)(3) is rewritten to read: "The phrase 'heating, group number two' means an air conditioning system which consists of an assemblage of interacting components producing conditioned air for comfort cooling by the lowering of temperature, and having a mechanical refrigeration capacity in excess of fifteen tons, and which circulates air."

**Sec. 5.** Subsection (a) of G.S. 87-21 is amended by inserting a new subdivision to read:

“(9) The word ‘Board’ means the State Board of Examiners of Plumbing and Heating Contractors.”

**Sec. 6.** Subsection (b) of G.S. 87-21 is amended by deleting the first 10 lines of the subsection and the word “examination” on line 11 and by substituting the following:

“(b) Classes of licenses; eligibility and examination of applicant; necessity for license. In order to protect the public health, comfort and safety, the board shall establish two classes of licenses: Class I covering all structures and systems to which this Article applies, and Class II covering plumbing and heating systems in single-family detached residential dwellings. The board shall prescribe the standard of competence and efficiency to be required of an applicant for license of each class, and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating cost, fundamentals of installation and design, fire hazards and related subjects as these subjects pertain to either plumbing or heating; and as a result of the examination, the board shall issue a certificate of license of the appropriate class in plumbing or heating.”

Subsection (b) of G.S. 87-21 is further amended by inserting immediately before the last sentence of the subsection the following new sentences:

“Upon satisfactory proof of the applicant’s inability to write and upon demand of an applicant for a Class II plumbing or heating license six weeks prior to an examination, the board shall conduct the examination of that applicant orally, and shall not require that applicant to take a written examination as to examination inquiries answered other than by preparation of diagrams. Signed statements from two reliable citizens resident in the home county of the applicant shall constitute satisfactory proof of an applicant’s inability to write.”

**Sec. 7.** G.S. 87-21(d) is deleted and G.S. 87-21(e) is renumbered as G.S. 87-21(d).

**Sec. 8.** G.S. 87-22 is amended by deleting the remainder of the sentence after the words “annual fee” in the 16th line and inserting in lieu thereof the following: “and provided further that the Board requires reexamination upon failure of a licensee to renew license within three years after expiration. The Board may adopt regulations requiring attendance at programs of continuing education as a condition of license renewal.”

**Sec. 9.** G.S. 87-23 is amended by designating the existing section as subsection (a) and by inserting the following new subsections (b) and (c):

“(b) The Board shall adopt and publish guidelines, consistent with the provisions of this Chapter, governing the suspension and revocation of licenses.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee.”

**Sec. 10.** G.S. 87-27 is amended by inserting after the word “employees,” in the 4th line the phrase “the costs of continuing educational programs for licensees and applicants,”.

**Sec. 11.** Article 2 of Chapter 87 of the General Statutes is amended by adding the following new sections:

“§ 87-25.1. *Board may seek injunctive relief.*—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 of whether or not criminal prosecution has been instituted or administrative sanctions imposed by reason 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.

“§ 87-27.1. *Public awareness program.*—The Board shall establish and implement a public awareness program to inform the general public of the purpose and function of the Board.”

**Sec. 12.** Schedule. Members serving on the Board on July 1, 1979, shall continue to serve for the remainder of the terms for which they were appointed. When the term of the member from the Commission for Health Services and the term of the member from the School of Public Health of The University of North Carolina expire, the Governor shall appoint a public member as their respective successors.

**Sec. 13.** G.S. 143-34.11 is amended by deleting line 7 which reads as follows:

“Chapter 87, Article 2, entitled ‘Plumbing and Heating Contractors’.”

**Sec. 14.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

S. B. 774

## CHAPTER 835

### AN ACT RELATING TO THE REGULATION OF COLLECTION AGENCIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 9 of Chapter 66 of the General Statutes is rewritten to read as follows:

#### “ARTICLE 9.

#### “Collection Agencies.

#### “Part I.

#### “Permit Procedures.

“§ 66-41. *Permit from Commissioner of Insurance, misdemeanor to do business without permit, penalty for violation, exception.*—No person, firm, corporation, or association shall conduct or operate a collection agency or do a collection agency business, as the same is hereinafter defined in this Article, until he or it shall have secured a permit therefor as provided in this Article. Any person, firm, corporation or association conducting or operating a collection agency or doing a collection agency business without the permit shall be guilty of a misdemeanor. Any officer or agent of any person, firm, corporation or association, who shall personally and knowingly participate in any violation of this Part shall likewise be guilty of a misdemeanor. Provided, however, that nothing in this section shall be construed to require a regular employee of a duly licensed collection agency in this State to procure a collection agency permit.

“§ 66-41.1. *Application to Commissioner for permit.*—Any person, firm, corporation or association desiring to secure a permit as provided by G.S. 66-41,



shall make application to the Commissioner of Insurance for each location at which such person, firm, corporation or association desires to carry on the collection agency business as hereinafter defined. Such applicant shall be entitled to a permit upon submission to the Commissioner of Insurance of the following:

(a) The name, trade name if any, street address, and telephone number of the applicant, including any home office address and telephone number, if different;

(b) If the applicant is a corporation,

(1) a certified copy of the board of director's resolution authorizing the submission of the application;

(2) an authenticated copy of the Articles of Incorporation and all amendments thereto;

(3) an authenticated copy of the bylaws or other governing instruments;

(4) if the applicant is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the North Carolina Secretary of State;

(c) If the applicant is a partnership, an authenticated copy of the then current partnership agreement;

(d) If the trade name is used, certificates showing that the trade name has been filed as required by G.S. 66-68;

(e) A surety bond as required by G.S. 66-41.4;

(f) A completed statement by each stockholder owning ten percent (10%) or more of the applicant's outstanding voting stock and each partner, director, officer, office manager, sales representative or other collector actively engaged in the collection agency business, containing the name of the collection agency, the name and address of the individual completing the form, the positions held by such individual, the name and address of three people not related to the individual who can attest to the individual's reputation for honesty and fair dealings;

(g) a statement sworn to by an appropriate corporate officer, partner, or individual proprietor giving a description of the collection method to be employed in North Carolina;

(h) a statement certifying that there are no unsatisfied judgments against the applicant;

(i) a list of all telephone numbers assigned to, or to be used by the applicant in the operation of the collection agency;

(j) the appropriate permit fee as required by G.S. 66-41.7;

(k) a balance sheet as of the last day of the month prior to the date of submission of the application, certified true and correct by a corporate officer, partner, or proprietor, setting forth the current assets, fixed assets, current liabilities and positive net worth of the applicant;

(l) the address of the location at which the applicant will make those records of its collection agency business described in G.S. 66-41.5 available for inspection by the Commissioner of Insurance.

“§ 66-41.2. *Application to Commissioner for permit renewal.*—Any person, firm, corporation or association desiring to renew a permit issued pursuant to G.S. 66-41.1 shall make application to the Commissioner of Insurance not less than 30 days prior to the expiration date of the then current permit. Such renewal applicant shall be entitled to a renewal permit upon submission to the Commissioner of Insurance of all the information as required by G.S. 66-41.1;

provided, however, it shall be sufficient, wherever applicable, to reference the prior year's application if there has been no change as to any of the required information and it shall not be necessary to submit with a renewal application a new director's resolution. In addition, the applicant shall submit to the Commissioner a copy of a 'continuation certificate' or paid receipt for renewal premiums for the collection agency bond for the year for which the renewal permit is applied. The application shall include a calculation in accordance with G.S. 66-41.4, and if the bond is increased, an endorsement by the surety. With a renewal application, the applicant shall submit a balance sheet for the last fiscal year ending prior to the application, certified true and correct by a corporate officer, partner, or proprietor, setting forth the current assets, fixed assets, current liabilities and positive net worth of the applicant.

"§ 66-41.3. *Definition of collection agency and collection agency business.*— 'Collection agency' means and includes all persons, firms, corporations, and associations directly or indirectly engaged in soliciting, from more than one person, firm, corporation or association, delinquent claims of any kind owed or due or asserted to be owed or due the solicited person, firm, corporation or association, and all persons, firms, corporations and associations directly or indirectly engaged in the asserting, enforcing or prosecuting of those claims.

'Collection agency' shall include:

(1) any person, firm, corporation or association who shall procure a listing of delinquent debtors from any creditor and who shall sell such listing or otherwise receive any fee or benefit from collections made on such listing; and

(2) any person, firm, corporation or association which attempts to or does transfer or sell to any person, firm, corporation or association not holding the permit prescribed by this Article any system or series of letters or forms for use in the collection of delinquent accounts or claims which by direct assertion or by implication indicate that the claim or account is being asserted or collected by any person, firm, corporation, or association other than the creditor or owner of the claim or demand; provided that no bond shall be required of any such collection agency if it does not collect any money from the debtor nor hold itself out as being authorized to receive payment of all or any part of such debt.

'Collection agency' does not mean or include:

(1) regular employees of a single creditor;

(2) banks, trust companies, or bank-owned, controlled or related firms, corporations or associations engaged in accounting, bookkeeping or data processing services where a primary component of such services is the rendering of statements of accounts and bookkeeping services for creditors;

(3) mortgage banking companies;

(4) savings and loan associations;

(5) building and loan associations;

(6) duly licensed real estate brokers and agents when the claims or accounts being handled by the broker or agent are related to or are in connection with the broker's or agent's regular real estate business;

(7) express, telephone and telegraph companies subject to public regulation and supervision;

(8) attorney-at-law handling claims and collections in their own name and not operating a collection agency under the management of a layman;

(9) any person, firm, corporation or association handling claims, accounts or collections under an order or orders of any court; or

(10) a person, firm, corporation or association which, for valuable consideration purchases accounts, claims, or demands of another, which such accounts, claims, or demands of another are not delinquent at the time of such purchase, and then, in its own name, proceeds to assert or collect the accounts, claims or demands;

(11) 'collection agency' shall not include any person, firm, corporation or association attempting to collect or collecting claims of a business or businesses owned wholly or substantially by the same person or persons operating such collection agency.

"§ 66-41.4. *Bond requirement.*—As a condition precedent to the issuance of any permit under G.S. 66-41, any applicant for such permit shall file with the Commissioner of Insurance and shall thereafter maintain in force while licensed a bond in favor of the State of North Carolina and executed by a surety company duly authorized to transact business in this State. The bond shall be continuous in form and shall remain in full force and effect until all monies collected have been accounted for, and it shall be expressly stated in the bond that it is for the benefit of any person, firm or corporation for whom such collection agency engages in the collection of accounts. Such bond shall be in the amount of five thousand dollars (\$5,000) for the initial permit. The amount of such bond for any renewal permit shall be no less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000), and shall be computed as follows: The total collections paid directly to the collection agency less commissions earned by the collection agency on those collections for the calendar year ending immediately prior to the date of application, multiplied by one-sixth.

"§ 66-41.5. *Record of business in State.*—(a) Each person, firm, or corporation licensed as a collection agency in North Carolina shall keep within this State a full and correct record of all business done in this State as set forth below. All such records pertaining to collection activity, concerning debtor records and client accounting records, but not general operating records, shall be open to inspection by the Commissioner of Insurance or his duly authorized deputy upon demand. Each licensed collection agency engaged in the collection of debts shall maintain an office in this State.

(b) Every permit holder shall maintain adequate records which shall contain the items listed below. These records must be kept separate from records of any other business and must be maintained for not less than three years after the final entry has been made:

- (1) a daily collection record or cash receipt journal in which all collections are recorded and allocated as to total collections, setting forth:
  - a. the amount credited to principal and to interest, if any;
  - b. the amount due creditors or forwarders.
- (2) the amount retained as commission or commission paid to forwarders;
- (3) payments made directly to creditors as reported to the collection agency by those creditors and commissions due the collection agency on those payments;
- (4) a record of each debtor's account shall be maintained consisting of the following:
  - a. the name and address of the debtor;
  - b. the name of the creditor or forwarder or forwarder if the account has been forwarded;

- c. the principal amount owing and, if available, the date of the last credit or debit;
  - d. the amount and date of each payment made by the debtor; and
  - e. the date and time of each telephone or personal contact with the debtor.
- (5) A master alphabetical record by name and address of every creditor or forwarder with whom the permit holder engages in the business of collecting accounts.
  - (6) A check register or carbon copies of each check issued or numerically numbered check stubs corresponding with all checks issued on the trust account for funds collected on behalf of creditors. Cancelled checks, together with voided or unused checks (adequately explained) drawn on the trust account shall be maintained in numerical order with the monthly bank statements.
  - (7) A record by client or client number showing the number of accounts received from the client, the date received and the principal amount of the accounts.
  - (8) A duplicate copy of each remittance statement furnished a creditor or forwarder, or other listing of the information contained on the statement.

“§ 66-41.6. *Hearing granted applicant if application denied; appeal.*—If, upon application, the Commissioner shall find that a permit should not be issued to the applicant, he shall decline the same, giving notice of his action to the applicant. Following notice the applicant shall have 10 days within which to submit additional information in support of his application and if, upon further hearing upon the application and additional information the Commissioner shall again decline to issue the permit, the applicant shall have the right to appeal to the superior court and his appeal shall stand for hearing in the Superior Court of the County of Wake, and the evidence, data and information submitted to the Commissioner shall constitute the record in the superior court to determine whether or not the Commissioner had evidence sufficient to justify his action. If the Commissioner shall decline an application for renewal, the applicant may continue to do business pending any appeal taken pursuant hereto.

“§ 66-41.7. *Application fee; issuance of permit; contents and duration.*—Upon the filing of the application and information hereinbefore required, the Commissioner may require the applicant to pay a fee of two hundred fifty dollars (\$250.00), and no permit may be issued until this fee is paid. If the application is denied, the Commissioner shall retain fifty dollars (\$50.00) of the application fee and return the remainder to the applicant. The fifty dollars (\$50.00) so retained upon applications not granted, and the full fee of two hundred fifty dollars (\$250.00) upon the applications granted, shall be used in paying the expenses incurred in connection with the consideration of such applications and the issuance of such permits.

Each permit shall state the name of the applicant, his place of business, and the nature and kind of business in which he is engaged. The Commissioner shall assign to the permit a serial number for each year, and each permit shall be for a period of one year, beginning with July 1 and ending with June 30 of the following year.



“§ 66-41.8. *Revocation of permit.*—If the Commissioner shall have issued any permit to any person, firm or corporation as herein provided, and shall have information that the holder of the permit is conducting business in violation of Part I, II, or III of this Article, or has obtained said permit through materially false and misleading statements in its application, he shall notify the holder of the permit of a date for a hearing, which notice shall name a time and place for the hearing, and at which hearing any and all evidence as to the conduct of the business may be heard by the Commissioner. If, upon the hearing of the evidence, the Commissioner shall be of the opinion that the applicant is conducting business in violation of Part I, II, or III of this Article, the Commissioner shall then require the holder to show cause why said permit should not be cancelled. Upon a determination that the permit should be cancelled, the Commissioner shall cancel said permit; provided, however, pending any appeal permitted hereby, the permit holder may continue to do business. If the permit be cancelled upon hearing, either the holder of the permit or the complaining party shall have the right to appeal as hereinbefore provided in the case where an application is denied, and the record of the hearing before the Commissioner shall be the record in the superior court upon which the judge shall determine whether or not the Commissioner had sufficient evidence upon which to base his action.

“§ 66-41.9. *Disposition of permit fees.*—All permit fees collected hereunder shall be credited to the account of the Commissioner for the specific purpose of providing the personnel, equipment and supplies necessary to enforce this Article, but the State Budget Officer shall have the right to budget the revenues received in accordance with the requirements of the Commissioner for the purposes herein required, and at the end of the fiscal year, if any sum whatever shall remain to the credit of the Commissioner, derived from the sources herein referred to, the same shall revert to the general treasury of the State to be appropriated as other funds.

“§ 66-41.10. *All collection agencies to identify themselves in correspondence.*—All collection agencies licensed under this Part to do the business of a collection agency in this State, shall in all correspondence with debtors use stationery or forms which contain the permit number and the true name and address of such collection agency.

The permit to engage in the business of a collection agency shall at all times be prominently displayed in each office of the person, firm, corporation or association to whom or to which the permit is issued.

#### “Part II.

#### “Operating Procedures.

“§ 66-42. *Office hours.*—If an office of a duly licensed collection agency does not maintain normally accepted business hours, the hours the office is open shall be posted so as to be prominently displayed to the public at all times. If at any time it is anticipated that the permit holder's office will be closed to the public for a period exceeding seven days, the Department of Insurance shall be notified thereof in writing.

“§ 66-42.1. *Statements to be furnished each collection creditor.*—(a) Acknowledgement of accounts. When any account is received for collection, the permit holder shall upon request furnish the collection creditor or forwarder with a written listing or acknowledgement of the accounts received.

(b) Remittance statements. Each permit holder shall remit all monies due to any collection creditor or forwarder within 30 days after the end of the collection month during which the collection was effected. The remittance shall be accompanied by a statement setting forth:

- (1) the date of remittance;
- (2) the debtor's name;
- (3) the date or month of collection and amount collected from each debtor; and
- (4) a breakdown showing money collected from each debtor and the amount due the creditor or forwarder.

“§ 66-42.2. *Remittance trust account.*—Each permit holder shall deposit, no later than two banking days from receipt, in a separate trust fund account in a local or approved bank sufficient funds to pay all monies due or owing all collection creditors or forwarders. Said funds shall not be commingled with any other operating funds. The trust account shall be used only for the purpose of remitting to collection creditors or forwarders the proceeds to which they are entitled and remitting to the collection agency the commission that is due the collection agency.

“§ 66-42.3. *Receipt requirement.*—Whenever a payment is received in cash from a debtor, forwarder, or other person, an original receipt or an exact copy thereof shall be furnished the individual from whom payment is received. Evidence of all receipts issued shall be kept in the permit holder's office for three years. All receipts issued must:

- (a) be prenumbered by the printer and used and filed in consecutive numerical order;
- (b) show the name, street address and permit number of the permit holder;
- (c) show the name of the creditor or creditors for whom collected;
- (d) show the amount and date paid; and
- (e) show the last name of the person accepting payment.

“§ 66-42.4. *Creditor may request return of accounts.*—The written request of a creditor or forwarder for the return of any account which is not in the actual process of collection shall be complied with by the permit holder in writing within a reasonable length of time, but in any event not to exceed 60 days. All valuable papers furnished by the creditor or forwarder in connection with the account shall be returned.

“§ 66-42.5. *Return of accounts and all valuable papers upon termination of permit.*—Whenever the permit of a collection agency is revoked, cancelled, or terminated for any reason, all accounts and valuable papers placed with the agency for collection shall be returned to the person placing the account for collection within five days of the termination of said permit unless, upon written application, an extension of time is granted by the Department of Insurance. All agreements between the collection agency and creditor or forwarder are automatically cancelled as of the date on which said permit is revoked, cancelled or terminated. If any of the accounts placed for collection are in the hands of others at the time of the permit termination, they shall immediately be notified by the collection agency to thereafter correspond, remit and be solely responsible to the creditor placing the accounts with the agency for collection unless the creditor has authorized a successor or other permit holder to continue to collect the accounts. In the case of dissolution of the collection agency, all accounts shall be returned within a reasonable period of

time, but in any event not to exceed 60 days. Valuable papers shall include, but not be limited to, notes payable, creditor account cards and any other items placed within the collection agency by the creditor.

“§ 66-42.6. *Application of funds where there is a debtor-creditor relationship.*—If a creditor has listed accounts with a permit holder for collection and also has had accounts on which he is debtor listed with the permit holder by any other creditors, collections effected in his behalf as a creditor may not be applied on accounts that he owes unless the permit holder has a written authorization on file as to how the monies collected are to be applied.

#### “Part III.

#### “Prohibited Practices by Collection Agencies Engaged

in the Collection of Debts from Consumers.

“§ 66-43. *Definitions.*—As used in this Part, the following terms have the meanings specified:

(1) ‘Consumer’ means an individual, aggregation of individuals, corporation, company, association, or partnership that has incurred a debt or alleged debt.

(2) ‘Debt’ means any obligation owed or due or alleged to be owed or due from a consumer.

(3) ‘Collection agency’ means a collection agency as defined in G.S. 66-41.3 which engages, directly or indirectly, in debt collection from a consumer.

“§ 66-43.1. *Threats and coercion.*—No collection agency shall collect or attempt to collect any debt alleged to be due and owing from a consumer by means of any unfair threat, coercion, or attempt to coerce. Such unfair acts include, but are not limited to, the following:

(1) using or threatening to use violence or any illegal means to cause harm to the person, reputation or property of any person;

(2) falsely accusing or threatening to accuse any person of fraud or any crime, or of any conduct that would tend to cause disgrace, contempt or ridicule;

(3) making or threatening to make false accusations to another person, including any credit reporting agency, that a consumer has not paid, or has willfully refused to pay a just debt;

(4) threatening to sell or assign, or to refer to another for collection, the debt of the consumer with an attending representation that the result of such sale, assignment or reference would be that the consumer would lose any defense to the debt or would be subject to harsh, vindictive, or abusive collection attempts;

(5) representing that nonpayment of an alleged debt may result in the arrest of any person;

(6) representing that nonpayment of an alleged debt may result in the seizure, garnishment, attachment, or sale of any property or wages unless such action is in fact contemplated by the debt collector and permitted by law;

(7) threatening to take any action not in fact taken in the usual course of business, unless it can be shown that such threatened action was actually intended to be taken in the particular case in which the threat was made;

(8) threatening to take any action not permitted by law.

“§ 66-43.2. *Harassment.*—No collection agency shall use any conduct, the natural consequence of which is to oppress, harass, or abuse any person in connection with the attempt to collect any debt. Such conduct includes, but is not limited to, the following:

(1) using profane or obscene language, or language that would ordinarily abuse the typical hearer or reader;

(2) placing collect telephone calls or sending collect telegrams unless the caller fully identifies himself and the company he represents;

(3) causing a telephone to ring or engaging any person in telephone conversation with such frequency as to be unreasonable or to constitute a harassment to the person under the circumstances or at times known to be times other than normal waking hours of the person;

(4) placing telephone calls or attempting to communicate with any person, contrary to his instructions, at his place of employment, unless the collection agency does not have a telephone number where the consumer can be reached during the consumer's nonworking hours.

“§ 66-43.3. *Unreasonable publication.*—No collection agency shall unreasonably publicize information regarding a consumer's debt. Such unreasonable publication includes, but is not limited to, the following:

(1) Any communication with any person other than the debtor or his attorney, except:

a. with the permission of the debtor or his attorney;

b. to persons employed by the collection agency, to a credit reporting agency, to a person or business employed to collect the debt on behalf of the creditor, or to a person who makes a legitimate request for the information;

c. to the spouse (or one who stands in place of the spouse) of the debtor, or to the parent or guardian of the debtor if the debtor is a minor;

d. for the sole purpose of locating the debtor, if no indication of indebtedness is made;

e. through legal process.

(2) Using any form of communication which ordinarily would be seen or heard by any person other than the consumer that displays or conveys any information about the alleged debt other than the name, address and phone number of the collection agency except as otherwise provided in this Part.

(3) Disclosing any information relating to a consumer's debt by publishing or posting any list of consumers, except for credit reporting purposes.

“§ 66-43.4. *Deceptive representation.*—No collection agency shall collect or attempt to collect a debt or obtain information concerning a consumer by any fraudulent, deceptive or misleading representation. Such representations include, but are not limited to, the following:

(1) communicating with the consumer other than in the name of the person making the communication, the collection agency and the person or business on whose behalf the collection agency is acting or to whom the debt is owed;

(2) failing to disclose in all communications attempting to collect a debt that the purpose of such communication is to collect a debt;

(3) falsely representing that the collection agency has in its possession information or something of value for the consumer;

(4) falsely representing the character, extent, or amount of a debt against a consumer or of its status in any legal proceeding; falsely representing that the collection agency is in any way connected with any agency of the federal, State or local government; or falsely representing the creditor's rights or intentions;

(5) using or distributing or selling any written communication which simulates or is falsely represented to be a document authorized, issued, or



approved by a court, an official, or any other legally constituted or authorized authority, or which creates a false impression about its source;

(6) falsely representing that an existing obligation of the consumer may be increased by the addition of attorney's fees, investigation fees, service fees, or any other fees or charges;

(7) falsely representing the status or true nature of the services rendered by the collection agency or its business.

"§ 66-43.5. *Unconscionable means*.—No collection agency shall collect or attempt to collect any debt by use of any unconscionable means. Such means include, but are not limited to, the following:

(1) seeking or obtaining any written statement or acknowledgement in any form containing an affirmation of any debt by a consumer who has been declared bankrupt, an acknowledgement of any debt barred by the statute of limitations, or a waiver of any legal rights of the debtor without disclosing the nature and consequences of such affirmation or waiver and the fact that the consumer is not legally obligated to make such affirmation or waiver;

(2) collecting or attempting to collect from the consumer all or any part of the collection agency's fee or charge for services rendered, collecting or attempting to collect any interest or other charge, fee or expense incidental to the principal debt unless legally entitled to such fee or charge;

(3) communicating with a consumer whenever the collection agency has been notified by the consumer's attorney that he represents said consumer.

"§ 66-43.6. *Unauthorized practice of law*.—A permit holder as defined in General Statute 66-41.3 shall not engage in the practice of law.

"§ 66-43.7. *Shared office space*.—The office of a collection agency shall not be shared or have a common waiting room with a practicing attorney or any type of lending institution. The office may be located in a private residence only if it is solely for business purposes, has an outside entrance and can be isolated from the remainder of the residence.

#### "Part IV.

#### "Enforcement.

"§ 66-44. *Civil liability*.—(a) Any collection agency which violates Part III of this Article with respect to any debtor shall be liable to that debtor in an amount equal to the sum of any actual damages sustained by the debtor as a result of the violation.

(b) Any collection agency which violates Part III of this Article with respect to any debtor shall, in addition to actual damages sustained by the debtor as a result of the violation, also be liable to the debtor only in an individual action, and its additional liability therein to that debtor shall be for a penalty in such amount as the court may allow, which shall not be less than one hundred dollars (\$100.00) nor greater than one thousand dollars (\$1,000).

(c) The specific and general provisions of Part III shall constitute unfair or deceptive acts or practices proscribed herein or by G.S. 75-1.1 in the area of commerce regulated thereby. Notwithstanding the provisions of G.S. 75-15.2 and G.S. 75-16, civil penalties in excess of one thousand dollars (\$1,000) shall not be imposed, nor shall damages be trebled for any violation under Part III.

(d) The remedies provided by this section shall be cumulative, and in addition to remedies otherwise available. Provided, that any punitive damages assessed against a collection agency shall be reduced by the amount of the civil penalty assessed against such agency pursuant to subsection (b)."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

S. B. 824

### CHAPTER 836

AN ACT TO CONFER RESIDENT STATUS FOR TUITION PURPOSES ON A MINOR WHO HAD LIVED FOR FIVE OR MORE CONSECUTIVE YEARS IN THE NORTH CAROLINA HOME OF AN ADULT RELATIVE ACTING AS A DE FACTO PARENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 116-143.1 is amended by adding a new subsection to read as follows:

“(k) Notwithstanding other provisions of this section, a minor who satisfies the following conditions immediately prior to commencement of an enrolled term at an institution of higher education, shall be accorded resident tuition status for that term:

(1) the minor has lived for five or more consecutive years continuing to such term in North Carolina in the home of an adult relative, other than a parent, domiciled in this State; and

(2) the adult relative has functioned during those years as a de facto guardian of the minor and exercised day-to-day care, supervision, and control of the minor.

A person who immediately prior to his or her eighteenth birthday qualified for or was accorded resident status for tuition purposes pursuant to this subsection shall be deemed upon achieving majority to be a legal resident of North Carolina of at least 12 months duration; provided, that the legal residence of such an adult person shall be deemed to continue in North Carolina only so long as the person does not abandon legal residence in this State.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

S. B. 768

### CHAPTER 837

AN ACT TO AMEND THE WORTHLESS CHECK STATUTE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 14 of the General Statutes of North Carolina is amended to add a new paragraph at the end of G.S. 14-107 to read as follows:

“(5) In deciding to impose any sentence other than an active prison sentence, the sentencing judge may require, in accordance with the provisions of G.S. 15A-1343, restitution to the victim for the amount of the check or draft and each prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the defendant.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

## S. B. 124

## CHAPTER 838

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:*

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—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 shall not be required to perform these services and accomplish these purposes, and except as allowed by the Executive Budget Act or this act, the savings shall be reverted to the appropriate fund at the end of the biennium.

**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, 1981, according to the following schedule:

<u>Current Operations-General Fund</u>	<u>1979-80</u>	<u>1980-81</u>
General Assembly	\$ 6,584,520	\$ 8,468,672
Judicial Department	66,084,779	67,370,080
Department of The Governor		
Office of The Governor	1,219,479	1,244,508
Office of Citizens Affairs	568,171	589,520
Total Department of The Governor	1,787,650	1,834,028
Lieutenant Governor's Office	220,860	225,358
Department of Administration	25,183,232	27,346,353
Reserve for Educational Benefits		
Children of Veterans	2,273,000	2,300,000
Department of Secretary of State	639,761	620,180
Department of State Auditor	4,782,230	4,904,818
Department of State Treasurer		
01. Operations	1,613,275	1,667,743
02. Retiree Benefits	11,655,438	13,151,954
Total Department of State Treasurer	13,268,713	14,819,697
Department of Justice	19,912,855	20,700,349
Department of Revenue	22,910,118	23,474,595
State Board of Elections	188,842	222,114
Department of Crime Control and Public Safety	7,219,792	7,205,185
Department of Commerce	14,155,566	14,855,832
Department of Insurance	3,756,908	3,840,900
Department of Labor	3,677,243	3,678,954
Department of Correction	114,853,293	118,794,850
Department of Public Education		
01. Program Administration and Support	77,975,856	80,745,637
02. Fiscal Administration and Support	1,089,353,149	1,090,375,698
Total Department of Public Education	1,167,329,005	1,171,121,335
Department of Community Colleges	142,117,715	147,411,415
The University of North Carolina Board of Governors		
01. General Administration	5,475,266	5,815,291
02. Lump Sum Appropriations	19,780,590	32,133,482
03. Related Educational		

	Programs	22,174,181	24,079,228
04.	Agricultural Programs	700,000	700,000
05.	University of North Carolina at Chapel Hill		
	a. Academic Affairs	52,426,446	53,361,182
	b. Division of Health Affairs	36,464,105	36,930,337
	c. Area Health Education Centers	14,275,171	14,295,027
06.	North Carolina State University at Raleigh		
	a. Academic Affairs	53,178,930	53,958,310
	b. Agricultural Experiment Station	15,708,162	16,058,969
	c. Agricultural Extension Service	11,937,391	11,909,782
07.	University of North Carolina at Greensboro	21,175,583	21,408,699
08.	University of North Carolina at Charlotte	17,201,774	17,549,735
09.	University of North Carolina at Asheville	4,034,120	4,095,791
10.	University of North Carolina at Wilmington	8,324,343	8,416,365
11.	East Carolina University	33,979,839	34,165,643
12.	North Carolina Agricultural and Technical State University	13,424,290	13,601,498
13.	Western Carolina University	13,600,089	13,765,095
14.	Appalachian State University	19,039,750	19,320,539
15.	Pembroke State University	5,284,974	5,392,891
16.	Winston-Salem State University	5,943,875	6,026,766
17.	Elizabeth City State University	5,010,658	5,045,010
18.	Fayetteville State University	5,589,980	5,676,897
19.	North Carolina Central University	11,687,675	11,908,750
20.	North Carolina School of the Arts	2,971,686	3,005,856
21.	North Carolina Memorial Hospital	20,440,971	22,679,351
	Total University of North Carolina	419,829,849	441,300,494
	Department of Cultural Resources	17,154,907	17,438,182
	Department of Transportation - General Fund		
	01. Aeronautics	3,616,571	3,616,571

02.	Public Transportation	1,340,000	1,340,000
03.	Aid to Railroads	100,000	100,000
Total Department of Transportation-General Fund		5,056,571	5,056,571
Department of Human Resources			
01.	Central Administration	12,598,981	15,948,554
02.	Medical Assistance	119,378,543	133,113,813
03.	Health Services	42,299,300	44,130,657
04.	Services for the Blind	4,418,031	4,461,365
05.	Vocational Rehabilitation	11,156,363	11,438,611
06.	Mental Health Services		
	a. Administration & Grant- in-aid	47,999,483	48,207,254
	b. Alcoholic Rehabilitation Center-Black Mountain	1,732,086	1,787,043
	c. Alcoholic Rehabilitation Center-Butner	1,342,467	1,381,050
	d. Walter B. Jones Alcoholic Rehabilitation Center, Greenville	1,260,724	1,292,347
	e. Dorothea Dix Hospital	17,690,447	17,981,455
	f. Broughton Hospital	16,308,690	17,275,938
	g. Western Carolina Center	5,223,756	6,122,856
	h. Cherry Hospital	16,490,384	16,910,976
	i. O'Berry Center	4,470,790	4,846,448
	j. John Umstead Hospital	14,782,536	14,812,220
	k. Murdoch Center	13,968,993	14,113,199
	l. Caswell Center	16,574,460	16,960,280
	m. Wright School	719,480	741,368
	n. N. C. Special Care Center	1,905,942	1,999,141
07.	North Carolina Orthopedic Hospital	12,400	
08.	Lenox D. Baker Children's Hospital of North Carolina	452,881	481,431
09.	Confederate Women's Home	139,377	144,637
10.	McCain Hospital	2,187,856	2,307,031
11.	Western Carolina Hospital	2,256,445	2,382,982
12.	Division of Youth Services	15,170,218	16,461,307
13.	North Carolina School for the Deaf	5,052,416	5,179,408
14.	Eastern North Carolina School for the Deaf	2,770,274	2,813,199
15.	Central North Carolina School for the Deaf	1,871,889	1,948,223
16.	Governor Morehead School	2,907,317	2,960,783
17.	Facility Services	6,543,612	6,725,414
18.	Social Services	61,911,407	64,093,969
19.	State Aid to Non-State Health & Welfare Agencies	3,689,534	3,689,534



20. Special Aid to Counties	3,000,000	3,000,000
Total Department of Human Resources	458,287,082	485,712,493
Department of Natural Resources & Community Development	29,440,222	29,534,651
Department of Agriculture	18,286,039	18,403,268
Debt Service - Interest	28,541,050	31,873,700
Debt Service - Redemption	26,800,000	30,300,000
Contingency & Emergency Fund	2,000,000	2,000,000
Salary Adjustments of State Employees	500,000	500,000
Reserve for Travel	700,000	700,000
Reserve for Salary Increases for Teachers & State Employees	94,300,000	94,300,000
Reserve for Special Salary Compensation		
01. Active Employees	28,500,000	
02. Retirees	3,000,000	
Reserve for Hospital/Medical Rate Increase	3,805,750	4,090,658
GRAND TOTAL CURRENT OPERATIONS-GENERAL FUND	\$2,753,147,552	\$2,800,404,732

## 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, 1981, according to the following schedule:

<u>Current Operations - Highway Fund</u>	<u>1979-80</u>	<u>1980-81</u>
Department of Transportation		
01. Administration	\$ 11,727,423	\$ 11,676,161
02. Highways		
a. Administration and Operations	20,485,236	20,526,092
b. State Construction		
(01) Primary Construction	21,459,419	21,459,419
(02) Secondary Construction	23,400,000	23,400,000
(03) Urban Construction	7,281,000	7,281,000
(04) Access and Public Service Roads	500,000	500,000
(05) Bridge Replacements	5,212,300	5,212,300
c. State Funds to Match Federal Highway Aid		
(01) Construction	44,942,000	45,662,000
(02) Planning Survey and Highway Planning Research	1,847,118	1,791,118
d. State Maintenance		
(01) Primary	61,402,568	57,902,568
(02) Secondary	94,580,009	89,380,009
(03) Urban	13,908,202	13,908,202

e. Ferry Operations	6,433,500	6,065,000
f. State Aid to Municipalities	33,750,000	35,238,000
g. Merit Salary Increments for Central Offices and Division of Highways	6,262,626	10,296,883
h. Employers' Contributions for Central Offices and Division of Highways		
(01) Social Security	9,282,847	9,690,225
(02) Retirement	13,212,502	13,212,502
(03) Hospital/Medical Insurance	3,679,344	3,679,344
03. Motor Vehicles	30,355,449	32,087,464
04. Governor's Highway Safety Program	516,858	524,651
05. Reserve for Salary Increases for Highway Fund Employees	10,645,000	10,645,000
06. Reserve for Special Salary Compensation	3,000,000	
07. Reserve for Hospital/ Medical Rate Increase	417,274	442,366
08. Salary Adjustments for Highway Fund Employees	200,000	200,000
09. Debt Service	29,566,000	30,335,500
10. Contingencies and Emergency Fund	100,000	100,000
11. Reserve to Correct Occupa- tional Safety & Health Act Deficiencies	450,000	650,000
12. Appropriations for Other State Agencies		
01. Crime Control & Public Safety	35,818,039	36,513,386
02. Other Agencies		
a. Department of Agriculture	1,330,890	1,309,971
b. Department of Commerce	507,214	502,841
c. Department of Revenue	900,347	928,839
d. Department of State Treasurer	914,886	914,886
e. Department of Community Colleges	137,491	140,929
f. Department of Human Resources	66,843	66,952
g. Department of Correction	500,000	500,000
GRAND TOTAL - HIGHWAY FUND	\$ 494,792,385	\$ 492,743,608

—HIGHWAY FUND/ALLOCATIONS BY TRANSPORTATION  
CONTROLLER

**Sec. 4.** The Controller of the Department of Transportation is directed to 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., 02.c., 02.d., and 02.e., 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), 02.b.(03), 02.b.(04), 02.c., 02.d., 02.e., 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 Governor and the Advisory Budget Commission. Transfers from Section 3 of this act, Titles 02.b.(01), 02.b.(03), 02.b.(04), 02.c., 02.d., and 02.e., 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. 6.** If on June 30 of either fiscal year of the 1979-81 biennium, the Highway Fund credit balance exceeds the total expenditures from current accounts and encumbrances, the excess shall first be available for appropriations in the succeeding fiscal year. If all of the excess is not used 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 appropriations in the primary, secondary and urban systems shall be reduced to the extent necessary to cover any anticipated deficit.

—HIGHWAY FUND/UNRESERVED CREDIT BALANCES

**Sec. 7.** Any unreserved credit balances in the Highway Fund on June 30, 1979, exceeding the total expenditures and encumbrances for 1978-79 fiscal year shall be available for appropriation in 1979-80 in Section 3 of this act.

—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 1979-81 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 construction and State funds to match federal aid highway planning survey and highway planning research; and 02.d., State maintenance; or within the affected federal aid programs; provided that 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.

—HIGHWAY FUND/SALARIES AND FRINGE BENEFITS/DOT MAINTENANCE AND CONSTRUCTION EMPLOYEES

**Sec. 9.** Funds appropriated in Section 3 of this act to the Department of Transportation as a reserve for salary and fringe benefit increases and for increments for employees engaged in activities related to the construction and maintenance of highways and ferry operations, and whose salaries are allocated to project work orders, shall be transferred by the Director of the Budget to State construction and maintenance accounts and to the ferry operations account in the same proportional amounts as actual expenditures for salaries charged to those accounts in the 12-month period ending May 30 of the prior fiscal year.

PART III. 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 such 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 are authorized to make application for, receive or disburse any form of non-State aid provided that they shall deposit all such non-State monies received with the State Treasurer, unless otherwise exempt by State law, and shall expend such funds in accordance with the terms and conditions of the fund award which are not contrary to the laws of North Carolina.

—FEDERAL REVENUE SHARING/OPERATING APPROPRIATION

**Sec. 10.5.** To the end of providing maximum flexibility for the expenditure of appropriations consistent with federal regulations governing expenditure of general shared federal revenue, the items below, which are elements of 1979-81 current operations appropriation to the indicated departments as enumerated in Section 2 of this act, and relevant budget documents, are to be financed from the General Revenue Sharing Trust Fund of the State:

	<u>1979-80</u>	<u>1980-81</u>
Operations		
Education		
Public Schools		
Textbooks - Elementary	\$15,521,230	\$ 5,898,280
Textbooks - High School	2,925,019	2,801,475
School Bus Acquisition	14,444,976	15,328,110
Debt Service	<u>24,097,447</u>	<u>4,372,579</u>
	\$56,988,672	\$28,400,444

In the event the General Revenue Sharing Trust Fund revenues are less than the amounts appropriated in this act for fiscal years 1979-80 and 1980-81 the Director of the Budget may supplant unrealized General Revenue Sharing Trust Fund revenues with any general fund availability as needed to fulfill these requirements.



To liquidate the balance remaining in the Federal Anti-Recession Fund, the item below is to be financed from said trust fund:

Department of Administration	<u>1979-80</u>	<u>1980-81</u>
Administrative Analysis Division	\$9,800	

—RESERVE FOR MATCHING FEDERAL GRANTS

**Sec. 11.** Funds appropriated in Section 2 of this act to the Department of Administration as a Reserve for Matching Federal Grants shall be allocated as approved by the Director of the Budget and Advisory Budget Commission.

—INSURANCE AND FIDELITY BONDS

**Sec. 12.** 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 such placement shall be paid by the department, institution, or agency involved upon bills rendered to and approved by the Insurance Commissioner.

—NEW OFFICE EQUIPMENT/USE SURPLUS PROPERTY WHERE AVAILABLE

**Sec. 13.** During the 1979-81 biennium, no State agency may purchase new office equipment if adequate equipment is available through the State Surplus Property Warehouse. The head of the agency making the purchase shall determine that no adequate surplus equipment is available before approving the purchase of new equipment. A list of equipment to be offered for sale shall be provided to each State department and agency by the Department of Administration at least 60 days prior to the date of sale.

—STUDY COMMISSIONS/FUNDING SOURCES MUST BE IDENTIFIED

**Sec. 14.** All study commissions created or extended by the 1979 General Assembly shall have an adequate source of funding specifically identified before undertaking any significant action. Except for those expenses reasonably related to a single one-day meeting held to adopt a study commission budget, no State funds shall be expended for any study commission activity occurring prior to any approval of funding granted by a discretionary body with authority over contingency or other similar funds.

—EXPERIMENTAL PROGRAMS TO REPORT TO GENERAL ASSEMBLY

**Sec. 15.** Programs designated by the General Assembly as experimental, model or pilot programs shall not become a part of a department's continuation budget until a report has been received and the programs or projects have been reapproved by the General Assembly.

—DATA PROCESSING/ANALYSIS BEFORE NEW EQUIPMENT

**Sec. 16.** Before a request for appropriations for additional data processing equipment, services, or systems reaches the General Assembly, an analysis of the request shall have been completed which shows that the equipment, services, or system to be funded is the most efficient alternative in keeping with an overall State plan for data processing. This analysis shall be conducted by qualified personnel independent of the requesting agency or department, and shall be provided to the Advisory Budget Commission and the Appropriations Committees of the General Assembly.

—TRAVEL AND SUBSISTENCE REIMBURSEMENT

**Sec. 17.** G.S. 138-7 is rewritten to read as follows:

“§ 138.7. *Exceptions to G.S. 138-5 and G.S. 138-6.*—”Expenditures in excess of the maximum amounts set forth in G.S. 138-5 and G.S. 138-6 for travel and subsistence may be reimbursed if the prior approval of the department head is obtained. The Director of the Budget shall establish and publish uniform standards and criteria under which actual expenses in excess of the travel and subsistence allowances and convention registration fees as prescribed in G.S. 138-5 and G.S. 138-6 may be authorized by department heads for extraordinary charges for hotel, meals, and registration, whenever such charges are the result of required official business.”

—PER DIEM AND ALLOWANCES/BOARDS, ETC

**Sec. 18.** G.S. 138-5 is amended by the addition of a new subsection to read as follows:

“(f) Members of all State boards, commissions and councils whose salaries or any portion of whose salaries are paid from State funds shall receive no per diem compensation from State funds for their services; Provided, however, that members of State boards, commissions and councils who are also members of the General Assembly shall receive, when the General Assembly is not in session, subsistence and travel allowances at the rate set forth in G.S. 120-3.1(4).”

G.S. 138-5 is further amended in subsections (a) and (b) by deleting “subsection (c)” in the first sentence of each and substituting “subsections (c) and (f)” in lieu thereof.

—RESERVE FOR STATE EMPLOYEE FUEL AND TRAVEL ALLOWANCE

**Sec. 19.** Funds are appropriated in Section 2 of this act in the amount of seven hundred thousand dollars (\$700,000) in each year of the 1979-81 biennium to establish a reserve for the purpose of making funds available to State departments because of fuel price increases and the increase in travel allowance reimbursement to State employees as established by Chapter 1136 of the 1977 Session Laws.

These funds may be transferred to State departments based upon need as determined by the Director of the Budget.

—USE OF STATE-OWNED VEHICLES

**Sec. 20.** It is the intent of the General Assembly that State-owned motor vehicles shall not be used for the personal convenience of employees commuting to and from their homes to their work stations. Each State agency head shall be responsible for insuring that the intent of the General Assembly is fully carried out pursuant to this section.

The Department of Administration is directed to study the issue of the use of State-owned vehicles by employees in commuting to and from duty stations and make recommendations to the 1980 Session of the General Assembly, not later than March 1, 1980.

—REIMBURSEMENT FOR MEALS

**Sec. 21.** It is the intent of the General Assembly that State employees reimbursed for meals when overnight lodging is not required shall be liable for complying with any State and federal tax laws.

—SEVERANCE WAGES

**Sec. 22.** Chapter 143 of the General Statutes is amended by adding the following new section:

“§ 143-27.2. The Director of the Budget, upon written request of a State department and recommendations of the State Personnel Officer, is authorized to pay severance wages to a State employee when employment is terminated as the result of the closing of a State institution.”

**PART IV. SPECIAL PROVISIONS/HUMAN RESOURCES**

**—MEDICAID SCHEDULES**

**Sec. 23.** 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:

Services

Hospital - Inpatient

Hospital - Outpatient

Mental and Specialty Hospitals  
Skilled Nursing Facilities and  
Intermediate Care Facilities

Intermediate Care Facilities  
for the Mentally Retarded  
Drugs

Physicians

Chiropractors

Dental

Payment Basis

Allowable costs, but  
administrative days for  
any period of  
hospitalization shall be  
limited to a maximum of  
three days.  
90 percent of allowable  
costs.

Allowable costs.  
As prescribed under the  
State Plan for Reimbursing  
Long Term Care Facilities.  
Allowable costs.

Drug cost as allowed by  
federal regulations plus  
\$2.68 professional service  
fee per month excluding  
refills for same drug or  
generic equivalent during  
the same month. (Payments  
for drugs are subject to  
the language on drugs at  
the end of this section.)  
90 percent of allowable  
usual and customary  
charges.

90 percent of allowable  
usual and customary  
charges.  
90 percent of allowable  
usual and customary  
charges. (Payments for  
dental services are  
subject to the language  
on dental services at the

Home Health	end of this section.)
Optical Services	Allowable costs. 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, 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.

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.

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.

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 as otherwise provided below. The same eighty-five percent (85%) State and fifteen percent (15%) county participation shall be used for any prepaid premium if Medicaid services and related administrative costs are paid for by a health-insuring contractor.



County costs incurred as a result of Sections 25-29 of this act will be refunded by the State to the counties in an amount not to exceed a total of five hundred forty-four thousand nine hundred thirty-six dollars (\$544,936) for fiscal year 1979-80 and six hundred four thousand eight hundred eighty dollars (\$604,880) for fiscal year 1980-81, adjusted for any obligations of the county.

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.

The eighty-five percent (85%) State and fifteen percent (15%) county participation shall remain in effect for all Intermediate Care Facilities for the Mentally Retarded.

As allowed by federal regulations, recipient co-payments shall be required for services under Medicaid as follows:

Service	Eligibility		Co-Payment for
	Categorically Needy	Medically Needy	Each Occasion of Service
Hospital - Inpatient		X	\$ 2.00
Hospital - Outpatient		X	1.00
Clinic Services	X	X	1.00
Physicians		X	1.00
Podiatrists		X	1.00
Optometrists		X	1.00
Drugs	X	X	.50
Dentists	X	X	2.00
Chiropractors	X	X	.50
Optical Supplies and Services	X	X	2.00
Mental Health Centers	X	X	1.00
Health Departments	X	X	1.00
Nonhospital Dialysis Facility		X	2.00

No co-payment is required for EPSDT-related services, family planning services, State hospital services, nor 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.

Maximum net family annual income eligibility standards for Medicaid shall be as follows:

Family Size	Categorically Needy		Medically
	AFDC*	AA,AB,AD*	Needy
1	\$1,524	\$1,700	\$2,100
2	2,004	2,200	2,700
3	2,304	2,500	3,100
4	2,520	2,800	3,400
5	2,760	3,000	3,700
6	2,976	3,200	4,000
7	3,192	3,400	4,300

8	3,324	3,600	4,500
9	3,468	3,800	4,700
10	3,660	4,000	4,900
11	3,840	4,200	5,200
12	4,032	4,400	5,400
13	4,224	4,600	5,700

\*Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

Any change in these standards must be approved by the Director of the Budget and the Advisory Budget Commission.

Funds appropriated to the Department of Human Resources for dental services shall be dispersed only with prior approval 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.

Notwithstanding any provision of G.S. 90-76 to the contrary, under the Medical 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.

#### —MEDICAID SCHEDULES/NEW

**Sec. 24.** 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 Article 2, Part 5 of Chapter 108 of the General Statutes, and Title XIX of the Social Security Act.

Persons admitted as long-term care patients on or prior to June 30, 1979, are subject to the March 27, 1979, order of the U. S. District Court for the Western District of North Carolina, in the case of *Foard v. Gibson*, which ended the practice of continuous financial responsibility of a spouse for a person who is a patient in a long-term care facility.

#### —REDUCE PARENTAL LIABILITY FOR INSTITUTIONAL CARE COSTS OF DISABLED CHILDREN

**Sec. 25.** G.S. 143-127.1(a) is amended by inserting between the words "are" and "long-term" the following: "non-Medicaid."

**Sec. 26.** G.S. 143-127.1(b) is amended by deleting the word "long-term".

**Sec. 27.** Upon receipt by the Department of Human Resources of official notification from the Secretary of Health, Education and Welfare that

institutionalized, minor, disabled children may be considered as financially independent for purposes of Medicaid eligibility, G.S. 143-127.1 is amended by adding a new subsection:

“(d) Notwithstanding any other provisions of the law, the income and financial resources of the natural or adoptive parents of persons under the age of 21 who since July 1, 1978, had spent a total of at least 180 days as long-term patients in public or private certified intermediate care or skilled nursing facilities, shall not be taken into account in the determination of whether that child is eligible for medical assistance under Article 2, Part 5 of Chapter 108 of the General Statutes and Title XIX of the Social Security Act.”

—REDUCE REQUIREMENT OF PARENTAL SUPPORT FOR DISABLED ADULTS

**Sec. 28.** G.S. 14-322.2 is repealed.

**Sec. 29.** G.S. 50-13.8 is amended by deleting the words “and support” following the word “custody”, by deleting all of the words after the word “self-support”, and by deleting the comma after the word “self-support” and substituting therefore a period.

—NONMEDICAID MEDICAL SERVICES/STATE PROGRAMS

**Sec. 30.** 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 shall be as follows:

Family Size	All Programs in the Division of Health Services	
	Except Kidney	Kidney
1	\$ 4,200	\$ 6,400
2	5,300	8,000
3	6,400	9,600
4	7,500	11,000
5	7,900	12,000
6	8,300	12,800
7	8,800	13,600
8	9,300	14,400
9	9,800	15,200
10	10,300	16,000
11	10,900	
12	11,400	
13	12,000	

Family Size	Medical Eye Care Blind Adults	Medical Eye Care Blind Preschool and School Children
1	\$ 1,800	\$ 4,200
2	2,520	5,300
3	3,180	6,400
4	3,600	7,500
5	3,960	7,900
6	4,320	8,300
7	4,680	8,800
8	5,040	9,300

9	9,800
10	10,300
11	10,900
12	11,400
13	12,000

Maximum gross family annual income eligibility standards for blind rehabilitation and vocational rehabilitation shall be as follows:

Family Size	Blind Rehabilitation and Vocational Rehabilitation
1	\$ 5,053
2	6,608
3	8,161
4	9,718
5	11,273
6	12,828
7	13,116
8	13,411
9	13,703
10	13,994
11	14,286
12	14,578
13	14,878

Any change in these standards must be approved by the Director of the Budget and the Advisory Budget Commission.

#### —ADJUSTMENTS IN APPROPRIATIONS/NONMEDICAID HEALTH PROGRAMS

**Sec. 31.** Appropriations made in this act for health programs not covered under Medicaid are to provide for the purchase of medical services for a full 12-month period for eligible recipients under these programs. If, during either fiscal year of the 1979-81 biennium, expenditures in these programs indicate that the funds may be insufficient for a full 12 months, the Department of Human Resources shall adjust the eligibility requirements for participation in these programs or restrict services provided by the department to only those services most essential to protect the health and provide for the well-being of eligible clients, to the end that the appropriations are sufficient.

#### —COMMUNITY MENTAL HEALTH PROGRAMS

**Sec. 32.** Appropriations made in this act to the Division of Mental Health Services for community mental health programs as authorized by the General Statutes may be used for all services delivered by area mental health programs.

#### —AREA MENTAL HEALTH PROGRAM/MATCHING FUNDS

**Sec. 33.** All funds appropriated in Section 2 of this act designated as area mental health program funds shall be matched by local funds in accordance with the State/local ratio established by the current area mental health matching formula. Of these funds, two million five hundred thousand dollars (\$2,500,000) in fiscal year 1979-80 and two million five hundred thousand dollars (\$2,500,000) in fiscal year 1980-81 shall be allocated to the area mental health programs on a per capita basis as determined by the Department of Administration's most recent estimates of county populations.

#### —MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH CENTERS



**Sec. 34.** For the 1979-81 biennium, funds received by the Department of Human Resources from the tax levied on mixed beverages under G.S. 18A-15(3)c.3. 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 Department of Administration's most recent estimates of county populations.

—GRANTS TO NONSTATE HEALTH AND WELFARE AGENCIES/AUDITS

**Sec. 35.** The Executive Budget Act is hereby amended by adding the following:

“§143-31.3. *Grants to nonstate health and welfare agencies.*—Nonstate health and welfare agencies shall submit their appropriation requests for grants-in-aid through the Secretary of the Department of Human Resources for recommendations to the Director of the Budget and the Advisory Budget Commission and the General Assembly, and agencies receiving these grants, at the request of the Secretary of the Department of Human Resources, shall provide a postaudit of their operations that has been done by a certified public accountant.”

—DIRECT PATIENT-CARE BENEFITS/NO CHANGE TO INDIRECT BENEFITS

**Sec. 36.** 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.

—LOCAL HUMAN RESOURCES AGENCIES/RULES

**Sec. 37.** The Governor as Director of the Budget and the Secretary of the Department of Human Resources are authorized to establish rules and regulations applicable to local human resources agencies for the purpose of program evaluation, fiscal audits, reporting, planning and collection of third-party payments.

—OLDER AMERICANS FUNDS/MATCH OTHER PROGRAMS

**Sec. 38.** The Department of Human Resources, Division of Aging, is authorized to use funds appropriated for the 1979-81 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. 39.** The State shall pay seventy percent (70%) and the counties shall pay thirty percent (30%) of the authorized rates for domiciliary care in rest homes, and for Family Care Home Services.

**Sec. 40.** Funds appropriated to the Department of Human Resources, Division of Health Services to expand the High Risk Infant Identification and Tracking Program shall be allocated to local health departments in such a manner that counties which are already spending funds in this area of activity shall receive an equitable allocation of State funds.

—HUMAN RESOURCES DEPARTMENT TO ESTABLISH RULES FOR MOSQUITO CONTROL FUNDS

**Sec. 41.** The Secretary of Human Resources shall establish rules and regulations to govern the allocation of funds appropriated in Section 2 of this act for the control of mosquitos, so as to ensure that these funds are equitably distributed to counties based on their need in controlling mosquitos. In establishing these rules and regulations, the Secretary shall review the existing allocation formula and determine whether it has promoted the efficient and effective operation of the program. The Secretary shall report to the Second Session of the 1979 General Assembly on these new rules and regulations and the audited county expenditures for mosquito control.

—NORTH CAROLINA ORTHOPEDIC HOSPITAL EMPLOYEES

**Sec. 42.** Funds are appropriated in Section 2 of this act to continue certain employees at North Carolina Orthopedic Hospital until the hospital is closed which shall be no later than November 30, 1979.

—SPECIALTY BOARDS

**Sec. 43.** G.S. 143B-173(a)(1), is amended by adding a sentence to read as follows: "A sunset date of July 1, 1980, is placed on the Board of Directors of the North Carolina Specialty Hospitals. The Board shall be subject to review by the Governmental Evaluation Commission under the provisions of Sections 7, 8, 9, 10 and 11 of Chapter 712 of the 1977 Session Laws."

**Sec. 44.** If the Board of Directors of the North Carolina Specialty Hospitals is not reestablished under the provisions of Chapter 712 of the 1977 Session Laws, then effective July 1, 1980, G.S. 143B-174 is amended by deleting the first sentence which reads: "The Board of Directors of the North Carolina Specialty Hospitals of the Department of Human Resources shall consist of 12 members appointed by the Governor for terms of six years", and by deleting the words in the seventh sentence: "the Board of Directors of North Carolina Specialty Hospitals, four of whose appointments expire April 29, 1973, four of whose appointments expire April 29, 1975, and four of whose appointments expire April 29, 1977;"

**Sec. 45.** If the Board of Directors of the North Carolina Specialty Hospitals is not reestablished under the provisions of Chapter 712 of the 1977 Session Laws, then effective July 1, 1980, Articles 7, 8 and 9 of Chapter 131 of the General Statutes are repealed.

**Sec. 46.** If the Board of Directors of the North Carolina Specialty Hospitals is not reestablished under the provisions of Chapter 712 of the 1977 Session Laws, then effective July 1, 1980, Chapter 131 of the General Statutes is amended by adding a new Article 7A, to read as follows:

"Article 7A.

"North Carolina Specialty Hospitals.

"§ 131-60.1. All functions, powers, duties, and obligations heretofore vested in the Board of Directors of the North Carolina Specialty Hospitals and in McCain Hospital, Western North Carolina Hospital and Eastern North Carolina Hospital are hereby transferred to and vested in the Department of Human Resources. All appropriations heretofore made to such Board of Directors or to any of the hospitals are hereby transferred to the Department of Human Resources. The Secretary of the Department of Human Resources shall have the power and duty to adopt rules and regulations for the operation of these facilities. Any change in the Alcohol Detoxification Program at Black Mountain must be recommended by the Secretary of the Department of Human

Resources and approved by the Governor and the Advisory Budget Commission.”

—DEPARTMENT OF HUMAN RESOURCES/SPECIAL AID TO COUNTIES

**Sec. 47.** Funds in the amount of three million dollars (\$3,000,000) for fiscal year 1979-80 and three million dollars (\$3,000,000) for fiscal year 1980-81 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, as determined by the Department of Administration's most recent estimates of county populations. These funds shall be expended by the county commissioners for the administration of local departments of public health or social services.

—DAY CARE SERVICES

**Sec. 48.** Funds appropriated for day care services in Section 2 of this act shall be expended in such a way as to maximize the number of children to be served and the Secretary of the Department of Human Resources may purchase care from “A” licensed facilities. The Secretary is authorized to reserve from the appropriation such amounts as may be necessary to effectively administer the State day care program, subject to approval of the Advisory Budget Commission.

—SPECIAL ASSISTANCE FOR ADULTS PROGRAM

**Sec. 49.** Any additional funds above those already in the expansion budget that become available to recipients of special assistance for adults because of increases in Social Security or Supplemental Security Income payments shall be used by the Department of Human Resources to reduce the State and county obligations in the special assistance for adults program.

PART V. SPECIAL PROVISIONS/PUBLIC EDUCATION

—TEXTBOOK APPROPRIATIONS/NOT REVERT

**Sec. 50.** 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.

—DRIVER TRAINING AND SAFETY EDUCATION FUND/ADVANCES

**Sec. 51.** Funds appropriated in this act to the Department of Public Education may be advanced to the Special Fund for Driver Training and Safety Education during the 1979-81 biennium in accordance with Executive Budget Act procedure. However, when receipts from the annual vehicle registration tax collected under G.S. 20-88.1 which go into this special fund are sufficient to operate the Driver Training and Safety Education Program in each fiscal year of the 1979-81 biennium, any funds advanced to the special fund from the Department of Public Education shall be repaid from the special fund registration tax receipts prior to June 30 of each fiscal year.

—STATE TEXTBOOK FUND

**Sec. 52.** Funds appropriated in Section 2 of this act to the Department of Public Education will support the total cost of the administration of the State textbook system. It is intended that this appropriation eliminate the need for school systems to contribute to these costs from the State's appropriation for the purchase of high school textbooks. It is also intended that as soon as the June 30, 1979, audit of the State Textbook Fund can be completed, any balance

remaining in the fund for purposes of administration of the system, services to local units, or operation of the textbook warehouse will be reverted to the General Fund of the State.

**—FORMULA FOR ALLOCATION OF FUNDS FOR CHILDREN WITH SPECIAL NEEDS**

**Sec. 53.** The State Board of Education is directed, prior to the beginning of the 1980-81 school year, to develop and implement with the approval of the Advisory Budget Commission a uniform formula for the allocation of all funds appropriated for children with special needs. The formula shall provide funds to the local educational administrative units based on the number of these children needing special education.

In developing the formula, the State Board of Education shall consider the excessive costs that are incurred when a local board of education finds it necessary to assign a child with special needs as defined in P.L. 94-142 and G.S. 115-366 to a privately operated educational program for the handicapped, either in-state or out-of-state. The State Board shall also consider that funds provided for a child with special needs shall be related to the needs of the child and to the amount of resources which are available for all North Carolina students in the public school system.

The Legislative Commission on Children with Special Needs is directed to study the issue of educational and custodial services for severely handicapped children whose needs cannot be served by the public schools as per P.L. 94-142 and Chapter 927 of the 1977 Session Laws and to report to the Second Session of the 1979 General Assembly. In making this study, the Commission shall involve the Department of Human Resources and the Department of Public Instruction in surveying the needs by areas of exceptionality, the number of children involved, the availability and costs of such services in and out of State, the practicality of providing such services in existing institutions, and any practical alternatives to the public schools and institutionalization. As a part of its study, the Commission is asked to define educational services versus custodial services and make recommendations as to which agencies should accept responsibility for various services.

**—ALLOCATION FORMULA FOR PUBLIC SCHOOL PERSONNEL**

**Sec. 54.** Funds appropriated in Section 2 of this act to the Department of Public Education shall be used insofar as possible for personnel allotments to each public school unit within the following criteria:

1. for classroom teachers to be used only for instructing students, one position for every 26 pupils in grades K-3; one position for every 30 pupils in grades 4-8; and one position for every 31 pupils in grades 9-12;

2. one school librarian position for each school with 200 or more average daily membership;

3. one guidance counselor position for each 800 average daily membership unit wide;

4. one professional position for other support personnel (i.e., social workers, school nurses, attendance counselors) for each 4,000 average daily membership unit wide;

5. one principal position for each school with 100 or more average daily membership;

6. one assistant principal position for each school with 625 or more average daily membership.



The average daily membership shall be based upon the best continuous three out of the first four school months for grades K-12.

The State Board of Education shall adopt formulas for the above allocations which are consistent with legislative intent that funds and personnel shall be allocated to all school administrative units on a fair and equitable ADM basis.

—SUBSTITUTE TEACHERS' PAY

**Sec. 55.** Funds appropriated in Section 2 of this act to the Department of Public Education include two million eight hundred twenty-two thousand two hundred seventy-three dollars (\$2,822,273) for fiscal year 1979-80 and two million seven hundred ninety thousand five hundred four dollars (\$2,790,504) for fiscal year 1980-81 to increase the daily rate of pay from twenty dollars (\$20.00) to thirty dollars (\$30.00) for a substitute teacher, except that the daily rate of pay for nonqualified personnel employed as teacher substitutes shall remain at twenty dollars (\$20.00). Nonqualified personnel may be employed as teacher substitutes only in hardship situations and must be approved by the school principal. The State Board of Education is directed to establish the necessary rules and regulations to determine qualified and nonqualified personnel and to ensure compliance with the provisions of this section.

—STATEWIDE POLICY FOR PUBLIC SCHOOL EMPLOYEE ABSENCES

**Sec. 56.** The State Board of Education is directed to adopt a uniform statewide policy pertaining to approved paid absences for State paid public school employees. This policy shall establish a maximum number of days that a State paid public school employee can be absent with pay. This policy shall not affect policies of local boards of education governing leave without pay. Before implementation of this policy, the approval of the Advisory Budget Commission shall be required.

—DEVELOPMENTAL DAY CARE AND COMMUNITY RESIDENTIAL PROGRAMS

**Sec. 57.** Funds appropriated in Section 2 of this act to the Department of Public Education include four million twenty-seven thousand five hundred dollars (\$4,027,500) each year to provide educational services for 180 days for students ages 5-17 appropriately enrolled in one of the developmental day care and/or community residential programs. It is intended that these funds be allocated on a head count basis of children in such programs to the appropriate local education agency to be used exclusively for students whose educational needs can best be met by a developmental day care and/or community residential program as determined by the evaluations and processes required by federal and State laws for children with special needs. The State Board of Education is hereby directed to establish the necessary rules and regulations to insure that the intent of this section is followed.

—STATE BOARD OF EDUCATION/PSYCHOLOGISTS

**Sec. 58.** Funds appropriated to the State Board of Education for 71 psychologists, include nine hundred thirteen thousand nine hundred eighty-three dollars (\$913,983) for fiscal year 1979-80 and nine hundred twenty thousand eighteen dollars (\$920,018) for fiscal year 1980-81 may be allocated to local administrative units as ADM dollars to assure that all administrative units share equitably and to assure that services are procured in the most economical manner.

—LEGISLATIVE RESEARCH COMMISSION TO STUDY SCHOOL FINANCE STUDIES

**Sec. 59.** State and federal funds have been used to produce three very significant statewide reports on school finance. These reports speak to: (1) the overall system of financing public education in North Carolina, (2) standards for allotting school personnel, and (3) salary schedules for all State-paid school personnel. Members of the Legislature and other citizens have invested considerable time in these studies. The 1979 General Assembly has responded to each of these studies. However, each of the studies has long-range implications for the Legislature and the public school system. The Legislative Research Commission is directed to give leadership to the implementation of these studies and to bring to future sessions the guidance and direction required.

—LEGISLATIVE RESEARCH COMMISSION TO STUDY PUBLIC SCHOOL FACILITY NEEDS

**Sec. 60.** The Legislative Research Commission is directed to conduct a study of the school facility needs of the public schools of North Carolina. The Commission is further directed to report its findings to the General Assembly on or before March 1, 1980. The Commission report shall include a detailed analysis of the total needs in the matter of public school facilities.

—STATE BOARD OF EDUCATION TO DO COST ANALYSIS OF STATE'S FREE PUBLIC SCHOOL INSTRUCTIONAL PROGRAM AND REPORT TO THE GENERAL ASSEMBLY

**Sec. 61.** The State Board of Education shall define and cost out the elements of the State's free basic education program and share the information with the General Assembly. The purpose of this study is to assure that every child has free and equal access to this basic education program without regard to place of residence or other limitations.

PART VI. SPECIAL PROVISIONS/COMMUNITY COLLEGES

—FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY COLLEGES

**Sec. 62.** 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. 63.** Appropriations made in this act to the Department of Community Colleges for equipment and library books are made for each year of the biennium, and all unencumbered appropriations shall revert to the General Fund 12 months after the close of the fiscal year for which they were appropriated. Encumbered balances or unliquidated obligations outstanding at the end of this period shall be handled in accordance with existing State budget policies.

—OPERATING APPROPRIATIONS/NOT USED FOR RECREATION EXTENSION/ COMMUNITY COLLEGES

**Sec. 64.** 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 such courses by any institution shall be on a self-supporting basis and membership hours produced from such

activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the State level.

—BOARD OF EDUCATION REVISE FORMULA  
AMOUNTS/COMMUNITY COLLEGES

**Sec. 65.** Within the limits of the appropriations made in this act to the Department of Community Colleges, the State Board of Education may, with the approval of the Director of the Budget and the Advisory Budget Commission, revise the formulas for allocating operating funds to the community colleges and technical institutes. For purposes of complying with this section, increases in any per unit formula amounts shall be offset by decreases in other per unit formula amounts to produce an equivalent reduction in expenditures.

—ASSISTANCE TO HOSPITAL NURSING/FUND  
DISTRIBUTION/COMMUNITY COLLEGES

**Sec. 66.** 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 Education shall make such rules and regulations as are necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

—GENERAL EDUCATION DEVELOPMENT TEST FEE

**Sec. 67.** The Department of Community Colleges shall require a five dollar (\$5.00) fee from each student who takes the General Education Development Test. All the fees collected for this purpose shall revert to the General Fund.

—STATE BOARD OF EDUCATION APPROVAL OF COURSES FOR  
CAPTIVE GROUPS

**Sec. 68.** No course of instruction supported in whole or in part by State funds shall be offered by any institution in the Community College System to any captive group without the prior approval of the State Board of Education. Approval by the State Board of Education shall be presumed to constitute approval of both the course and the captive group served. Any course taught without this approval shall not generate full time equivalent (FTE) enrollments for budget purposes.

—ADULT HIGH SCHOOL EXTENSION PROGRAM

**Sec. 69.** Adult High School Extension Program funds appropriated to the Department of Community Colleges in Section 2 of this act shall not be shifted to other programs.

—STATE BOARD OF EDUCATION/REVIEW AREA COORDINATOR  
PROGRAM

**Sec. 70** The State Board of Education is directed to review and evaluate the Department of Community Colleges' area coordinator program, giving emphasis to the distribution of the coordinators, the continuing need for them, the uniqueness of their services, and their cost effectiveness. The Board shall

report its findings, together with a statement of the goals and objectives of the program and the procedures established to evaluate it, to the General Assembly no later than March 1, 1980.

—STATE BOARD OF EDUCATION/REPORT TO GENERAL ASSEMBLY ON COMMUNITY COLLEGE PROGRAMS

**Sec. 71.** The State Board of Education is directed to approve all programs and extension courses and to establish priorities among programs and courses offered by the community college institutions. Further, the State Board of Education is directed to adopt standards, criteria, guidelines and definitions which shall serve as the basis for a comprehensive program classification system for the institutions.

The State Board of Education shall make an interim report to the Joint Appropriations Committee 20 days prior to the convening of the Second Session of the 1979 General Assembly relative to its actions on the matters outlined above and on the use of funds appropriated for the Community College System as relates to programs and priorities in 1979-80, and shall make a final report to the Joint Appropriations Committee of the 1981 General Assembly on or before March 1, 1981.

—STATE BOARD OF EDUCATION/REPORT TO THE GENERAL ASSEMBLY ON THE COMMUNITY COLLEGE SYSTEM

**Sec. 72.** No later than March 1, 1980, the State Board of Education shall make a report to the General Assembly on the Community College System. This report shall:

(1) clarify the distinction between courses of instruction and community service activities such as those described in the State Auditor's operational audit;

(2) propose a statutory definition for the term "general adult education";

(3) propose statutory definitions for the terms "curriculum" and "extension", and additional language to eliminate ambiguity and to further refine the line of demarcation between the two terms.

—STATE BOARD OF EDUCATION/IMPROVE FINANCIAL MANAGEMENT AT COMMUNITY COLLEGES

**Sec. 73.** Upon the request of the president and board of trustees of a community college institution and upon the recommendation of the State President of the Department of Community Colleges concurred in by the Controller, the State Board of Education shall adopt and oversee the execution of one or more State-aid funding contracts between itself and participating community college institutions. The purpose of conducting experimental projects is to improve current methods of institutional funding, program budgeting, institutional budgeting, student accounting and instructional and administrative services programming. These projects shall be conducted under rules and regulations adopted by the State Board of Education and shall be funded from monies appropriated in Section 2 of this act to the Department of Community Colleges. The State Board of Education shall make an interim report of its findings and recommendations to the General Assembly no later than January 1, 1981, and a final report by January 1, 1982.

PART VII. SPECIAL PROVISIONS/HIGHER EDUCATION

—WAKE FOREST AND DUKE MED. SCHOOL ASSISTANCE/FUNDING FORMULA



**Sec. 74.** 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 school as of November 1, 1979, and November 1, 1980. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars (\$8,000) for each such student, 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 school, provided that 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 such student, 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 school, provided that 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 1979-81 biennium, a disbursement of one thousand dollars (\$1,000) shall be made for each such student 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 schools and shall review the grants or awards to said 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 such regulations as it may deem desirable 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. 75.** 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 are to 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 76 of this act.

**Sec. 76.** 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 hereby granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, the sum of four hundred seventy-five dollars (\$475.00) per academic year in 1979-80 and the sum of five hundred fifty dollars (\$550.00) per academic year in 1980-81 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 there has been received from an appropriate officer of the approved institution a certification that the student applying for the grant is an eligible student. Upon receipt of such certification in proper form, 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 such student.

In the event a student on whose behalf a grant has been paid shall not be enrolled and carrying a minimum academic load as of the 10th classroom day following the beginning of the school term for which such grant was paid, the institution shall refund to the State Education Assistance Authority the amount of grant paid on behalf of such student for such term. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether such institution has properly certified eligibility and enrollment of students and credited grants paid in the behalf of such students.

In the event there are not sufficient funds to provide each eligible student with a full grant, each eligible student shall receive a reduced but equal 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. 77.** Expenditures made pursuant to Sections 75 and 76 of this act shall be used for secular educational purposes only. If any provisions of these sections or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect other provisions or applications of the sections which can be given effect without the invalid provision or application, and to this end the provisions of the sections are declared to be severable.

—POSSIBLE LOSS OF FEDERAL FUNDS/UNIVERSITY OF NORTH CAROLINA

**Sec. 78.** Funds are included in the appropriations in Section 2 of this act to the Board of Governors of The University of North Carolina to replace an expected loss in federal funding in the Area Health Education Centers program (\$600,000 in 1979-80 and \$1,200,000 in 1980-81) and the Agricultural Extension Service, N. C. State University at Raleigh (\$200,000) each year). In the event that these federal funds, or any portion thereof, are realized, it is the intent of this act that such federal funds be used, to the extent possible, to supplant the General Fund appropriations herein made. Appropriations which are supplanted will revert to the General Fund.

—STATE BOARD OF EDUCATION, UNIVERSITY BOARD OF GOVERNORS/ TRAVEL EXPENSE CONTROLS

**Sec. 79.** The State Board of Education and the Board of Governors of The University of North Carolina shall make a study of, and establish all reasonable regulations necessary to limit, expenditures for travel to meetings or conventions of private organizations and for travel which is not solely for public business.

The State Board of Education and the Board of Governors of The University of North Carolina shall report their findings and the actions which they have taken to conserve travel funds at both the department level and at the institutional level, to the Second Session of the 1979 General Assembly.

**PART VIII. SPECIAL PROVISIONS/SALARIES AND BENEFITS**

**—MOST STATE WORKERS/FIVE PERCENT SALARY INCREASE ADMIN.**

**Sec. 80.** The Director of the Budget is authorized to transfer from the appropriations in Sections 2 and 3 of this act for legislative salary increases of State employees paid from the General Fund and the Highway Fund, respectively, such amounts, including the employer's retirement and social security contributions, as may be required to increase salaries in effect on June 30, 1979, for all permanent employees by an average of five percent (5%) commencing July 1, 1979, rounded to conform to the steps in such salary ranges as may be adopted by the State Personnel Commission. For an employee whose salary in effect on June 30, 1979, is not equal to a specific pay rate within the salary schedule effective on that date, the annual increase will be the amount applicable to the next lower pay rate.

Except for salaries specifically established in this act, State department secretaries and other exempt positions whose salaries are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be granted the same approximately five percent (5%) salary increases as provided for other State employees under this section, commencing July 1, 1979.

The Director of the Budget is authorized to allocate, out of special operating funds or from sources other than tax revenues under which personnel are employed, sufficient funds to allow increases in salaries paid from those sources to conform with the increases authorized for other State employees under the provisions of this section, provided necessary funds are made available by sponsoring agencies.

The Director of the Budget is further 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 such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations is not materially reduced as a result of these salary increases. Any question as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget and the Advisory Budget Commission.

Salaries for positions which are paid 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 shall not affect the status of eligibility for automatic or merit salary increments or both for which employees may be eligible.

The salary ranges for all employees under the State Personnel Act shall be increased, so far as the maximums are concerned, by amounts corresponding to those of the legislative salary increase so that, after the salary increases provided for in this act are made, 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 salary increases provided by this act had not been made.

The salary increases provided in this act to be effective July 1, 1979, shall 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 July 1, 1979.

Within regular executive Budget Act procedures as limited by this act, all State agencies and departments are authorized to increase the rate of pay of temporary State employees, subject to availability of funds in the particular agency or department and on an equitable basis, by pro rata amounts approximately equal to the five percent (5%) increase provided for other State employees.

It is the intent of the General Assembly to provide increases, including the cost-of-living adjustments allowed by law for retirees and beneficiaries in the several State-supported retirement systems, comparable to the cost-of-living salary increases provided for active members of the several systems.

Any remaining appropriations not transferred by the Director of the Budget for legislative salary increases may be used to supplement the salary adjustment appropriations as approved by the State Personnel Director and Director of the Budget.

#### —LEGISLATIVE EMPLOYEES/FIVE PERCENT SALARY INCREASE

**Sec. 81.** The Legislative Services Officer is authorized to increase the salaries of permanent non-elected employees of the General Assembly in effect on June 30, 1979, by five percent (5%) commencing July 1, 1979, 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 shall not affect the status of employees' eligibility for automatic or merit increments.

#### —GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

**Sec. 82.** G.S. 120-37(c) is amended by deleting the words and figures "twenty-one thousand two hundred dollars (\$21,200)", and inserting therein the words and figures "twenty-two thousand two hundred sixty dollars (\$22,260)".

#### —JUDICIAL BRANCH OFFICIALS/SALARIES

**Sec. 83.** The annual salary, in fiscal years 1979-80 and 1980-81, of the specified judicial branch official shall be as follows:

##### Judicial Branch Officials

Chief Justice, Supreme Court	\$50,400
Associate Justice, Supreme Court	49,356
Chief Judge, Court of Appeals	47,784
Judge, Court of Appeals	46,728
Judge, Superior Court	41,484
Chief Judge, District Court	34,920
Judge, District Court	33,600
District Attorney	38,592
Assistant District Attorney - an average of	24,948



Administrative Officer of the Courts	44,100
Assistant Administrative Officer of the Courts	31,500
Public Defender	38,592
Assistant Public Defender - an average of	24,948

The minimum salary of any assistant district attorney shall be twelve thousand six hundred dollars (\$12,600) per annum; provided, that on recommendation of the district attorney with the approval of the Administrative Officer of the Courts, the salaries of assistant district attorneys may be adjusted so long as the average salaries of assistant district attorneys in a judicial district do not exceed twenty-four thousand nine hundred forty-eight dollars (\$24,948).

The minimum salary of any assistant public defender shall be twelve thousand six hundred dollars (\$12,600) per annum; provided, that on recommendation of the public defender with the approval of the Administrative Officer of the Courts, the salaries of assistant public defenders may be adjusted so long as the average salaries of assistant public defenders in a judicial district do not exceed twenty-four thousand nine hundred forty-eight dollars (\$24,948).

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, are to provide salary increases commencing July 1, 1979, of the same percentage as that authorized in Section 80 of this act (approximately 5%) 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. 84.** The schedule of salaries of full-time magistrates shown in the table in subdivision (1) of G.S. 7A-171.1, is deleted and in lieu thereof the following schedule is substituted:

<u>Number of prior years of service</u>	<u>Annual salary</u>
Less than 1	\$ 8,592
1 or more but less than 3	9,348
3 or more but less than 5	10,212
5 or more but less than 7	11,136
7 or more but less than 9	12,168
9 or more	13,308

#### —CLERKS OF COURT/SALARIES

**Sec. 85.** The schedule of salaries of clerks of superior courts in G.S. 7A-101 is deleted and in lieu thereof the following schedule is substituted:

<u>Population</u>	<u>Salary</u>
Less than 10,000	\$13,656
10,000 to 19,999	17,328
20,000 to 49,999	20,484
50,000 to 99,999	23,628
100,000 to 199,999	26,784
200,000 and above	32,556

#### —PUBLIC SCHOOL DRIVER TRAINING SALARY SCHEDULE

**Sec. 86.** The State Board of Education is authorized, within driver training funds available, to increase the salary schedule for driver training

personnel by approximately five percent (5%) annually as provided in this act for other school personnel.

—COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

**Sec. 87.** Funds are appropriated in Section 2 of this act to provide an annual average salary increase of five percent (5%) for all community college institutional personnel. These funds are to be allocated to individuals according to rules and regulations established by the State Board of Education and may not be used to establish any new positions.

—HIGHER EDUCATION ACADEMIC PERSONNEL/SALARY INCREASES

**Sec. 88.** Funds are appropriated in Section 2 of this act to provide an annual average salary increase of five percent (5%) for employees exempt from the State Personnel Act in the constituent institutions of The University of North Carolina. These funds are to be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used to establish any new positions.

—SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

**Sec. 89.** Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts (other than gifts, including foundation funds), shall be paid from the same source as the source of the employee's salary. In those instances in which an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts (other than gifts, including foundation funds), 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 such employee, and the remainder of the employer's requirement shall be paid from the same source which supplies the remainder of such 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, except that where the employee's salary is paid in whole or in part from gifts, including foundation funds, the source of such gifts must bear its proportional share of the employer's requirement for these purposes.

Any questions as to the applicability of the provisions of this section shall be resolved by the Director of the Budget and the Advisory Budget Commission.

—SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS

**Sec. 90.** The Director of the Budget is authorized to 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, such amounts as may be required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds are to be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

—SPECIAL PAYMENT

**Sec. 91.** The Director of the Budget is authorized and empowered to transfer to State departments, institutions, and agencies from the General Fund Reserve for Special Compensation as applicable and from the Highway Fund Reserve for Special Compensation as applicable sufficient funds to award a

special payment of two hundred dollars (\$200.00) in the month of November, 1979, to each employee of record as of November 1, 1979, who has been continuously employed or under contract since November 1, 1978, in the following categories of teachers and employees:

(a) Full-time permanent State employees and full-time permanent employees of the General Assembly whose salaries are paid from the General Fund or the Highway Fund.

(b) Teachers in the public schools of the State whose salaries are paid from the General Fund.

(c) Full-time permanent employees in the public schools of the State other than teachers whose salaries are paid from the General Fund.

(d) Full-time permanent employees of institutions in the Community Colleges system and in The University of North Carolina whose salaries are paid from the General Fund.

State departments, institutions, and agencies are authorized to make the special payments described herein to qualifying individuals whose salaries are paid from sources other than the General Fund or the Highway Fund, provided sufficient funds are available from the sources which support the salaries. Teachers and employees in the categories enumerated hereinabove whose salaries are paid in part from the General Fund and in part from other sources shall receive the special compensation described in this section from the General Fund appropriation only to the extent of the proportionate part of their salaries paid from the General Fund.

Notwithstanding any other provision of law, the special compensation herein provided for shall have no effect with respect to any teacher's or State employee's status in any State retirement system and shall not be a continuing part of any employee's salary.

The Director of the Budget is authorized and empowered to transfer to the Department of the State Treasurer from the General Fund Reserve for Special Compensation sufficient funds to award a special one-time payment in the month of November, 1979, to all persons receiving retirement benefits from the Teachers' and State Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System, the Uniform Solicitorial Retirement System, or the Uniform Clerks of Superior Court Retirement System. The amount of this special payment shall be one and one-half percent (1.5%) of the recipient's basic annual allowance from the affected retirement system.

#### —INCREASE SALARY OF MEMBERS OF THE GENERAL ASSEMBLY

**Sec. 92.** G.S. 120-3 is amended to read as follows:

*"§ 120-3. Pay of members and officers of the General Assembly.*—The Speaker of the House shall be paid an annual salary of twelve thousand six hundred dollars (\$12,600), payable monthly, and an expense allowance of three hundred dollars (\$300.00) per month. The President pro tempore of the Senate, the Speaker pro tempore of the House, the minority leader in the House, and the minority leader in the Senate shall each be paid an annual salary of seven thousand eight hundred seventy-five dollars (\$7,875), payable monthly, and an expense allowance of two hundred dollars (\$200.00) per month. Every other member of the General Assembly shall be paid an annual salary of six thousand three hundred dollars (\$6,300), payable monthly, and an expense allowance of one hundred fifty dollars (\$150.00) per month. The salary and expense

allowances provided in this section are in addition to any per diem compensation and any subsistence and travel allowance authorized by any other law with respect to any regular or extra session of the General Assembly, and service on any State board, agency, commission, standing committee and study commission.”

—PERSONNEL MERIT SALARY FUND/COMMUNITY COLLEGES

**Sec. 93.** Funds are provided in Section 2 of this act in the amount of two million one hundred six thousand six hundred fifty-six dollars (\$2,106,656) in 1979-80 and four million two hundred fifty-nine thousand fifty-one dollars (\$4,259,051) in 1980-81 for merit salary increases of institutional personnel of the community college system. These funds are in lieu of specific appropriations for automatic and merit salary increases as are provided for State employees subject to the Personnel Act and public school employees. Such funds are to be allocated to individuals in accordance with rules and regulations established by the State Board of Education and may not be used to establish any new positions.

—ACADEMIC PERSONNEL MERIT SALARY FUNDS/HIGHER EDUCATION

**Sec. 94.** Funds are provided in Section 2 of this act in the amount of four million two hundred sixty thousand dollars (\$4,260,000) in 1979-80 and eight million five hundred thousand dollars (\$8,500,000) in 1980-81 for merit salary increases for employees of The University of North Carolina who are exempt from the State Personnel Act. These funds are in lieu of specific appropriations for automatic and merit salary increases and longevity payments as are provided for State employees subject to the Personnel Act and public school employees. Funds appropriated for this purpose are to be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used to establish any new positions.

—COST-OF-LIVING ALLOWANCE INCREASES FOR RETIRED SOLICITORS

**Sec. 95.** There is appropriated in Section 2 of this act funds to provide for a four percent (4%) cost-of-living increase for fiscal year 1979-80 in accordance with G.S. 135-5(o) plus an additional one percent (1%) to a total of five percent (5%) for the year 1979 only, to members of the Uniform Solicitorial Retirement System who retired prior to July 1, 1978. The provisions of this section shall apply also to the allowance of a surviving annuitant of a beneficiary.

—COST-OF-LIVING ALLOWANCE INCREASES FOR RETIRED CLERKS OF COURT

**Sec. 96.** There is appropriated in Section 2 of this act funds to provide a four percent (4%) cost-of-living increase for fiscal year 1979-80 in accordance with G.S. 135-5(o) plus an additional one percent (1%) to a total of five percent (5%) for the year 1979, only to members of the Clerks of Court Retirement System who retired prior to July 1, 1978. The provisions of this section shall apply also to the allowance of a surviving annuitant of a beneficiary.

—INCREASED DEATH BENEFIT IN LAW ENFORCEMENT OFFICERS' RETIREMENT FUND

**Sec. 97.** G.S. 143-166 is amended by adding a new subsection (z) to read:  
“(z) Death Benefit Plan. There is created a Group Life Insurance Plan (hereinafter called the ‘Plan’) which is established as an employee welfare



benefit plan that is separate and apart from the Retirement Fund and under which the members of the Retirement Fund shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the board of commissioners in their capacity as trustees under the Group Life Insurance Plan, of the death in service of a member who had completed at least one full calendar year of membership in the Retirement Fund, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the board of commissioners, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) the compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs; or
- (2) the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his death occurs; or
- (3) if the member had applied for and was entitled to receive a disability retirement allowance under the fund and such disability retirement allowance had not been discontinued or revoked within 366 days of his last date of actual service, the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his last day of actual service occurred,

subject to a maximum of twenty thousand dollars (\$20,000), less any death benefit paid from the Separate Benefit Fund. Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the fund on his death. For the purposes of this plan, a member shall be deemed to be in service at the date of his death if his last day of actual service occurred not more than 90 days before the date of his death or if his last day of actual service occurred not more than 366 days before the date of his death if such member during said one-year period had applied for and was entitled to receive a disability retirement allowance under the fund, provided said disability retirement allowance had not been discontinued or revoked during said one-year period.

The board of commissioners shall provide the death benefit either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the board of commissioners and all investment earnings on the trust fund shall be credited to such fund.

- (4) In administration of the death benefit contained in this subsection, the following shall apply:

- a. For the purpose of determining eligibility only, in this subsection 'calendar year' shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all

other purposes in this subsection 'calendar year' shall mean the 12 months beginning January 1 and ending December 31.

b. Last day of actual service shall be:

1. when employment has been terminated, the last day the member actually worked;

2. when employment has not been terminated, the date on which an absent member's sick and annual leave expired.

c. A member on leave of absence from his position as a law enforcement officer for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a law enforcement officer during the 12-month period immediately prior to the month in which death occurred, not to exceed twenty thousand dollars (\$20,000), less any death benefit paid from the Separate Benefit Fund.

(5) The provisions of the Retirement Fund pertaining to administration, G.S. 143-166(a) through (f), and management of funds, G.S. 143-166(g), are hereby made applicable to the Plan."

#### —PENSION INCREASES FOR PENSIONERS IN 'TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

**Sec. 98.** Pensions paid to public school teachers and State employees with 20 or more years of service, who separated from service prior to July 1, 1941, and who had attained the age of 65 years on or before August 1, 1959, shall be increased by five percent (5%).

#### —COST-OF-LIVING ALLOWANCE INCREASES IN 'TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

**Sec. 99.** G.S. 135-5 is amended by adding a new subsection (aa) to read as follows:

"(aa) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1978, which shall become payable on July 1, 1979, as otherwise provided in G.S. 135-5(o), shall be the current maximum four percent (4%) plus an additional one percent (1%) for the year beginning July 1, 1979. Provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

#### —COST-OF-LIVING ALLOWANCE INCREASES FOR RETIRED LAW ENFORCEMENT OFFICERS

**Sec. 100.** G.S. 143-166 is amended by adding new subsections (x1) and (x2) to read:

"(x1) As of December 31 of each year, the board of commissioners shall determine the ratio of the Consumer Price Index to that index of the previous year. Each beneficiary receiving a basic service retirement allowance, a basic disability retirement allowance, or an alternative to those allowances as of July 1 of the year of determination shall be entitled to have his total allowance increased effective July 1 of the year following the year of determination by the same percentage increase by the ratio calculated to the nearest tenth of one percent (1/10 of 1%); provided, however, that increase:

(1) shall not exceed four percent (4%) in any year; and

(2) shall be limited to the annual actuarial gain of the Retirement Fund.

For purposes of this subsection, Consumer Price Index shall mean the Consumer Price Index (all items - United States city average) as published by the United States Department of Labor, Bureau of Labor Statistics.

(x2) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1978, which shall become payable on July 1, 1979, shall be the current maximum four percent (4%) plus an additional one percent (1%) for the year beginning July 1, 1979. Provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

**—REDUCE VESTING PERIOD FOR BENEFIT ENTITLEMENT IN LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND**

**Sec. 101.** G.S. 143-166(j), is rewritten to read:

"(j) Any member who is no longer a law enforcement officer, who has 15 or more years of creditable service, who leaves his total accumulated contributions in the Retirement Fund, and who is 50 years of age or older, may apply for and receive a deferred retirement allowance. Any member who is no longer a law enforcement officer, who has five or more years of creditable service, who leaves his total accumulated contributions in the Retirement Fund, and who is 55 years of age or older, may apply for and receive a deferred retirement allowance. The deferred retirement allowance shall be computed in the same manner as is the basic service retirement allowance set forth in G.S. 143-166(y)."

**—REDUCE VESTING PERIOD FOR DISABILITY BENEFIT ENTITLEMENT IN LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND**

**Sec. 102.** G.S. 143-166(y) is rewritten to read:

"(y) Any member in service 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.

Under such rules and regulations as are otherwise adopted by the board of commissioners, a member eligible to retire under this subsection shall receive a basic service retirement allowance equal to one and fifty-five one hundredths percent (1.55%) of his average final compensation (calculated as the average annual compensation of a member during the four consecutive years of membership service producing the highest such average), multiplied by the number of years of his creditable service, and reduced by one-third of one percent ( $1/3$  of 1%) for each month by which his date of retirement precedes his 55th birthday, except that no reduction in the basic service retirement allowance shall apply to any member who has 30 or more years of creditable service at the time of his retirement.

Any member who is less than 55 years of age with five or more years of creditable service and who has been totally and permanently incapacitated for duty, or any member who is less than 55 years of age with one or more years of membership service and who has been totally and permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place may, upon application of the member or his employer, be retired by the board of commissioners on a basic disability retirement allowance as is set forth below. The board of commissioners shall not grant a basic disability retirement

allowance to any member for whom application for disability retirement is received more than a year after the onset of incapacity for duty or, if the member is in receipt of compensation from his employer on account of such incapacity for duty for more than one year, more than 30 days after the cessation of that compensation.

Under such rules and regulations as are otherwise adopted by the board of commissioners, a member eligible for a basic disability retirement allowance shall receive a disability retirement equal to one and fifty-five one hundredths percent (1.55%) of his average final compensation calculated as the average annual compensation of a member during the four consecutive years of membership service producing the highest such average, multiplied by the number of years of creditable service which he would have had if he had continued in service until his 55th birthday.

The board of commissioners shall implement the provisions of this subsection by the adoption of necessary and reasonable rules and regulations."

—COMBINATION AGE-SERVICE UNREDUCED BENEFITS IN  
TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

**Sec. 103.** The General Assembly hereby gives tentative approval to an increase in the retirement formula to one and sixty one-hundredths percent (1.60%) and to an un-reduced retirement allowance whenever the combination of age at retirement and the number of years of creditable service for those participants who first became members prior to their thirty-sixth birthday totals eighty-five (85) in the Teachers' and State Employees' Retirement System, effective July 1, 1980. Such approval is contingent upon further study by and a determination by the Joint Appropriations Committee of the Second Session of the 1979 General Assembly that sound and sufficient funding arrangements can be made for the fiscal years beginning July 1, 1980.

—COST-OF-LIVING ALLOWANCE INCREASES IN UNIFORM  
JUDICIAL RETIREMENT SYSTEM

**Sec. 104.** G.S. 135-65 is amended by designating the present language as subsection (a) and by adding a new subsection (b) to read:

"(b) Increases in benefits paid to members retired prior to July 1, 1978. Notwithstanding subsection (a) of this section, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1978, which shall become payable on July 1, 1979, as otherwise provided in subsection (a) of this section, shall be the current maximum four percent (4%) plus an additional one percent (1%) to a total of five percent (5%) for the year 1979 only. The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

—UNIFORM EMPLOYER CONTRIBUTIONS REQUIRED FOR BASIC  
BENEFIT ALLOWANCES IN LAW ENFORCEMENT OFFICERS'  
BENEFIT AND RETIREMENT FUND.

**Sec. 105.** G.S. 143-166(i) is amended by adding a new paragraph to read as follows:

"On or before June 15th of each year, the board of commissioners shall establish for the next fiscal year a uniform annual employer's contribution rate necessary to financially support the basic benefit allowances provided for all members of the Law Enforcement Officers' Benefit and Retirement Fund. Such employers' contributions shall apply to all employers of in-service members of the Law Enforcement Officers' Benefit and Retirement Fund. The employer's



annual contribution rate shall be equal to a percentage of the actual compensation paid to each member employed which will fund the basic benefit allowances in the fund, exclusive of any supplemental benefit allowances that may be provided on an optional basis. The State of North Carolina, each county, city, town or other subdivision of government employing active members of the Law Enforcement Officers' Benefit and Retirement Fund within the State of North Carolina shall pay monthly into the fund an amount equal to the annual contribution rate multiplied by the total monthly compensation of those participating members employed. The board of commissioners shall establish the necessary and reasonable rules and regulations for the administration of this section, including the manner in which payments of the required employer contribution rates will be made."

—RETIREMENT FORMULAS AND RELATED MATTERS IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND AND THE HOSPITALIZATION INSURANCE AND MATERNITY BENEFITS

**Sec. 106.** There is appropriated from the General Fund to the General Assembly in Section 2 of this act the sum of twenty-five thousand dollars (\$25,000) for fiscal year 1979-80 for the purpose of funding a study to determine the feasibility of equating the retirement formula and related items of the Teachers' and State Employees' Retirement System and the retirement formula and related items of the Law Enforcement Officers' Benefit and Retirement Fund with the retirement formulas of the Uniform Judicial, Solicitorial and Clerks of Superior Court Retirement Systems, cost of hospitalization insurance for State employees and teachers and maternity benefits according to Section 1 of the "1978 Amendments to the Civil Rights Acts of 1964." The co-chairmen of the Legislative Services Commission shall appoint a 10-member select study committee to study the formulas and make recommendations for any required improvements, including the source of financial support, to the 1979 General Assembly, Second Session, 1980. The select study committee shall consist of the following persons:

(1) Senate and House of Representatives Appropriations Committee chairmen;

(2) a member of the Senate to be appointed by the President Pro Tempore of the Senate;

(3) a member of the House of Representatives to be appointed by the Speaker of the House;

(4) the State Treasurer, or his designated representative; (5) the State Budget Officer, or his designated representative; (6) the executive director of each of the following organizations:

(a) North Carolina State Employees' Association or North Carolina State Government Employees' Association;

(b) North Carolina Association of Educators;

(c) North Carolina Law Enforcement Officers' Association;

(d) North Carolina Retired Governmental Employees' Association.

PART IX. SPECIAL PROVISIONS/GENERAL GOVERNMENT, TRANSPORTATION AND OTHER

—FLAT ROCK PLAYHOUSE

**Sec. 107.** Of the new funds appropriated in Section 2 of this act to the Department of Cultural Resources for "Aid to Outdoor Drama", sixty-two thousand five hundred dollars (\$62,500) is to provide a nonrecurring grant-in-aid to the Flat Rock Playhouse for capital improvements.

—CONSOLIDATE TAX AUDIT FUNCTION OF DIVISION OF MOTOR VEHICLES AND DEPARTMENT OF REVENUE

**Sec. 108.** The Department of Transportation and the Department of Revenue are directed to prepare plans for the consolidation of the Gasoline Tax Division of the Department of Revenue with respect to that division's audit functions and the Tax Audit Section of the Division of Motor Vehicles. The Departments are directed to report to the General Assembly by January 15, 1980, with a plan including details on possible cost savings, personnel reductions, organizational changes, space needs, budget information, and necessary statutory changes.

—FUNDS FOR STATE SURPLUS PROPERTY WAREHOUSE

**Sec. 109.** The Department of Administration is directed to transfer funds necessary for the operation of the State Surplus Property Warehouse for fiscal year 1979-80 from the Equipment Reserve Fund.

—HOUSING FINANCE AGENCY FUNDS CANCELLED

**Sec. 110.** The appropriation of two hundred fifty thousand dollars (\$250,000) made in Section 6 of Chapter 1083 of the 1977 Session Laws to the North Carolina Housing Finance Agency for energy conservation loan guarantees is hereby cancelled. The full amount appropriated and any investment income from these funds unspent on June 30, 1979, shall be returned to the General Fund.

—NATIONAL GUARD/PROHIBIT TRANSFER OF TUITION FUNDS

**Sec. 111.** Any funds appropriated for National Guard tuition assistance administered under Article 15 of Chapter 127A of the General Statutes shall not be transferred for any purposes. Any excess funds shall revert to the General Fund at the end of the fiscal year.

—DEPARTMENT OF JUSTICE/TEMPORARY SYSTEMS ANALYSTS POSITIONS

**Sec. 112.** The two temporary System Analyst III positions provided for in Section 2 of this act for the Department of Justice shall terminate at the end of the 1980-81 fiscal year.

—WILDLIFE RESOURCES COMMISSION EXPENDITURES

**Sec. 113.** The Wildlife Resources Commission is directed to continue strict economy measures during fiscal year 1979-80 in an effort to cover the cost of operating wildlife programs from funds available to the Commission. If these measures fail to generate sufficient funds to cover operating expenditures, the Wildlife Resources Commission is authorized to borrow up to four hundred thousand dollars (\$400,000) from the Contingency and Emergency Fund. In the event funds are not available from the Contingency and Emergency Fund, the Director of the Budget is authorized to utilize other State funds which the Wildlife Resources Commission may borrow for this purpose. Any loan funds outstanding shall be repaid on or before June 30, 1981.

A nine-member committee shall be appointed to study and evaluate the total financial operations of the Wildlife Resources Commission. This committee shall consist of three members appointed by the Governor, three members

appointed by the Lieutenant Governor, and three members appointed by the Speaker of the House.

The Committee shall submit a report to the Governor, Lieutenant Governor and Speaker of the House by February 1, 1980, with recommendations as to the most effective ways of financing the Wildlife Resources programs.

Compensation and reimbursement for travel and subsistence expenses for members of the committee shall be paid from the Contingency and Emergency Fund.

#### —NORTH CAROLINA SYMPHONY/GRANT-IN-AID FUNDS

**Sec. 114.** Funds are appropriated in Section 2 of this act to provide grant-in-aid funds to the North Carolina Symphony. As a condition of accepting State grant-in-aid funds, the North Carolina Symphony shall operate from within a balanced budget.

#### —STATE EXECUTIVE HELICOPTER OPERATIONS TO BE LOCATED WITHIN DEPARTMENT OF COMMERCE

**Sec. 115.** Effective July 1, 1979, all State executive helicopter operations, equipment, facilities, funds and staff are to be located within the Department of Commerce and to be administered by the Department of Commerce.

#### —AIRPORT IMPROVEMENT GRANTS

**Sec. 116.** The Secretary of the Department of Transportation, upon the request of the Aeronautics Council, and with the approval of the Director of the Budget and the Advisory Budget Commission, is authorized and empowered to allocate grants from the appropriations for airport improvements made in Section 2 of this act.

#### —ADDITIONAL DISTRICT COURT JUDGES

**Sec. 117.** G.S. 7A-133 is amended, in the table, so that the total number of judges for the indicated district will read as follows:

"District	Judges
26	9
14	4"

#### —ADDITIONAL MAGISTRATES

**Sec. 118.** G.S. 7A-133 is amended, in the table, so that the total number of magistrates for the indicated counties will read as follows:

"County	Magistrates	
	Minimum	Maximum
Watauga	4	6".

#### —ADDITIONAL ASSISTANT DISTRICT ATTORNEYS

**Sec. 119.** G.S. 7A-41 is amended, in the table, so that the total number of full-time assistant district attorneys for the indicated districts shall read as follows:

"District	Number of Full-Time Assistant District Attorneys
10	14
12	11
14	8
26	17".

#### PART X. SPECIAL PROVISIONS/APPROPRIATIONS ACT

#### —EXECUTIVE BUDGET ACT REFERENCE

**Sec. 120.** 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 - 1979-81

**Sec. 121.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1979-81 biennium, the textual provisions of this act shall apply only to funds appropriated for, and activities occurring during, the 1979-81 biennium.

—SEVERABILITY CLAUSE

**Sec. 122.** If any section or provision of this act be declared unconstitutional or invalid by the courts, the same 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. 123.** Except for Sections 25 through 29 and 92, this act shall become effective July 1, 1979.

**Sec. 124.** Sections 25 through 29 are effective upon ratification.

**Sec. 125.** Section 92 shall become effective January 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

H. B. 1067

## CHAPTER 839

AN ACT TO AMEND AND CONSOLIDATE THE "MAXIMUM HOUR LAW"; "THE MINIMUM WAGE ACT"; THE "UNIFORM WAGE PAYMENT LAW"; AND THE "CHILD LABOR LAW" INTO ONE ARTICLE ENTITLED THE "WAGE AND HOUR ACT".

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 2 of Chapter 95 of the General Statutes is rewritten to read as follows:

### "ARTICLE 2.

#### "Wage and Hour Act.

"§ 95-15. *Short title and legislative purpose.*—(a) This Article shall be known and may be cited as the 'Wage and Hour Act'.

(b) The public policy of this State is declared as follows: The wage levels of employees, hours of labor, payment of earned wages, and the well-being of minors are subjects of concern requiring legislation to promote the general welfare of the people of the State without jeopardizing the competitive position of North Carolina business and industry. The General Assembly declares that the general welfare of the State requires the enactment of this law under the police power of the State.

"§ 95-16. *Definitions.*—In this Article, unless the context otherwise requires:

(1) 'Agriculture' includes farming in all its branches performed by a farmer or on a farm as an incident to or in conjunction with farming operations.

(2) 'Commissioner' means the Commissioner of Labor.

(3) 'Employ' means to suffer or permit to work.

(4) 'Employee' includes any individual employed by an employer.

(5) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee.



(6) 'Establishment' means a physical location where business is conducted.

(7) 'The Fair Labor Standards Act' means the Fair Labor Standards Act of 1938, as amended and as the same may be amended from time to time by the United States Congress.

(8) 'Hours worked' includes all time an employee is employed.

(9) 'Payday' means that day designated for payment of wages due by virtue of the employment relationship.

(10) 'Pay period' means a period of seven or 14 calendar days, or a calendar month.

(11) 'Person' means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons. For the purposes of G.S. 95-17 it also means the State of North Carolina, a city, town, county, or other municipality or agency or instrumentality of government.

(12) 'Seasonal food service establishment' means a restaurant, food and drink stand or other establishment generally recognized as a commercial food service establishment, preparing and serving food to the public but operating 180 days or less per year.

(13) 'Seasonal religious assembly or a seasonal amusement or recreational establishment' means an establishment which does not operate for more than seven months in any calendar year, or during the preceding calendar year had average receipts for any six months of such year of not more than thirty-three and one-third percent (33 1/3%) of its average receipts for the other six months of that year.

(14) 'Tipped employee' means any employee who customarily receives more than twenty dollars (\$20.00) a month in tips.

(15) 'Tip' shall mean any money or part thereof over and above the actual amount due a business for goods, food, drink, services or articles sold which is paid in cash or by credit card, or is given to or left for an employee by a patron or patrons of the business where the employee is employed.

(16) 'Wage' paid to an employee means compensation for labor or services rendered by an employee whether determined on a time, task, piece, job, day, commission, or other basis of calculation, and the reasonable cost as determined by the Commissioner of furnishing employees with board, lodging, or other facilities. For the purposes of G.S. 95-20 through G.S. 95-20.6, 'wage' includes sick pay, vacation pay, severance pay, commissions, bonuses, and other amounts promised when the employer has a policy or a practice of making such payments.

(17) 'Workweek' means any period of 168 consecutive hours.

"§ 95-17. *Minimum wage.*—(a) Every employer shall pay to each employee who in any workweek performs any work, wages of at least two dollars and seventy-five cents (\$2.75) per hour effective July 1, 1979, and two dollars and ninety cents (\$2.90) per hour effective July 1, 1980, except as authorized below.

(b) In order to prevent curtailment of opportunities for employment, the wage rate for full-time students, learners, apprentices, and messengers, as defined under the Fair Labor Standards Act, shall be two dollars and forty-five cents (\$2.45) per hour, except that the Commissioner may vary the amount after publishing notice, holding a public hearing, and following the other requirements of Chapter 150A (Administrative Procedure Act).

(c) The Commissioner, in order to prevent curtailment of opportunities for employment, may, by regulation, establish a wage rate less than the wage rate in

effect under section (a) which may apply to persons whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, as such persons are defined under the Fair Labor Standards Act.

(d) The Commissioner, in order to prevent curtailment of opportunities for employment of the economically disadvantaged and the unemployed, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) which shall apply to all persons (1) who have been unemployed for at least 15 weeks and who are economically disadvantaged, or (2) who are, or whose families are, receiving aid to families with dependent children provided under Part A of Title IV of the Social Security Act, or who are receiving supplemental security benefits under Title XVI of the Social Security Act.

Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for such subminimum wage shall be issued by the Employment Security Commission.

The regulation issued by the Commissioner shall not permit employment at the subminimum rate for a period in excess of 52 weeks.

(e) The Commissioner, in order to prevent curtailment of opportunities for employment, and to not adversely affect the viability of seasonal establishments, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) which shall apply to any employee employed by an establishment which is a seasonal religious assembly, a seasonal amusement or recreational establishment, or a seasonal food service establishment.

(f) Tips earned by a tipped employee may be counted as wages only up to fifty percent (50%) of the applicable minimum wage for each hour worked if the tipped employee is notified in advance, is permitted to retain all tips and the employer maintains accurate and complete records of tips received by each employee as such tips are certified by the employee monthly or for each pay period. Tip pooling shall also be permissible among employees who customarily and regularly receive tips; however, no employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling arrangement.

“§ 95-18. *Overtime.*—(a) Every employer shall pay each employee who works longer than 45 hours in any workweek at a rate of not less than time and one half of the regular rate of pay of the employee for those hours in excess of 45 per week.

(b) Hospital and nursing home employers may elect to pay overtime after eight hours per day or 80 hours in a 14-day work period, if the employee is notified in advance and is paid not less than one and one-half times the regular rate of pay of the employee for those hours in excess of eight per day or 80 in such 14-day work period.

“§ 95-19. *Youth employment.*—(a) The Commissioner shall require employment certificates for all workers under 18 years of age and shall prescribe regulations for the issuance and revocation of certificates. Such regulations shall prescribe that certificates be issued by county or city directors of social services.

(b) An employer shall not employ minors under age 18 in hazardous occupations, as defined under the Fair Labor Standards Act.

(c) An employer may employ minors 14 and 15 years old:

- (1) no more than three hours on a day when school is in session for the minor, except that the minor may work up to six hours on the last day of the school week;
- (2) no more than eight hours on a day when school is not in session for the minor;
- (3) only between 7 a.m. and 7 p.m., except to 9 p.m. when there is no school for the minor the next day; and
- (4) no more hours per week than the following:

Days school in session for the minor	Weekly hours
5	18
4	26
3	34
2 or less	40

(d) An employer may employ minors 12 and 13 years of age outside school hours in the distribution of newspapers to the consumer but not more than three hours per day. An employment certificate shall not be required for any person under 18 years of age engaged in the distribution of newspapers to the consumer outside of school hours.

(e) No minor under 16 years of age shall be employed for more than five consecutive hours without an interval of at least 30 minutes for rest. No period of less than 30 minutes shall be deemed to interrupt a continuous period of work.

(f) The Commissioner may waive for any minor over 12 years of age any provision of this section and authorize the issuance of an employment certificate when:

- (1) he receives a letter from a social worker, court, probation officer, county department of social services, or school official stating those factors which create a hardship situation when the best interests of a minor 12 years of age or older are served by allowing him to work; and
- (2) he determines that the health or safety of the minor would not be adversely affected; and
- (3) the parent, guardian, or other person standing *in loco parentis* consents in writing to the proposed employment.

“§ 95-20. *Wage payment.*—Every employer shall pay every employee all wages and tips accruing to the employee on the regular payday. Pay periods may be daily, weekly, bi-weekly, semi-monthly, or monthly. Wages based upon bonuses, commissions, or other forms of calculation may be paid as infrequently as annually if prescribed in advance.

“§ 95-20.1. *Payment to separated employees.*—Employees whose employment is discontinued for any reason shall be paid all wages due on or before the next regular payday.

“§ 95-20.2. *Withholding of wages.*—An employer may withhold or divert any portion of an employee's wages when:

- (1) the employer is required or empowered to do so by State or federal law, or
- (2) the employer has a written authorization from the employee which is signed on or before the payday for the pay period from which the deduction is to be made.

“§ 95-20.3. *Certain claims not to be deducted from paycheck covering period when claim arises.*—Except as otherwise provided in this Article, cash shortages, inventory shortages, or damage to an employer's property may not be deducted from an employee's wages due on the payday immediately following the occurrence of the shortage or damage.

“§ 95-20.4. *Combined amounts of certain deductions limited to fifteen percent (15%) of gross pay.*—Pursuant to G.S. 95-20.2(2) and subject to G.S. 95-20.3, the following items may be deducted from any paycheck, but their combined amount shall not be in excess of fifteen percent (15%) of gross wages:

- (1) cash shortages,
- (2) inventory shortages,
- (3) damage to an employer's property,
- (4) deposits made by the employee for the use of the employer's property.

“§ 95-20.5. *Portion of final paycheck not subject to fifteen percent (15%) limitation; employer's remedy.*—The fifteen percent (15%) limitation imposed by G.S. 95-20.4 above only applies to that portion of a separated employee's final paycheck which is equal to the minimum wage required by G.S. 95-17. Any amounts in excess of the minimum wage required by G.S. 95-17 and any other amounts due the employee may be deducted in their entirety.

Nothing in this Article shall preclude an employer from bringing an action in the General Court of Justice to collect any amounts due the employer from the employee.

“§ 95-20.6. *Vacation pay.*—An employer is not required to provide vacations for employees. If the employer provides vacations to employees, the employer shall pay all vacation pay or payment in lieu of time off as required by company policy or past practice.

An accrual policy is not required. If there is an accrual policy, all vacation pay in lieu of time off is due at termination unless the policy or past practice indicates that an employee quitting without notice forfeits accrued time and payment, and the employee fails to notify or is discharged for cause.

For purposes of this section the term ‘discharged for cause’ shall mean a discharge for willful or habitual tardiness or absence from work or being disorderly or intoxicated while at work, or destructive of employer's property or shall mean that an employee is discharged for violating specific written company policy of which the employee has been previously warned and for which a discharge is the stated remedy for such violation. An accrual policy containing a forfeiture clause based upon any factor other than failure to notify or discharge for cause is null and void.

“§ 95-20.7. *Notification, posting, and records.*—Every employer shall:

(a) notify his employees, orally or in writing at the time of hiring, of the rate of pay, policies on vacation time and pay, sick leave and comparable matters, and the day, and place for payment of wages;

(b) make available to his employees, in writing or through a posted notice maintained in a place accessible to his employees, employment practices and policies with regard to vacation pay, sick leave, and comparable matters;

(c) notify his employees, in writing or through a posted notice maintained in a place accessible to his employees, of any changes in the arrangements specified in (b) above prior to the time of such changes except that wages and benefits may be retroactively increased without the prior notice required by this subsection; and



(d) furnish each employee with an itemized statement of deductions made from his wages under G.S. 95-20.2 for each pay period such deductions are made.

“§ 95-21. *Exemptions.*—(a) The provisions of G.S. 95-17 (Minimum Wage), G.S. 95-18 (Overtime), G.S. 95-19 (Youth Employment), and G.S. 95-22(b) (Record Keeping) as it relates to these exemptions, do not apply to:

- (1) any person covered by the Fair Labor Standards Act, except for the issuance of employment certificates pursuant to G.S. 95-19;
- (2) any person employed in agriculture;
- (3) any person employed as a baby sitter;
- (4) any person employed as a page in the North Carolina General Assembly or in the Governor's office;
- (5) the spouse, child or parent of the employer, or any other person qualifying as a dependent of the employer under the income tax laws of North Carolina;
- (6) any person employed in an establishment that does not have four or more persons employed in any workweek;
- (7) any employee employed in a bona fide executive, administrative, professional, or outside sales capacity, as defined under the Fair Labor Standards Act.

(b) The provisions of G.S. 95-17 (Minimum Wage), G.S. 95-18 (Overtime), and G.S. 95-22(b) (Record Keeping) as it relates to these exemptions, do not apply to:

- (1) bona fide volunteers in medical, educational, religious, or nonprofit organizations where an employer-employee relationship does not exist;
- (2) persons confined in any penal, correctional, or mental institution of the State or local government;
- (3) any employee of a boys' or girls' summer camp;
- (4) any person employed in the catching, processing, or first sale of seafood.

(c) The provisions of G.S. 95-18 (Overtime), and G.S. 95-22(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 and mechanics 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) child care workers or other live-in employees in homes for dependent children.

(d) The provisions of G.S. 95-17 (Minimum Wage) do not apply to any person employed in a seasonal recreation program by a city, town, county, or other municipality or agency or instrumentality of local government.

(e) The provisions of this Article with the exception of G.S. 95-17 and provisions of G.S. 95-16 necessary to interpret the application of G.S. 95-17 do not apply to the State of North Carolina, a city, town, county, or other municipality or agency or instrumentality of government.

“§ 95-22. *Investigations and inspection of records, notice of law.*—(a) The Commissioner or his designated representative shall have the power and authority to enter any place of employment and gather such facts as are

essential to determine whether or not the employer is covered by any provision of this Article.

With respect to any provision of this Article under which the employer is covered, the Commissioner or his designated representative may inspect such places and such records, make transcriptions of any and all such records, question employees and investigate such facts, conditions, practices, or matters as are necessary to determine whether the employer has violated said provision of this Article.

With respect to the provisions of G.S. 95-20 through G.S. 95-20.6 (Wage Payment) as those provisions apply to persons covered by the Fair Labor Standards Act, the Commissioner or his designated representative shall have no authority under this subsection unless the Commissioner or his designated representative has received a complaint from an employee of the covered establishment, and then shall investigate that specific complaint only.

(b) Except as otherwise provided in this Article, every employer subject to any provision of this Article shall make, keep, and preserve such records of the persons employed by the employer and of the wages, hours, and other conditions and practices of employment which are essential to the enforcement of this Article and are prescribed by regulation of the Commissioner, except that the Commissioner shall have no authority to prescribe records for the State of North Carolina, a city, town, county or other municipality or agency or instrumentality of government.

(c) A poster summarizing the major provisions of this Article shall be displayed in every establishment subject to this Article.

“§ 95-23. *Enforcement.*—(a) The Commissioner shall enforce and administer the provisions of this Article, and the Commissioner or his authorized representative is empowered to hold hearings and to institute criminal and civil proceedings hereunder.

(b) The Commissioner or his authorized representative shall have power to administer oaths and examine witnesses, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, records, payrolls, documents, and take depositions and affidavits in any proceeding hereunder.

“§ 95-24. *Wage and Hour Division established.*—The State Employment Standards Division within the North Carolina Department of Labor is renamed the Wage and Hour Division. The Commissioner shall reappoint the Director of the State Employment Standards Division as the Director of the Wage and Hour Division and shall reappoint such other employees as he deems necessary to assist him in administering the provisions of this Article. The Commissioner shall continue to prescribe the powers, duties, and responsibilities of the director and employees engaged in the administration of this Article.

“§ 95-25. *Legal representation.*—It shall be the duty of the Attorney General of North Carolina, when requested, to represent the Department of Labor in actions or proceedings in connection with this Article.

“§ 95-26. *Rules and regulations.*—Subject to the requirements of Article 2 of Chapter 150A, the Commissioner is authorized to issue such rules and regulations as are necessary for the purpose of carrying out the provisions of this Article.

“§ 95-27. *Complainants protected.*—No employer shall discharge or in any manner discriminate against any employee because the employee files a

complaint or participates in any investigation or proceeding under this Article. Any employee who believes that he has been discharged or otherwise discriminated against in violation of this section may, within 30 days after such violation occurs, file a complaint with the Commissioner alleging such discrimination. If the Commissioner determines that the provisions of this section have been violated, he shall bring an action against the employer in the Superior Court division of the General Court of Justice in the county wherein the discharge or discrimination occurred. In any such action, the Superior Court shall have jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay.

“§ 95-27.1. *Illegal acts.*—(a) It shall be unlawful for any person to interfere unduly with, hinder, or delay the Commissioner or any authorized representative in the performance of official duties or refuse to give the Commissioner or his authorized representative any information required for the enforcement of this Article.

(b) It shall be unlawful for any person to make any statement or report, or keep or file any record pursuant to this Article or regulations issued thereunder, knowing such statement, report, or record to be false in a material respect.

(c) Any person who violates this section shall be guilty of a misdemeanor, subject to a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment for not more than six months, or both.

“§ 95-27.2. *Recovery of unpaid wages.*—(a) Any employer who violates the provisions of G.S. 95-17 (Minimum Wage), G.S. 95-18 (Overtime), or G.S. 95-20 through G.S. 95-20.6 (Wage Payment) shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, their unpaid overtime compensation, or their unpaid amounts due under G.S. 95-20 through G.S. 95-20.6, as the case may be.

In its discretion, the court may award exemplary damages in an amount not in excess of the amount found to be due as provided above.

(b) Action to recover such liability may be maintained in the General Court of Justice by any one or more employees.

(c) Action to recover such liability may also be maintained in the General Court of Justice by the Commissioner at the request of the employees affected. Any sums thus recovered by the Commissioner on behalf of an employee shall be held in a special deposit account and shall be paid directly to the employee or employees affected.

(d) The court, in any action brought under this section may, in addition to any judgment awarded plaintiff, order costs and fees of the action and reasonable attorneys' fees to be paid by the defendant.

The court may order costs and fees of the action and reasonable attorneys' fees to be paid by the plaintiff if the court determines that the action was frivolous.

(e) The Commissioner is authorized to determine and supervise the payment of the amounts due under this section, and the agreement to accept such amounts by the employee shall constitute a waiver of the employee's right to bring an action under subsection (b) of this section.

(f) Actions under this section must be brought within two years pursuant to G.S. 1-53.

(g) Prior to initiating any action under this section, the Commissioner shall exhaust all administrative remedies, including giving the employer the opportunity to be heard on the matters at issue and giving the employer notice of the pending action.

“§ 95-27.3. *Violation of youth employment; civil penalty.*—(a) Any employer who violates the provisions of G.S. 95-19 (Youth Employment) or any regulation issued thereunder, shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150A and in a judicial proceeding pursuant to Article 4 of Chapter 150A.

(b) The amount of such penalty when finally determined may be recovered in a civil action brought by the Commissioner in the General Court of Justice.

(c) Sums collected under this section by the Commissioner shall be paid into the General Fund of the State Treasury.

“§ 95-27.4. *Restraint of violations.*—The General Court of Justice has jurisdiction and authority upon application of the Commissioner to enjoin or restrain violations of this Article.

“§ 95-27.5. *Construction of Article and severability.*—This Article shall receive a liberal construction to the end that the welfare of adult and minor workers may be protected. If any provisions of this Article or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the provisions or application of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.”

**Sec. 2.** Article 11 of Chapter 95 of the General Statutes are hereby repealed. Article 1 of Chapter 110 of the General Statutes is hereby repealed. Effective January 1, 1980, Article 17 of Chapter 95 of the General Statutes is repealed.

**Sec. 3.** The provisions of the act shall not obligate the State to an appropriation of funds in the fiscal year 1980-81. In the event that the 1979 General Assembly appropriates funds for a salary increase in 1980-81 for teachers and State employees, those funds shall be used to implement the minimum wages reflected in this act for those State employees covered by this act.

**Sec. 4.** This act shall become effective July 1, 1979, except that proposed G.S. 95-20 through G.S. 95-20.7 and the last sentence of G.S. 95-16(16) shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979. day of June, 1979.



## H. B. 1492

## CHAPTER 840

## AN ACT TO INCORPORATE THE VILLAGE OF ALAMANCE IN ALAMANCE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Incorporation and corporate powers. The inhabitants and property of the area described in Section 2 of this act shall constitute a body politic and corporate under the name "Village of Alamance", and shall be vested with all the powers, functions, rights, privileges and immunities conferred upon municipalities by the Constitution and laws of the State of North Carolina, and specifically Chapter 160A of the General Statutes.

**Sec. 2.** Corporate boundaries. (a) The corporate boundaries of the Village of Alamance shall be as described herein until changed in accordance with law:

Lying and being in Alamance County and beginning at the North Carolina Highway 62 bridge over Great Alamance Creek and proceeding generally West along the center line of Great Alamance Creek to a point opposite the Northwest corner of Tax Map 2-10, Lot 67 and then proceeds generally South along the West boundary of Lot 67 to the center line of State Road 1145 and then proceeds generally West along the center line of State Road 1145 to a point opposite the Northwest corner of Tax Map 2-10, Lot 66A and then proceeds as follows: Generally West along the North boundary of:

Tax Map 2-10, Lots 66A and 66,

Tax Map 2-9, Lots 18B and 18A,

Tax Map 2-10, Lot 57A,

To the West end of Lot 57A and then generally East along the South boundary of:

Tax Map 2-10, Lot 57A and 57,

To the Northwest corner of Tax Map 10-2, Lot 56 and then generally South along the West boundary of:

Tax Map 2-10, Lots 57, 56 and 54,

Tax Map 2-11, Lots 63, 62, 50, 49, 48, 41, 40, 39, 27 and 26,

To the Southwest corner of Tax Map 2-11, Lot 26 and then generally East along the South boundary of:

Tax Map 2-11, Lots 26, 24, 23, 22, 21, 20, 19, 18 and 15,

To the center line of N.C. 62 and then generally North along the center line of N.C. 62 to a point opposite the Southwest corner of Tax Map 2-11, Lot 13, and then generally east along the South boundary of Lot 13 to the Southeast corner of Lot 13 and then generally North along the East boundary of:

Tax Map 2-11, Lots 13, 11A, 10A, 9, 7B, 5, 3 and 1

Tax Map 2-10, Lots 52, 51, 40 and Lot 16,

to the point where Lot 16 intersects with Great Alamance Creek and then generally East to the center line of Great Alamance Creek and then generally North along the center line of Great Alamance Creek to the point of beginning.

(b) All references in this section are made to Alamance County Tax Maps 2-9, 2-10 and 2-11, January, 1978 revisions. A copy of these Tax Maps with the boundaries of the Village of Alamance is filed with the Alamance County Tax Supervisor.

**Sec. 3.** Temporary officers. Until the initial election provided in Section 5, Carl Smith, James Hawkins, Helen Ward, Frances Seymour, Charles M.

Crawley, and Don Brown are appointed as the Board of Aldermen of the Village of Alamance; C. E. Councilman is appointed Mayor. The persons appointed shall exercise the powers granted by law to the Board of Aldermen until the 1981 election of municipal officers when their successors shall be elected and qualified.

**Sec. 4.** Officers. The elected officers of the Village shall be a Board of Aldermen, composed of six members, and a Mayor, elected by and from the qualified voters of the Village. The term of the Mayor shall be two years, and after the initial election as provided in Section 5, the terms of Aldermen shall be four years.

**Sec. 5.** Elections. (a) At the regular municipal election in 1981, the three candidates for Aldermen receiving the largest numbers of votes shall be elected for four-year terms; the three candidates for Aldermen receiving the next largest numbers of votes shall be elected for two-year terms. In 1983 and quadrennially thereafter, three aldermen shall be elected for four-year terms. In 1985 and quadrennially thereafter, three aldermen shall be elected for four-year terms.

(b) The officers of the Village shall be elected by the nonpartisan plurality method as provided in G.S. 163-292.

**Sec. 6.** Initial budget; taxes. (a) The Board of Aldermen may adopt a budget ordinance for the 1979-80 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption schedule in the Local Government Budget and Fiscal Control Act.

(b) The territory within the corporate limits and its citizens and property shall be subject to municipal taxes levied by the Village for the fiscal year 1979-80 and subsequent years. The Village may obtain from Alamance 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, 1979.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1495

## CHAPTER 841

### AN ACT TO ACCURATELY DESCRIBE THE CORPORATE LIMITS OF THE TOWN OF FAITH IN ROWAN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 363, Private Laws of 1903, as rewritten by Section 1 of Chapter 287, Session Laws of 1963, is further rewritten to read:

“Sec. 2. The corporate limits of the Town of Faith shall embrace all the territory circumscribed by the following boundary lines, to wit:

BEGINNING at a point at the center of the intersection of West Third Street and Brown Street as shown upon the map prepared by Tate Lanning and Associates entitled ‘Town of Faith-Map of town limits’ and dated May, 1979; said beginning point being designated as point #53 and runs thence North 1 degree 45 minutes 30 seconds West 447.20 feet to point #54; thence North 84 degrees 47 minutes 40 seconds West 214.39 feet to point #55; thence North 24 degrees 10 minutes 02 seconds East 374.15 feet to point #56; thence North 52 degrees 54 minutes 01 second West 266.64 feet to point #57; thence North 31 degrees 30 minutes 34 seconds East 310.20 feet to point #58; thence South 82

degrees 25 minutes 58 seconds East 696.77 feet to point #59; thence North 05  
degrees 26 minutes 50 seconds East 495.29 feet to point #60; thence South 84  
degrees 01 minute 55 seconds East 93.18 feet to point #61; thence North 03  
degrees 35 minutes 10 seconds West 345.44 feet to point #62; thence North 61  
degrees 35 minutes 28 seconds East 468.76 feet to point #63; thence South 50  
degrees 47 minutes 04 seconds East 136.83 feet to point #64; thence North 55  
degrees 20 minutes 26 seconds East 521.41 feet to point #65; thence North 05  
degrees 45 minutes 04 seconds West 315.56 feet to point #66; thence North 11  
degrees 41 minutes 17 seconds West 340.76 feet to point #1; thence South 88  
degrees 07 minutes 56 seconds East 210.35 feet to point #2; thence North 16  
degrees 01 minute 31 seconds West 74.99 feet to point #3; thence South 87  
degrees 34 minutes 11 seconds East 658.46 feet to point #4; thence South 83  
degrees 01 minute 23 seconds East 524.39 feet to point #5; thence South 04  
degrees 42 minutes 04 seconds West 154.86 feet to point #6; thence South 79  
degrees 25 minutes 34 seconds East 883.71 feet to point #7; thence South 25  
degrees 14 minutes 08 seconds East 237.54 feet to point #8; thence South 21  
degrees 59 minutes 44 seconds West 214.86 feet to point #9; thence South 22  
degrees 06 minutes 03 seconds West 109.04 feet to point #10; thence South 13  
degrees 13 minutes 49 seconds East 342.06 feet to point #11; thence South 75  
degrees 38 minutes 08 seconds East 44.11 feet to point #12; thence South 35  
degrees 52 minutes 40 seconds East 197.53 feet to point #13; thence South 56  
degrees 47 minutes 44 seconds West 145.11 feet to point #14; thence South 18  
degrees 02 minutes 02 seconds West 226.33 feet to point #15; thence South 37  
degrees 51 minutes 58 seconds East 74.67 feet to point #16; thence South 87  
degrees 54 minutes 15 seconds West 215.72 feet to point #17; thence South 06  
degrees 37 minutes 51 seconds West 313.70 feet to point #18; thence South 88  
degrees 22 minutes 08 seconds East 474.63 feet to point #19; thence South 13  
degrees 13 minutes 27 seconds East 274.32 feet to point #20; thence South 24  
degrees 42 minutes 09 seconds West 256.17 feet to point #21; thence South 02  
degrees 28 minutes 15 seconds West 760.96 feet to point #22; thence South 15  
degrees 57 minutes 04 seconds East 262.23 feet to point #23; thence South 01  
degree 17 minutes 02 seconds East 1011.05 feet to point #24; thence South 05  
degrees 21 minutes 33 seconds West 395.58 feet to point #25; thence South 05  
degrees 24 minutes 23 seconds West 225.91 feet to point #26; thence North 84  
degrees 07 minutes 11 seconds West 381.28 feet to point #27; thence South 05  
degrees 37 minutes 23 seconds West 915.32 feet to point #28; thence North 87  
degrees 35 minutes 29 seconds West 990.25 feet to point #29; thence North 13  
degrees 26 minutes 17 seconds West 88.06 feet to point #30; thence South 77  
degrees 23 minutes 51 seconds West 208.71 feet to point #31; thence South 13  
degrees 49 minutes 49 seconds East 29.82 feet to point #32; thence North 85  
degrees 06 minutes 14 seconds West 323.31 feet to point #33; thence South 04  
degrees 41 minutes 14 seconds West 154.09 feet to point #34; thence South 78  
degrees 31 minutes 52 seconds West 457.51 feet to point #35; thence North 04  
degrees 39 minutes 07 seconds East 69.24 feet to point #36; thence North 06  
degrees 44 minutes 02 seconds East 516.48 feet to point #37; thence South 78  
degrees 24 minutes 45 seconds West 20.26 feet to point #38; thence North 05  
degrees 08 minutes 37 seconds East 172.85 feet to point #39; thence South 78  
degrees 36 minutes 22 seconds West 144.60 feet to point #40; thence South 11  
degrees 23 minutes 38 seconds East 166.02 feet to point #41; thence South 78  
degrees 24 minutes 45 seconds West 296.50 feet to point #42; thence North 11

degrees 05 minutes 34 seconds West 189.24 feet to point #43; thence North 78 degrees 53 minutes 26 seconds East 63.00 feet to point #44; thence North 02 degrees 14 minutes 52 seconds West 703.94 feet to point #45; thence North 83 degrees 18 minutes 45 seconds West 1039.13 feet to point #46; thence North 03 degrees 55 minutes 53 seconds East 388.20 feet to point #47; thence North 85 degrees 27 minutes 45 seconds West 149.45 feet to point #48; thence North 03 degrees 49 minutes 39 seconds East 290.28 feet to point #49; thence North 07 degrees 18 minutes 21 seconds East 267.68 feet to point #50; thence North 08 degrees 16 minutes 31 seconds East 208.86 feet to point #51; thence North 03 degrees 55 minutes 40 seconds East 490.62 feet to point #52; thence North 88 degrees 31 minutes 29 seconds West 172.08 feet to the point of beginning.”

**Sec. 2.** Any and all official acts, actions, expenditures and levies of taxes or assessments by the Town of Faith 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 8th day of June, 1979.

H. B. 1497

## CHAPTER 842

### AN ACT TO PROVIDE FOR AD VALOREM TAXATION BY THE MUNICIPALITY OF PINEHURST.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 993 of the 1949 Session Laws, as heretofore amended, is amended by adding a new Section 5A, immediately following Section 5, to read as follows:

“Sec. 5A. (1) All of the provisions of the Machinery Act, Subchapter II of Chapter 105 of the General Statutes, which are applicable to cities and towns in this State shall be fully applicable to the municipality of Pinehurst, and all property subject to ad valorem taxation by Moore County which has a tax situs within the municipality of Pinehurst shall be taxable by that municipality.

(2) For all purposes relating to ad valorem taxation and to the budgeting, expenditure and fiscal control of revenues derived therefrom, the governing body of the municipality of Pinehurst shall be the Village Council and their successors in office serving pursuant to the provisions of that certain consent judgment dated December 3, 1973, in the case of Erle G. Christian et al. v. Diamondhead Corporation et al., file number 73 CVS 594, of record in the office of the Clerk of the Superior Court of Moore County. All ad valorem tax revenues collected by the municipality of Pinehurst shall be maintained in the exclusive possession of, and shall be administered exclusively by, the Village Council.

(3) All of the provisions of Subchapters I, II and III of Chapter 159 of the General Statutes shall be fully applicable to the municipality of Pinehurst, which shall be a ‘public authority’ for the purposes of the aforesaid Subchapters I, II and III.”

**Sec. 2.** Except as herein amended, Chapter 993 of the Session Laws of 1949, as heretofore amended, shall remain in full force and effect.

**Sec. 3.** This act is effective upon ratification.



In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 756

## CHAPTER 843

## AN ACT TO AMEND ARTICLE 5 OF CHAPTER 87 OF THE GENERAL STATUTES RELATING TO REFRIGERATION CONTRACTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Amend G.S. 87-58(e) by repealing and deleting same in its entirety.

**Sec. 2.** G.S. 87-58(f) is rewritten to read as follows:

“(f) Licenses granted without an examination - persons who had an established place of business prior to July 1, 1979, and who produce satisfactory evidence that they are engaged in the refrigeration business as herein defined in any city, town or other area in which Article 5 of Chapter 87 of the General Statutes did not previously apply shall be granted a certificate of license, without examination, upon application to the board and payment of the license fee, provided such completed applications shall be made prior to June 30, 1981.”

**Sec. 3.** G.S. 87-64 (first paragraph) is rewritten as follows:

“Each applicant for a license by examination shall pay to the Board of Refrigeration Examiners a nonrefundable examination fee in an amount not to exceed the sum of forty dollars (\$40.00). In the event the applicant successfully passes said examination, the examination fee so paid shall be applied to the license fee required of licensees for the current year in which the examination was taken and passed.”

**Sec. 4.** G.S. 87-64 is amended by striking out the words “of thirty dollars (\$30.00)” in line 7 of the second paragraph and substituting in lieu thereof the words “in an amount not to exceed forty dollars (\$40.00)” and further amending said second paragraph by striking out in line 12 the words “of thirty-five dollars (\$35.00)” and substituting in lieu thereof the words “not to exceed forty-five dollars (\$45.00).”

**Sec. 5.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 761

## CHAPTER 844

## AN ACT TO REMOVE THE TWO HUNDRED MILLION DOLLAR (\$200,000,000) BOND ISSUANCE LIMITATION OF THE NORTH CAROLINA HOUSING FINANCE AGENCY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122A-8 as it is found in the 1977 Cumulative Supplement to the General Statutes is hereby amended by deleting the words “of not exceeding two hundred million dollars (\$200,000,000)” on lines 2 and 3, and inserting in lieu thereof “of not exceeding seven hundred fifty million dollars (\$750,000,000)”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 843

**CHAPTER 845**

AN ACT TO ENTITLE NORTHERN HOSPITAL OF SURRY COUNTY TO RECOVER ATTORNEY FEES AND TO COLLECT CHARGES BY ATTACHMENT AND GARNISHMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Whenever hospital services are provided by Northern Hospital of Surry County and a recipient of such services fails to pay the charges fixed for such services for a period of 120 days after demand is made for the rendering of the amount due, the hospital may treat the amount due as if it were a tax due to the County of Surry and may attach rents, bank deposits or any other intangible property other than wages due and may proceed to collect the amount due as well as reasonable attorneys' fees, through the use of attachment and garnishment proceedings as provided in G.S. 105-364 and G.S. 105-368.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 22

**CHAPTER 846**

AN ACT TO AMEND G.S. 105-277.1, THE HOMESTEAD EXCLUSION FROM AD VALOREM TAX FOR ELDERLY AND DISABLED PERSONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-277.1(a) is amended by inserting the words "or a mobile home" between the word "property" and the comma preceding the word "occupied" in line 6 of said subdivision.

**Sec. 2.** G.S. 105-309(f) is amended by inserting immediately above the final paragraph of said subdivision the following:

"(4) Enter your disposable income (Husband) (Wife) (Total)"

**Sec. 3.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 477

**CHAPTER 847**

AN ACT TO ADD NOTIFICATION PROVISIONS TO THE GENERAL COMPULSORY ATTENDANCE LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** Two new paragraphs are added to the end of G.S. 115-166 to read as follows:

"§ 115-166. 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 school 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 the General Compulsory Attendance Law 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 school board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences."

**Sec. 2.** This act shall become effective 90 days after ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1507

## CHAPTER 848

## AN ACT TO INCREASE THE ANNUAL LICENSE RENEWAL FEE OF HEARING AID DEALERS AND FITTERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 93D-11, as the same appears in the 1975 Replacement Volume 2C of the General Statutes, is amended by rewriting the first sentence thereof to read as follows:

"Every person who engages in the fitting and selling of hearing aids shall pay to the Board an annual license renewal fee of fifty dollars (\$50.00)."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 709

## CHAPTER 849

## AN ACT TO AMEND G.S. 24-10 BY AUTHORIZING THE PAYMENT OF FEES BY SELLERS IN REAL ESTATE SALES TRANSACTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of G.S. 24-10 is amended by rewriting the same to read as follows:

"(a) No lender on loans made under G.S. 24-1.1 shall charge or receive from any borrower or any agent for a borrower, any fees or discounts unless otherwise allowed where the principal amount is less than three hundred thousand dollars (\$300,000) and is secured by real property, which fees or discounts in the aggregate shall exceed two percent (2%) if a construction loan on other than a one or two family dwelling, and one percent (1%) on any other type of loan; provided, however, if a single lender makes both the construction loan and a permanent loan utilizing one note, the lender may collect the fees as if they were two separate loans; provided, in addition to the fees authorized above, a seller or any agent for a seller in a real estate sales transaction may pay to the lender fees or discounts in the aggregate not to exceed two percent (2%). Except as provided herein or otherwise allowed, no party shall pay for the benefit of the lender any other fees or discounts."

**Sec. 2.** This act is effective upon ratification but the last proviso contained in subsection (a) of G.S. 24-10 shall expire on June 30, 1981.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 479

## CHAPTER 850

### AN ACT TO REWRITE G.S. 15A-502(c) CONCERNING PHOTOGRAPHING AND FINGERPRINTING JUVENILES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-502(c) is rewritten as follows:

“This section does not authorize the taking of photographs or fingerprints of a juvenile except under G.S. 7A-550 through G.S. 7A-556.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 756

## CHAPTER 851

### AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON BY ADDING A NEW ARTICLE XXX, RELATING TO THE PROHIBITION OF ACTS OF DISCRIMINATION IN EMPLOYMENT BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP OR AGE.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new Article XXX is added to the Charter of the City of Wilmington, said Charter having been enacted by the North Carolina General Assembly in 1977, as follows:

#### “ARTICLE XXX.

#### “PROHIBITION OF ACTS OF DISCRIMINATION IN EMPLOYMENT.

“Sec. 30.1. Authority to Adopt Ordinances. The City Council of the City of Wilmington may adopt ordinances to prohibit acts of discrimination in employment based on race, color, national origin, religion, sex, handicap or age. To assist in the enforcement of these ordinances, the City Council may authorize or create an agency or commission of the City of Wilmington (hereafter called “The Agency”) to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints, and mediate alleged violations of such ordinance, and to issue orders against persons, firms, or corporations it finds, after notice and hearing, to have violated such ordinance. The Agency may, as part of such order, require any such person, firm or corporation to cease and desist from unlawful practices and to engage in such additional remedial action as may be appropriate including but not limited to, the following:

(a) hiring, reinstatement or upgrading of aggrieved individuals, with or without back pay;

(b) admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupation training or retraining program, and the utilization of objective criteria in the admission of such individuals in such programs;



(c) to approve or disapprove plans to eliminate or reduce imbalance with respect to race, color, national origin, religion, sex and handicap, or age;

(d) to provide technical assistance to persons subject to this act to further compliance with the act;

(e) reporting as to the manner of compliance;

(f) posting notices in conspicuous places in the form prescribed by the Agency.

“Sec. 30.2. 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. 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 Chapter 150A of the North Carolina General Statutes, shall mean the Agency as authorized or created by the City Council of the City of Wilmington under the authority of this act.

“Sec. 30.3. Enforcement of Agency Orders. (a) If a person, firm or corporation fails to comply with an order of the Agency, 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 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 subsection, 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. 30.4. Additional Authority of Agency. To further assist in enforcement of ordinances authorized by this section, the Agency may subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses 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 subsection 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. 30.5. 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. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 771

## CHAPTER 852

### AN ACT TO PROVIDE THE PROCEDURES FOR FILLING VACANCIES ON THE DURHAM CITY COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 13 of the Charter of the City of Durham, as it appears in Section 1 of Chapter 671, Session Laws of 1975, is repealed.

**Sec. 2.** The Charter of the City of Durham, as it appears in Section 1 of Chapter 671, Session Laws of 1975, is amended by adding new sections to read:

"§ 13.1. *Council to judge elections.*—The City Council shall be the judge of the election and qualifications of its members.

"§ 13.2. *Vacancies in office of Mayor or member of City Council.*—(a) For the purpose of this section, the word 'vacancy' also includes a refusal or failure to qualify for office.

(b) If a vacancy occurs in the office of Mayor, the City Council shall, except as provided in subsection (d) of this section, within 60 days of the vacancy, choose some qualified person for Mayor for the unexpired portion of the term.

(c) If a vacancy occurs in the office of Council member, the City Council shall, except as provided in subsection (d) of this section, within 60 days of the vacancy, choose some qualified person to fill the place of such Council member for the remainder of the unexpired term.

If the vacancy to be filled occurs in a seat occupied by a Council member elected from a ward, then such person chosen to fill such vacancy shall reside in the ward from which the Council member whose place is to be filled was nominated.

(d) If the Council fails to choose some qualified person within 60 days after the vacancy occurs, it may not fill the vacancy by appointment, but shall call a

special election under the provisions of Section 13.3 of this Chapter, provided that if the vacancy occurs after the first day of June in the year in which the term is to expire, the Council need not call a special election.

“§ 13.3. *Special election to fill vacancies.*—(a) If the City Council is required to call a special election under the provisions of Section 13.2 of this Charter, it shall follow the procedures of this section.

(b) The special election shall be called and conducted in accordance with G.S. 163-287, except as otherwise provided in this section.

(c) The Council shall within seven days of the expiration of the 60 day period provided in Section 13.2(d) of this Charter adopt a resolution calling a special election. Such special election may be held on the same date as any county or State or municipal primary, or general election, referendum or special election, but may not otherwise be held within the period beginning 30 days before and ending 30 days after the date of any such election, primary, special election, or referendum.

(d) If the City Council calls a special election to be held at the time of the regularly scheduled elections for municipal officials, the special election shall be conducted according to the rules, regulations and procedures established for such regular elections by Subchapter IX of Chapter 163 of the General Statutes of North Carolina. The election shall be conducted according to the nonpartisan primary and election method. If the City Council elects to change the method of determining the results of the regular municipal elections, the special election shall be conducted according to the method chosen by the City Council.

(e) If the City Council calls for a special election to be held at any time other than the time of the regularly scheduled elections for municipal officials, the election shall be conducted according to the rules, regulations and procedures established for special elections by G.S. 163-287 and by the remainder of Chapter 163 of the General Statutes of North Carolina, as modified by the following provisions:

- (1) The election shall be conducted and the results of the election determined in accordance with the nonpartisan plurality method of election set out in G.S. 163-292.
- (2) Candidates may file their notices of candidacy during the time prescribed by G.S. 163-294.2.
- (3) The filing fee in the special election shall be the same as that most recently fixed by the City Council pursuant to G.S. 163-294.2(e) for the regularly scheduled election for municipal officials.”

**Sec. 3.** Section 11 of the Charter of the City of Durham, as it appears in Section 1 of Chapter 671, Session Laws of 1975, is amended in subdivision 3 by deleting the words “Every ordinance, resolution or action having the effect of an ordinance or resolution shall require on its passage seven affirmative votes”, and inserting in lieu thereof the words: “Every ordinance, resolution or action having the effect of an ordinance or resolution shall require seven affirmative votes, and no person shall be appointed to fill a vacancy as Mayor or member of the Council except by seven or more votes in favor of that person”.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1487

**CHAPTER 853**

AN ACT TO PROVIDE FOR THE DISTRIBUTION OF NET PROFITS FROM THE ABC STORES IN SOUTHERN PINES, CARTHAGE AND ABERDEEN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding contrary provisions contained in Chapter 146 of the Session Laws of 1955, Chapter 962 of the Session Laws of 1965, Chapter 122 of the Session Laws of 1969, or any other laws or clauses of laws of a general, private, local or special nature, after deducting the amount expended for law enforcement and the payment of all expenses of operating the Alcoholic Beverage Control stores in Southern Pines, Carthage, and Aberdeen, including a pro rata part of general overhead expenses of the Alcoholic Beverage Control Board, twenty-five percent (25%) of the net profits of each store located within the aforementioned municipalities, except for those profits accrued under the provisions of G.S. 18A-15(3)c.3., shall be paid over to the general fund of the municipality in which each store is located by the County Board of Alcoholic Beverage Control of Moore County. In addition, fifty percent (50%) of the net profits accrued under the provisions of G.S. 18A-15(3)c.3., from the sale of alcoholic beverages for resale in mixed beverages in the Town of Southern Pines, shall be paid over by the County Board of Alcoholic Beverage Control of Moore County to the general fund of the Town of Southern Pines. The net profits mentioned herein shall be determined by quarterly audits and proper percentages thereof shall be paid within the next following quarter.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1489

**CHAPTER 854**

AN ACT TO CORRECT A STATUTORY REFERENCE CONCERNING NORTH WILKESBORO PENSIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5.2(d) of the Charter of the Town of North Wilkesboro, as enacted by Chapter 263, Session Laws of 1977, 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:

Retirement Age	Amount
20 years service and at least 55	\$30.00
21 years service and at least 56	\$32.00
22 years service and at least 57	\$34.00
23 years service and at least 58	\$36.00
24 years service and at least 59	\$38.00
25 years service and at least 60	\$40.00.”

**Sec. 2.** Retired members of the fire department who were receiving 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 this act



shall be entitled to receive in lieu thereof monthly pensions in the applicable amounts as set forth in Section 1 of this act, beginning with the full calendar month following the effective date of this act.

**Sec. 3.** Chapter 366, Session Laws of 1979, is repealed.

**Sec. 4.** This act is effective retroactively from and after April 17, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1496

## CHAPTER 855

AN ACT TO AMEND THE CHARTER OF THE TOWN OF BRUNSWICK IN COLUMBUS COUNTY TO DELETE THE REFERENCE TO THE CHIEF OF POLICE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 197 of the Private Laws of 1925 is hereby amended by deleting the words "and a chief of police" from the first sentence.

**Sec. 2.** Chapter 197 of the Private Laws of 1925 is hereby amended by adding a new Section 4.1 to read as follows:

"Sec. 4.1. That police protection for the Town of Brunswick shall be provided."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1498

## CHAPTER 856

AN ACT TO AMEND CHAPTER 360, SESSION LAWS OF 1971 RELATING TO THE ELECTION OF THE PITT COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 360, Session Laws of 1971 is amended by deleting the word "nine" in the title and inserting in lieu thereof the word "eight".

**Sec. 2.** Section 1 of Chapter 360, Session Laws of 1971 is amended by deleting the word and figure "nine (9)" in line 2 and inserting in lieu thereof the word and figure "eight (8)".

Further amend Section 1 by deleting all of subsection (1) and inserting in subsection (4), immediately before the word "Carolina", the words "Pactolus Township and".

**Sec. 3.** Section 2 of Chapter 360, Session Laws of 1971, is amended by deleting the words "December next succeeding their election" and inserting in lieu thereof the words "the month next succeeding the primary".

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1499

**CHAPTER 857**

AN ACT TO REDEFINE THE WARDS OF THE TOWN OF EDENTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3-2 of the Charter of the Town of Edenton, as it appears in Chapter 491, Session Laws of 1975, is rewritten to read:

“Sec. 3-2. *Wards described.*—For the purpose of town elections beginning with the 1979 municipal election, the Town of Edenton is hereby divided into wards as follows:

First Ward. That portion of town lying south and west of a line drawn beginning at center line of South Broad Street extended to town boundary in Edenton Bay, thus north down the center line of South Broad Street to the center line of West Eden Street, thence westwardly down the centerline of West Eden Street to the center line of Moseley Street thence north down the center line of Moseley Street to the center line of West Albemarle Street thence westwardly down the center line of West Albemarle Street to the town boundary.

Second Ward. That portion of the town lying south and east of a line drawn beginning at the center line of South Broad Street extended to the town boundary in Edenton Bay, thence north to the center line of West Eden Street, thence westwardly to the center line of Moseley Street, thence north to the center line of West Church Street, thence easterly to the center line of Broad Street, thence north to the center line of Park Avenue, thence westwardly to the center line of North Oakum Street, thence South to the center line of East Hicks Street to the center line of the Norfolk Southern Cotton Mill Railroad siding, thence southwardly down the Norfolk Southern Cotton Mill Railroad siding to the center line of East Freemason Street thence eastwardly to the center line of Old Hertford Road, thence southwardly to the center line of East Church Street Extended, thence eastwardly down East Church Street Extended to the town boundary.

Third Ward. That portion of the town lying north and west of a line drawn beginning at the center line of West Albemarle Street Extended and the town boundary, thence eastwardly down the center line of West Albemarle Street to the center line of Moseley Street, thence southwardly to the center line of West Church Street, thence eastwardly to the center line of Broad Street, thence northwardly down the center line of North Broad Street to the center line of Paradise Road, thence down the centerline of Paradise Road to the town boundary.

Fourth Ward. That portion of the town lying north and east of a line drawn beginning at the center line of Paradise Road and the town boundary, thence southerly down the center line of Paradise Road to the center line of north Broad Street, thence southerly down the center line of North Broad Street to the center line of Park Avenue, thence easterly down the center line of Park Avenue to the center line of North Oakum Street, thence southerly down the center line of North Oakum Street to the center line of East Hicks Street, thence eastwardly down the centerline of East Hicks Street to the center line of Norfolk Southern Railroad Cotton Mill siding, thence southerly down the center line of Norfolk Southern Railroad Cotton Mill siding to the center line of East Freemason Street, thence down the center line of East Freemason Street Extended to the center line of Old Hertford Road, thence southerly down

the center line of Old Hertford Road to the center line of East Church Street Extended, thence eastwardly down the center line of East Church Street Extended to the town boundary.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1500

**CHAPTER 858****AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO DIVIDE THE LAFAYETTE VILLAGE FIRE PROTECTION DISTRICT.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Commissioners of Cumberland County is authorized upon petition by both the Board of Directors of the Lafayette Village Volunteer Fire Department and the Board of Directors of the Lake Rim Volunteer Fire Department to divide the Lafayette Village Fire Protection District into two districts, in accordance with the boundaries now set in the fire protection contracts between Cumberland County and the Lafayette Village Volunteer Fire Department and between Cumberland County and the Lake Rim Volunteer Fire Department.

**Sec. 2.** Each separate fire district created under Section 1 of this act shall be subject to Article 3A of Chapter 69 of the General Statutes, and shall be subject to the same tax limitations as the Lafayette Village Fire Protection District was under at the time the separate districts were created, unless changed in accordance with Article 3A of Chapter 69 of the General Statutes.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1501

**CHAPTER 859****AN ACT TO ALLOW CUMBERLAND COUNTY TO RELEASE, REMIT, OR REFUND CERTAIN WATER AND SEWER ASSESSMENTS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Commissioners of Cumberland County is authorized to release, remit, or refund any charge of interest made on assessments levied by Cumberland County for water line installations or sewer line installations, or both, in the East Fayetteville Water and Sewer District as to any parcel of property the owner of which on the date of assessment was entitled to a property classification at reduced valuation under G.S. 105-277.1.

**Sec. 2.** The provisions of this act are severable, and if any of its provisions shall be held invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair the remaining provisions.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1506

**CHAPTER 860**

AN ACT RELATIVE TO THE DIVISION OF LIQUOR PROFITS IN NEW HANOVER COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 471 of the Public Local Laws of North Carolina, passed at its Session of 1937 and amended by Chapter 554, Session Laws of 1953, is amended by addition of the following paragraph:

“The ten dollar (\$10.00) tax authorized by G.S. 18A-15(3)C.3, added to the retail price of liquor sold to permittees for the purpose of resale as mixed alcoholic beverages, except for the ten percent (10%) allocated to the Department of Human Resources, shall be distributed between the municipality in which the permittee is located and the County of New Hanover on the same percentage basis as provided by Chapter 471 Public Local Laws of 1937 and as amended by Chapter 554, Session Laws of 1953.”

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 51

**CHAPTER 861**

AN ACT TO AMEND G.S. 121 and G.S. 143B TO PROVIDE A REVIEW FOR STATE APPROPRIATION FOR HISTORICAL MUSEUMS.

Whereas, the North Carolina General Assembly is increasingly requested to appropriate funds to support nonstate-owned museum programs and projects with funds of the State of North Carolina; and

Whereas, it is desirable for the General Assembly to have the impartial and professional advice of the North Carolina Historical Commission on those programs and projects which may or may not portray an accurate picture of the State's history, which may or may not deal with significant portions of the State's history, and which may or may not represent sound professional principles and standards; and

Whereas, the North Carolina Historical Commission has since 1963 under provisions of the General Statutes served successfully as an impartial and professional judge of appropriations requests for the preservation or restoration of historic properties to the benefit of the legislative process of North Carolina; and

Whereas, it is the sense of the General Assembly that the same standards of professionalism and of historical significance should be extended to other programs and projects relating to history; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 121-7 is hereby amended by rewriting the fourth sentence thereof to read as follows:

“The Department of Cultural Resources, subject to the availability of staff and funds, may give financial, technical, and professional assistance to nonstate historical museums sponsored by governmental agencies and nonprofit organizations according to regulations adopted by the North Carolina Historical Commission.”



**Sec. 2.** G.S. 121-11 is amended by adding two new paragraphs after subdivision (4) to read as follows:

"In further consideration of the public purpose thereby achieved, the Department of Cultural Resources may assist any county, city, or other political subdivision, or corporation nonprofit history museum in the development of interpretive, security or climate control programs or projects. Provided, that no assistance may be made by the State of North Carolina and no contribution for these purposes may be made from State funds until:

(1) The program or project shall have been approved for these purposes by the Department of Cultural Resources according to criteria adopted by the North Carolina Historical Commission;

(2) The report and recommendations of the Commission have been received and considered by the Department of Cultural Resources; and

(3) The Department has found that there is a feasible and practical method of providing funds for the maintenance and operation of such history museum.

In all cases where assistance is extended to nonstate owners of history museums, whether from State funds or otherwise, it shall be a condition of assistance that:

(1) The museum assisted shall be accessible to the public at such times and upon such terms as the Department of Cultural Resources shall by rule prescribe;

(2) Plans for the development of museum programs or projects be reviewed and approved by the Department of Cultural Resources;

(3) The expenditure of such funds be supervised by the Department of Cultural Resources; and

(4) Such expenditures be accounted to the Department in a manner and at such times as are satisfactory to it." (1973, c. 476, s. 48)

**Sec. 3.** G.S. 121-12(c) is amended by rewriting the title to read as follows:

"(c) Criteria for State Aid to Historic Properties."

**Sec. 4.** G.S. 121-12 is amended by the inclusion of a paragraph following subsection (c) as follows:

"(d) Criteria for State Aid to Historical Museums. The Commission shall also prepare and adopt criteria for the evaluation of all interpretive, security or climate control programs or projects to be installed in nonprofit history museums for which State aid or assistance is requested. The Commission shall investigate, evaluate, and prepare a written report on all interpretive, security, or climate control programs or projects for which State appropriations are proposed. This report, which shall be filed as a matter of record in the custody of the Department of Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

1. The statewide educational significance and the qualitative level of the program or project and whether the program or project is essential to the development of a State program of historical interpretation;

2. The local or regional need for such a program or project;

3. The estimated total cost of the program or project under consideration and the apportionment of said cost among State and nonstate sources;

4. Whether practical plans have been or can be developed for the funding of the nonstate portions of the costs;

5. Whether practical plans have been developed for the continued staffing, maintenance, and operating of the museum without State assistance; and

6. Such further comments and recommendations that the Commission may make.”

**Sec. 5.** G.S. 121-12(d) is amended by substitution of the letter (e) for the letter (d) as a subdivision indication.

G.S. 121-12(d) is further amended by inserting after the word “significance,” the following clause:

“and to the chairman of each legislative committee to which is referred any bill seeking an appropriation of State funds for the purpose of assisting a history museum.”.

**Sec. 6.** G.S. 143B-62(2) is amended by inserting a new subdivision between subsections f. and g. as follows:

“g. For the extension of State aid or appropriations to nonstate-owned nonprofit history museums.”

G.S. 143B-62(2) is further amended by changing the current subsection designation (g) to (h).

**Sec. 7.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 65

## CHAPTER 862

AN ACT TO ENSURE COMPLIANCE BY STATE AND LOCAL GOVERNING UNITS WITH THE AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1978, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-5(a)(2) is rewritten to read:

“(2) A member in service who attains age 70 shall make timely application for retirement, in accordance with (1) above, to be effective no later than the first of July coincident with or next following his 70th birthday: Provided that, upon the approval of his employer, any member may be continued in service on a year-to-year basis.”

**Sec. 2.** G.S. 128-27(a)(2) is rewritten to read:

“(2) A member in service who attains age 70 shall make timely application for retirement, in accordance with (1) above, to be effective no later than the first of July coincident with or next following his 70th birthday: Provided that, upon the approval of his employer, any member may be continued in service on a year-to-year basis.”

**Sec. 3.** The last sentence of G.S. 126-16 is rewritten to read:

“This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age but less than 70 years of age.”

**Sec. 4.** G.S. 135-5(l)(6) is amended by changing the period to a semicolon and adding the following new subdivision:

“(7) After December 31, 1978, and after he has attained age 70.”

**Sec. 5.** The third paragraph of G.S. 135-5(l), as enacted by Chapter 561, Session Laws of 1977 is amended by deleting the words:

“on or after January 1, 1974” and inserting in lieu thereof “on or after January 1, 1974, but before January 1, 1979”.

**Sec. 6.** G.S. 128-27(l)(6) is amended by changing the period to a semicolon and adding the following new subdivision:

“(7) After December 31, 1978, and after he has attained age 70.”

**Sec. 7.** The fourth paragraph of G.S. 128-27(l), as enacted by Section 7 of Chapter 1240, Session Laws of 1977, (Second Session 1978), is amended by deleting the words “on or after January 1, 1974” and inserting in lieu thereof “on or after January 1, 1974, but before January 1, 1979”.

**Sec. 8.** G.S. 116-11 is amended by adding a new subdivision (5a) to read:

“(5a) Notwithstanding the provisions of G.S. 135(a)(2) and G.S. 126-16, the Board of Governors of The University of North Carolina may by resolution provide that, until July 1, 1982, an employee who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at a constituent institution of The University of North Carolina shall retire on July 1, coincident with or next following his 65th birthday, provided that, upon approval of the Board of Trustees of the constituent institution, an employee may be continued in service on a year-to-year basis.”

**Sec. 9.** The amendment made by Section 3 of this act, as it may affect seniority systems or employee benefit plans which require or permit the involuntary retirement of any individual because of the age of such individual, shall not apply to employees covered by a collective bargaining agreement, which was in effect on September 1, 1977, and which was entered into by a labor organization (as defined by Section 6(d)(4) of the Fair Labor Standards Act of 1938) until the termination of such agreement or on January 1, 1980, whichever occurs first.

**Sec. 10.** This act is effective January 1, 1979, and Section 8 of this act shall expire on July 1, 1982.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 253

## CHAPTER 863

### AN ACT TO AMEND G.S. 143-136 TO INCREASE THE MEMBERSHIP ON THE BUILDING CODE COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 143-136 of the General Statutes of North Carolina as it appears in Volume 3C of the 1978 Replacement Volume is hereby amended by striking out the figure (11) as it appears in line 3 and inserting in lieu thereof the figure (12);

The said section is further amended by striking out the word “and” at the beginning of line 11;

The said section is further amended by striking out the period after the word “buildings” in line 12, and inserting in lieu thereof a comma and adding the following:

“and an active member of the North Carolina fire service with expertise in fire safety”.

**Sec. 2.** All laws and clauses of laws in conflict herewith are hereby repealed.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 561

## CHAPTER 864

AN ACT TO REQUIRE THE REVIEW OF CLAIMS AND IMPOSITION OF PENALTIES AGAINST STATE AND CERTAIN LOCAL EDUCATIONAL ENTITY EMPLOYEES, NONSALARIED PUBLIC OFFICIALS, AND LEGISLATORS FOR FAILURE TO REPAY MONEY OWED TO THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 143 of the North Carolina General Statutes is hereby amended by adding thereto a new Article 59, to be entitled "State and Certain Local Educational Entity Employees, Nonsalaried Public Officials, and Legislators Required to Repay Money Owed to State" and to read as follows:

"Article 59.

"State and Certain Local Educational Entity Employees,  
Nonsalaried Public Officials, and Legislators Required  
to Repay Money Owed to State.

"Part 1.

"State and Local Educational Entity Employees.

"§ 143-540. *Definitions.*—As used in this Part:

(1) 'Employing entity' means and includes:

- a. any State entity enumerated in G.S. 143B-3 of the Executive Organization Act of 1973;
- b. any city or county board of education under Chapter 115 of the General Statutes; or
- c. any board of trustees of a community college or technical institute under Chapter 115A of the General Statutes.

(2) 'Employee' means any person who is appointed to or hired and employed by an employing entity under this Part and whose salary is paid in whole or in part by State funds.

(3) 'Net disposable earnings' means the salary paid to an employee by an employing entity after deduction of withholdings for taxes, social security, State retirement or any other sum obligated by law to be withheld.

"§ 143-541. *Conditional continuing employment; notification among employing entities; repayment election.*—(a) All persons employed by an employing entity as defined by this Part who owe money to the State and whose salaries are paid in whole or in part by State funds must make full restitution of the amount owed as a condition of continuing employment.

(b) Whenever a representative of any employing entity as defined by this Part has knowledge that an employee owes money to the State and is delinquent in satisfying this obligation, the representative shall notify the employing entity. Upon receipt of notification an employing entity shall terminate the employee's employment if after written notice of his right to do so he does not repay the money within a reasonable period of time; provided, however, that where there is a genuine dispute as to whether the money is owed or how much is owed, or there is an unresolved issue concerning insurance coverage, the employee shall not be dismissed as long as he is pursuing administrative or judicial remedies to have the dispute or the issue resolved.

(c) An employee of any employing entity who has elected in writing to allow not less than ten percent (10%) of his net disposable earnings to be periodically



withheld for application towards a debt to the State shall be deemed to be repaying the money within a reasonable period of time and shall not have his employment terminated so long as he is consenting to repayment according to such terms. Furthermore, the employing entity shall allow the employee who for some extraordinary reason is incapable of repaying the obligation to the State according to the preceding terms to continue employment as long as he is attempting repayment in good faith under his present financial circumstances, but shall promptly terminate the employee's employment if he ceases to make payments or discontinues a good faith effort to make repayment.

“§ 143-542. *Right of employee appeal.*—(a) Any employee or former employee of an employing entity within the meaning of G.S. 143-540(1)a. whose employment is terminated pursuant to the provisions of this Part shall be given the opportunity to appeal the employment termination to the State Personnel Commission according to the normal appeal and hearing procedures provided by Chapter 126 and the State Personnel Commission rules adopted pursuant to the authority of that Chapter; however, nothing herein shall be construed to give the right to termination reviews to anyone exempt from that right under G.S. 126-5.

(b) Before the employment of an employee of a local board of education within the meaning of G.S. 143-540(1)b. who is either a superintendent, supervisor, principal, teacher or other professional person is terminated pursuant to this Part, the local board of education shall comply with the provisions of G.S. 115-142. If an employee within the meaning of G.S. 143-540(1)b. is other than one whose termination is made reviewable pursuant to G.S. 115-142, he shall be given the opportunity for a hearing before the local board of education prior to the termination of his employment.

(c) Before the employment of an employee of a board of trustees of a community college or technical institute within the meaning of G.S. 143-540(1)c. is finally terminated pursuant to this Part, he shall be given the opportunity for a hearing before the board of trustees.

“Part 2.

“Public Officials.

“§ 143-543. *Definitions.*—As used in this Part:

(1) ‘Appointing authority’ means the Governor, Chief Justice of the Supreme Court, Lieutenant Governor, Speaker of the House, President Pro Tempore of the Senate, members of the Council of State, all heads of the executive departments of State government, the Board of Governors of The University of North Carolina, and any other State person or group of State persons authorized by law to appoint to a public office.

(2) ‘Employing entity’ means and includes:

- a. any State entity enumerated in G.S. 143B-3 of the Executive Organization Act of 1973;
- b. any city or county board of education under Chapter 115 of the General Statutes; or
- c. any board of trustees of a community college or technical institute under Chapter 115A of the General Statutes.

(3) ‘Public office’ means appointive membership on any State commission, council, committee, board, including occupational licensing boards as defined in G.S. 93B-1, board of trustees, including boards of constituent institutions of The University of North Carolina and boards of community colleges and technical

institutes created pursuant to G.S. 115A-7, and any other State agency created by law; provided that 'public office' does not include an office for which a regular salary is paid to the holder as an employee of the State or of one of its departments, agencies, or institutions.

(4) 'Public official' means any person who is a member of any public office as defined by this Part.

"§ 143-544. *Notification of the appointing authority; investigation.*—Whenever a representative of an employing entity as defined by this Part has knowledge that a public official owes money to the State and is delinquent in satisfying this obligation, the representative shall notify the appointing authority who appointed the public official in question. Upon receipt of notification the appointing authority shall investigate the circumstances of the claim of money owed to the State for purposes of determining if a debt is owed and its amount.

"§ 143-545. *Conditional continuing appointment; repayment election.*—If after investigation under the terms of this Part an appointing authority determines the existence of a delinquent monetary obligation owed to the State by a public official, he shall notify the public official that his appointment will be terminated 60 days from the date of notification unless repayment in full is made within that period. Upon determination that any public official has not made repayment in full after the expiration of the time prescribed by this section, the appointing authority shall terminate the appointment of the public official; provided however, the appointing authority shall allow the public official who for some extraordinary reason is incapable of repaying the obligation according to the preceding terms to continue his appointment as long as he is attempting repayment in good faith under his present financial circumstances, but shall promptly terminate the public official's appointment if he ceases to make payments or discontinues a good faith effort to make repayment.

#### "Part 3.

##### "Legislators.

"§ 143-546. *Definition of employing entity.*—For the purposes of this Part 'employing entity' shall have the same meaning as provided in G.S. 143-540(1) and G.S. 143-543(2).

"§ 143-547. *Notification to the Legislative Ethics Committee; investigation.*—Whenever a representative of any employing entity as defined by this Part has knowledge that a legislator owes money to the State and is delinquent in satisfying this obligation, this information shall be reported to the Legislative Ethics Committee established pursuant to Chapter 120, Article 14 of the General Statutes for disposition.

#### "Part 4.

##### "Confidentiality Exemption, Preservation of Federal Funds, and Limitation of Actions.

"§ 143-548. *Confidentiality exemption.*—Notwithstanding the provisions of any law of this State making confidential the contents of any records or prohibiting the release or disclosure of any information, all information exchange among the employing entities defined under this Article necessary to accomplish and effectuate the intent of this Article is lawful.

"§ 143-549. *Preservation of federal funds.*—Nothing in this Article is intended to conflict with any provision of federal law or to result in the loss of

federal funds. If the exchange among employing entities of information necessary to effectuate the provisions of this Article would conflict with this intention, the exchange of information shall not be made.

“§ 143-550. *Applicability of a statute of limitations.*—Payments on obligations to the State collected under the procedures established by this Article shall not be construed to revive obligations or any part thereof already barred by an applicable statute of limitations. Furthermore, payments made as a result of collection procedures established by the terms of this Article shall not be construed to extend an applicable statute of limitations.”

**Sec. 2.** G.S. 115-142(e)(1), as the same appears in the 1978 Replacement to Volume 3A, Part II of the General Statutes is hereby amended by adding a new sub-subdivision “n” at the end thereof to read as follows:

“n. Failure to repay money owed to the State in accordance with the provisions of Article 59, Chapter 143 of the General Statutes.”

G.S. 115-142(e)(1)k., as the same appears in the 1978 Replacement to Volume 3A, Part II of the General Statutes, is hereby amended by deleting the word “or” at the end of the second line of that sub-subdivision.

G.S. 115-142(e)(1)l., as the same appears in the 1978 Replacement to Volume 3A, Part II of the General Statutes is hereby amended by deleting the period mark at the end of the third line of that sub-subdivision and substituting in place thereof the semicolon punctuation mark followed by the word “or” at the end of that same line.

**Sec. 3.** G.S. 120-102, as the same appears in the 1977 Supplement to Volume 3B of the General Statutes, is hereby amended by adding a new subdivision (8) at the end thereof to read as follows:

“(8) Upon receipt of information that a legislator owes money to the State and is delinquent in making repayment of such obligation, to investigate and dispose of the matter according to the terms of this Article.”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 839

## CHAPTER 865

### AN ACT TO MAKE A TECHNICAL CHANGE IN THE LAW CONCERNING WORKMEN'S COMPENSATION SUBROGATION ACTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-10.2(f)(1)b as the same appears in the 1972 Replacement Volume of the General Statutes of North Carolina is hereby amended on line 2 by inserting between the word “and” and the word “such” the words “except for the fee on the subrogation interest of the employer”.

**Sec. 2.** This act is effective upon ratification and shall not apply to pending litigation or injuries occurring prior to ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 904

## CHAPTER 866

AN ACT TO REMOVE THE VESTED PROHIBITION AGAINST THE PURCHASE OF OUT-OF-STATE SERVICE CREDIT IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** The third sentence of G.S. 128-26(j) is deleted and the following is substituted: "Credit will be allowed only if no benefit is allowable in another public retirement system as the result of the service."

**Sec. 2.** The third sentence of G.S. 135-4(l) is deleted and the following is substituted: "Credit will be allowed only if no benefit is allowable in another public retirement system as a result of the service."

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 947

## CHAPTER 867

AN ACT TO ALLOW MEMBERS TO REPAY OR PURCHASE SERVICE CREDITS WITH THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AT AN AMOUNT EQUAL TO THE FULL COST.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-4(m), as the same appears in the 1978 Interim Supplement to the 1974 Replacement Volume 3B of the General Statutes, is hereby amended by rewriting the same to read as follows:

"(m) All repayments and purchases of service credits, allowed under the provisions of this section, must be made within three years after the member first becomes eligible to make such repayments and purchases. Any member who does not repay or purchase service credits within said three years after first eligibility to make such repayments and purchases may, under the same conditions as are otherwise required, repay or purchase service credits provided that the repayment or purchase equals 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 the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which such member could retire on an unreduced retirement allowance as determined by the board of trustees upon the advice of the consulting actuary."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



## H. B. 948

## CHAPTER 868

AN ACT TO ALLOW MEMBERS TO REPAY OR PURCHASE SERVICE CREDITS WITH THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AT AN AMOUNT EQUAL TO FULL COST.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 128-26(i), as the same appears in the 1977 Cumulative Supplement to the 1974 Replacement Volume 3B of the General Statutes, is hereby amended by deleting the bracketed paragraph at the end thereof.

**Sec. 2.** G.S. 128-26, as the same appears in the 1977 Cumulative Supplement to the 1974 Replacement Volume 3B of the General Statutes, is hereby amended by the addition of a new subsection (k) to read as follows:

“(k) All repayments and purchases of service credits, allowed under the provisions of this section, must be made within three years after the member first becomes eligible to make such repayments and purchases. Any member who does not repay or purchase service credits within said three years after first eligibility to make such repayments and purchases may, under the same conditions as are otherwise required, repay or purchase service credits provided that the repayment or purchase equals the full cost of the service credits calculated on the basis of the assumptions used for purchases of the actuarial valuation of the system's liabilities and shall take into account the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which such member could retire on an unreduced retirement allowance as determined by the board of trustees upon the advice of the consulting actuary.”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 984

## CHAPTER 869

AN ACT TO ENTITLE INSTITUTIONAL AND DETENTION EMPLOYEES OF THE DIVISION OF YOUTH SERVICES TO THE DEATH BENEFIT PREVIOUSLY PROVIDED THEM BEFORE TRANSFER FROM THE DEPARTMENT OF CORRECTION TO THE DEPARTMENT OF HUMAN RESOURCES.

Whereas, by Chapter 1025, Session Laws of 1969, the death benefit for law officers was extended to employees of the Department of Correction; and

Whereas, Chapter 742, Session Laws of 1975 transferred certain youth institutions operated by the Department of Correction to the Department of Human Resources but failed to continue the death benefits of the employees; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-166.2(d) is amended by deleting the words “all full-time custodial employees of the North Carolina Department of Correction”, and inserting in lieu thereof the words “all full-time custodial employees of the North Carolina Department of Correction and all full-time institutional and detention employees of the Division of Youth Services of the Department of Human Resources”.

**Sec. 2.** This act is effective retroactively from and after July 1, 1975.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1024

## CHAPTER 870

AN ACT TO TRANSFER THE ADMINISTRATION OF THE NATIONAL GUARD PENSION PROVISIONS FROM THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO THE DEPARTMENT OF STATE TREASURER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 127A-40(f), as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

“(f) The Secretary of Crime Control and Public Safety shall determine the eligibility of Guard members for the benefits herein provided and shall certify those eligible to the State Treasurer. The Department of State Treasurer shall make such payments to those persons certified from funds appropriated to the Department of State Treasurer from the General Fund.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1062

## CHAPTER 871

AN ACT TO AMEND CHAPTER 83 OF THE GENERAL STATUTES RELATING TO ARCHITECTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 83 is rewritten to read:

“§ 83-1. *Definitions.*—When used in this Chapter, unless the context otherwise requires:

(1) ‘Architect’ means a person who is duly licensed to practice architecture.

(2) ‘Board’ means the North Carolina Board of Architecture.

(3) ‘Corporate certificate’ means a certificate of corporate registration issued by the Board recognizing the corporation named in the certificate as meeting the requirements for the corporate practice of architecture.

(4) ‘Corporate practice of architecture’ means ‘practice’ as defined in G.S. 83-1(7) by a corporation which is organized or domesticated in this State, and which holds a current ‘corporate certificate’ from this Board.

(5) ‘Good moral character’ means such character as tends to assure the faithful discharge of the fiduciary duties of an architect to his client. Evidence of lack of such character shall include the willful commission of an offense justifying discipline under this Chapter, the practice of architecture in violation of this Chapter, or of the laws of another jurisdiction, or the conviction of a felony.

(6) ‘License’ means a certificate of registration issued by the Board recognizing the individual named in the certificate as meeting the requirements for registration under this Chapter.

(7) ‘Practice of Architecture’ means performing or offering to perform or holding oneself out as legally qualified to perform professional services in

connection with the design, construction, enlargement or alteration of buildings, including consultations, investigations, evaluations, preliminary studies, the preparation of plans, specifications and contract documents, administration of construction contracts and related services or combination of services in connection with the design and construction of buildings, regardless of whether these services are performed in person or as the directing head of an office or organization.

“§ 83-2. *North Carolina Board of Architecture; creation; organization; vacancies; quorum.*—(a) The North Carolina Board of Architecture shall have the power and responsibility to administer the provisions of this Chapter in compliance with the Administrative Procedure Act.

(b) The Board shall consist of seven members appointed by the Governor. Five of the members of the Board shall be licensed architects appointed for five year terms; the terms shall be staggered so that the term of one architect member expires each year. No architect member shall be eligible to serve more than two consecutive terms; if a vacancy occurs during a term, the Governor shall appoint a person to fill the vacancy for the remainder of the unexpired term. Two of the members of the Board shall be persons who are not licensed architects and who represent the interest of the public at large; the Governor shall appoint these members not later than July 1, 1979. The public members shall have full voting powers and shall serve at the pleasure of the Governor. Each Board member shall file with the Secretary of State an oath faithfully to perform duties as a member of the Board, and to uphold the Constitution of North Carolina and the Constitution of the United States.

(c) Officers of the Board shall include a president, vice-president, secretary and treasurer elected at the annual meeting for terms of one year. The treasurer shall give bond in such sum as the Board shall determine, with such security as shall be approved by the Board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands. Notice of the annual meeting, and the time and place of the annual meeting shall be given each member by letter at least 10 days prior to such meeting and public notice of annual meetings shall be published at least once each week for two weeks preceding such meetings in one or more newspapers of general circulation in this State. A majority of the members of the Board shall constitute a quorum.

“§ 83-3. *Board finances.*—(a) Each member of the Board shall be entitled to receive travel and expense reimbursement as authorized by G.S. 93B-5 for similar boards.

(b) All funds received by the Board under the provisions of this Chapter shall be deposited by the treasurer or such other officer or staff employee as the Board may designate in such depository and under such security as the Board may direct. All expenses incurred by the Board shall be paid out of funds derived from examination, licensing, renewal or other fees herein provided and shall be paid by the treasurer upon vouchers drawn by the secretary and approved by the president. The Board shall have the power to determine necessary expenses, and to fix the compensation for board employees and for professional services. The State of North Carolina shall not be liable for the compensation of any Board members or officers. Payment of expenses and salaries pursuant to administration of this act may not exceed available funds of

the Board. All Board receipts and disbursements shall be subject to audit and accounting procedures established by the State for similar boards.

“§ 83-4. *Fees.*—All fees and charges by the Board shall be established by Board rule subject to the provisions of the Administrative Procedure Act.

Fees set by the Board shall not exceed the following amounts:

Initial Application	
Individual	
Residents	\$25
Nonresidents	\$50
Corporate	\$50
Re-examination	\$15
Annual license renewal	
Individual	\$40
Corporate	\$50
Late Renewal Penalty	
Up-to-30 days	\$25
30 days to 1 year	\$50
Reciprocal registration	\$75

The above fees are provided in addition to any other fees prescribed by law. Reasonable fees for examination materials, certificates, rosters and other published materials shall be established by the Board, but the Board shall not collect any fees not authorized by this Chapter.

“§ 83-5. *Board records, rosters, seal.*—(a) The Board shall maintain records of board meetings, of applications for individual or corporate registration and the action taken thereon, of the results of examinations, of all disciplinary proceedings, and of such other information as deemed necessary by the Board or required by the Administrative Procedure Act or other provisions of the General Statutes.

(b) A complete roster showing the name and last known address of all resident and nonresident architects and architectural firms holding current licenses from the Board shall be published by the Board at least once each year, and shall include each registrant's authorization or registration number. Copies of the roster shall be filed with the Secretary of State and the Attorney General, and other applicable State or local agencies, and upon request, may be distributed or sold to the public.

(c) The Board shall adopt a seal containing the name of the Board for use on its official records and reports.

“§ 83-6. *Board rules, bylaws, standards of professional conduct.*—(a) The Board shall have the power to adopt bylaws, rules, and standards of professional conduct to carry out the purposes of this Chapter, including, but not limited to:

- (1) the adoption of bylaws governing its meetings and proceedings;
- (2) the establishment of qualification requirements for admission to examinations, and for individual or corporate licensure as provided in G.S. 83-7 and G.S. 83-8;
- (3) the establishment of the types and contents of examinations, their conduct, and the minimum scores or other criteria for passing such examinations;
- (4) the adoption of mandatory standards of professional conduct concerning misrepresentations, conflicts of interest, incompetence, disability, violations of law, dishonest conduct, or other unprofessional



conduct for those persons or corporations regulated by this Chapter, which standards shall be enforceable under the disciplinary procedures of the Board;

- (5) the establishment or approval of requirements for renewal of licenses designed to promote the continued professional development and competence of licensees. Such requirements shall be designed solely to improve the professional knowledge and skills of a licensee directly related to the current and emerging bodies of knowledge and skills of the licensee's profession.

When necessary to protect the public health, safety, or welfare, the Board shall require such evidence as it deems necessary to establish the continuing competency of architects as a condition of renewal of licenses.

(b) The Board shall not adopt any rule or regulation which prohibits advertising.

(c) The adoption, amendment or revocation of rules, regulations, and standards of professional conduct, and the publication and distribution of the same shall be subject to the provisions of the Administrative Procedure Act.

“§ 83-7. *Qualifications and examination requirements.*—(a) Licensing by examination. Any individual who is at least 18 years of age and of good moral character may make written application for examination by completion of a form prescribed by the Board accompanied by the required application fee. Subject to qualification requirements of this section, the applicant shall be entitled to an examination to determine his qualifications for licensure. All candidates must successfully complete a professional examination in order to be licensed.

- (1) The qualification requirements for registration as a duly licensed architect shall be:

- a. a degree in architecture from a college or university where the degree program has been approved by the Board, at least three years practical training and experience as defined by rules of the Board, and successful completion of the professional examination;
- b. the successful completion of a qualifying test by applicants who do not hold the required degree for direct admission to the professional examination but have a combination of education and practical training and experience as defined by rules of the Board.

- (2) The Board may adopt as its own rules for academic and practical training, and for examination, and grading procedures, the published guidelines of nationally recognized councils or agencies for the accreditation, examination, and licensing for the architectural profession.

(b) Licensing by reciprocity. Any individual holding a current license for the practice of architecture from another state or territory, and holding a certificate of qualification issued by the National Council of Architectural Registration Boards, may upon application and within the discretion of the Board be licensed without written examination. The Board may waive the requirement for National Council registration if the qualifications, examination and licensing requirements of the state in which the applicant is licensed are substantially equivalent to those of this State and the applicant otherwise meets the requirements of this Chapter.

“§ 83-8. *Qualification for corporate practice.*—(a) Any corporation desiring to practice architecture in this State shall file corporate application on forms provided by the Board, accompanied by the required application fee. To be eligible for a corporate certificate, the corporation must meet all requirements of the Professional Corporation Act.

(b) Architectural corporations of other states may be granted corporate certificates for practice in this State upon filing application with the Board and satisfying the Board that they meet the requirements of subsection (a) above. Such corporations shall designate the individual or individuals licensed to practice architecture in this State who shall be in responsible charge of all architectural work offered or performed by such corporation in this State. Such corporations shall notify the Board of changes in such designation.

(c) All corporations holding corporate certificates from the Board shall be subject to the applicable rules and regulations adopted by the Board, and to all the disciplinary powers applicable to individual licensees who are officers or employees of the corporation. Corporations may perform no acts or things forbidden to officers or employees as licensees.

“§ 83-9. *Partnership practice.*—This Chapter neither prevents practice of architecture by a partnership nor requires partnership seals or certificates of practice provided that the members of the partnership are duly licensed to practice architecture, and, provided that the partnership files with the Board and keeps current a list of the partners, their license identifications, and the types of services offered by the partnership.

“§ 83-10. *Professional seals.*—Every licensed architect shall have a seal of a design authorized by the Board, and shall imprint all drawings and sets of specifications prepared for use in this State with an impression of such seal. Licensed architectural corporations shall employ corporate professional seals, of a design approved by the Board, for use in identifying plans, specifications and other professional documents issued by the corporation, but use of such corporate seals shall be in addition to and not in substitution for the requirement that the individual seal of the author of such plans and professional documents be affixed.

“§ 83-11. *Expirations and renewals.*—Certificates must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be mailed to each individual and corporate licensee. The completed application together with the required renewal fee shall be returned to the Board on or before the renewal date. When the Board is satisfied as to the continuing competency of an architect, it shall issue a renewal of the certificate. Upon failure to renew within 30 days after the date set for expiration, the license shall be automatically revoked but such license may be renewed at any time within one year following the expiration date upon proof of continuing competency and payment of the renewal fee plus a late renewal fee. After one year from the date of revocation, reinstatement may be made by the Board, or in its discretion, the application may be treated as new subject to reexamination and qualification requirements as in the case of new applications.

“§ 83-12. *Prohibited practice.*—The purpose of the act is to safeguard life, health and property. It shall be unlawful for any individual, firm or corporation to practice or offer to practice architecture in this State as defined in this Chapter, or to use the title ‘Architect’ or any form thereof, except as provided

in G.S. Chapter 89A for Landscape Architects, or to display or use any words, letters, figures, titles, sign, card, advertisement, or other device to indicate that such individual or firm practices or offers to practice architecture as herein defined or is an architect or architectural firm qualified to perform architectural work, unless such person holds a current individual or corporate certificate of admission to practice architecture under the provisions of this Chapter.

“§ 83-13. *Exemptions.*—(a) Nothing in this Chapter shall be construed to prevent the practice of general contracting under the provisions of Article I of G.S. Chapter 87, or the practice by any person who is qualified under law as a ‘registered professional engineer’ of such architectural work as is incidental to engineering projects or utilities, or the practice of any other profession under the applicable licensure provisions of the General Statutes.

(b) Nothing in this Chapter shall be construed to prevent a duly licensed general contractor, professional engineer or architect, acting individually or in combination thereof, from participating in a ‘Design/Build’ undertaking including the preparation of plans and/or specifications and entering individual or collective agreements with the owner in order to meet the owner’s requirements for pre-determined costs and unified control in the design and construction of a project, and for the method of compensation for the design and construction services rendered; provided, however, that nothing herein shall be construed so as to allow the performance of any such services or any division thereof by one who is not duly licensed to perform such service or services in accordance with applicable licensure provisions of the General Statutes; provided further, that full disclosure is made in writing to the owner as to the duties and responsibilities of each of the participating parties in such agreements; and, provided further, nothing in this Chapter shall prevent the administration by any of the said licensees of construction contracts and related services or combination of services in connection with the construction of buildings.

(c) Nothing in this Chapter shall be construed to require an architectural license for the preparation, sale, or furnishing of plans, specifications and related data, or for the supervision of construction pursuant thereto, where the building, buildings, or project involved is in one of the following categories:

- (1) a family residence, up to eight units attached with grade level exit, which is not a part of or physically connected with any other buildings or residential units;
- (2) a building upon any farm for the use of any farmer, unless the building is of such nature and intended for such use as to substantially involve the health or safety of the public;
- (3) an institutional or commercial building if it does not have a total value exceeding ninety thousand dollars (\$90,000);
- (4) an institutional or commercial building if the total building area does not exceed 2,500 square feet in gross floor area;
- (5) alteration, remodeling or renovation of an existing building which is exempt under this section, or alteration, remodeling, or renovation of an existing building or building site which does not alter or affect the structural system of the building;
- (6) the preparation and use of details and shop drawings, assembly or erection drawings, or graphic descriptions utilized to detail or illustrate

a portion of the work required to construct the project in accordance with the plans and specifications prepared or to be prepared under the requirements or exemptions of this Chapter.

(d) Nothing in this Chapter shall be construed to prevent any individual from making plans or data for buildings for himself.

(e) Plans and specifications prepared by persons or corporations under these exemptions shall bear the signature and address of such person or corporate officer.

“§ 83-14. *Disciplinary action and procedure.*—Any person may file with the Board a charge of unprofessional conduct, negligence, incompetence, dishonest practice, or other misconduct or of any violation of this Chapter or of a Board rule adopted and published by the Board. Upon receipt of such charge, or upon its own initiative, the Board may give notice of an administrative hearing under the Administrative Procedure Act, or may dismiss the charge as unfounded or trivial, upon a statement of the reasons therefor which shall be mailed to the architect and the person who filed the charge by registered or certified mail.

“§ 83-15. *Denial, suspension or revocation of license.*—The Board shall have the power to suspend or revoke a license or certificate of registration, and to deny a license or certificate of registration or to reprimand any registrant who is found guilty of:

(1) Dishonest conduct, including but not limited to:

- (a) the commission of any fraud, deceit or misrepresentation in any professional relationship with clients or other persons; or with reference to obtaining or maintaining license, or with reference to qualifications, experience and past or present service; or
- (b) using or permitting an individual professional seal to be used by or for others, or otherwise representing registrant as the author of drawings or specifications other than those prepared personally by or under direct supervision of registrant.

(2) Incompetence, including but not limited to:

- (a) gross negligence, recklessness, or excessive errors or omissions or building failures in registrant's record of professional practice; or
- (b) mental or physical disability or addiction to alcohol or drugs so as to endanger health, safety and interest of the public by impairing skill and care in professional services.

(3) Unprofessional conduct, including but not limited to:

- (a) practicing or offering to practice architecture without a current license from this Board;
- (b) knowingly aiding or abetting others to evade or violate the provisions of this Chapter, or the health and safety laws of this or other states;
- (c) knowingly undertaking any activity or having any significant financial or other interest, or accepting any compensation or reward except from registrant's clients, any of which would reasonably appear to compromise registrant's professional judgment in serving the best interest of clients or public;
- (d) willfully violating this Chapter or any rule or standard of conduct published by the Board, or pleading guilty or *nolo contendere* to a felony or any crime involving moral turpitude.

“§ 83-16. *Violations of Chapter, penalties.*—(a) Any individual or corporation not registered under this Chapter, who shall wrongfully use the title ‘Architect’



or represent himself or herself to the public as an architect, or practice architecture as herein defined, or seek to avoid the provisions of this Chapter by the use of any other designation than 'Architect': (i) shall be guilty of a misdemeanor and shall upon conviction be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or suffer imprisonment for a period not exceeding three months or both such fine and imprisonment; and (ii) be subject to a civil penalty not to exceed five hundred dollars (\$500.00) per day of such violation. Each day of such unlawful practice shall constitute a distinct and separate violation. Any civil penalty collected hereunder shall be deposited to the General Fund.

(b) Actions and prosecutions under this section shall be commenced in the county in which the defendant resides, or has his principal place of business, or in the case of an out-of-state corporation, is conducting business.

(c) Actions to recover civil penalties shall be initiated by the Attorney General.

"§ 83-17. *Power of Board to seek injunction.*—The Board may appear in its own name and apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto, and such courts are 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. A single act of unauthorized or illegal practice shall be sufficient, if shown, to invoke the injunctive relief of this section or criminal penalties under G.S. 83-16."

**Sec. 2.** G.S. 143-34.11 is amended by deleting line three of the section, which reads as follows:

"Chapter 83, entitled 'Architects'".

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1063

## CHAPTER 872

### AN ACT TO AMEND CHAPTER 89A OF THE GENERAL STATUTES RELATING TO LANDSCAPE ARCHITECTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (a) of G.S. 89A-3 is rewritten to read:

"(a) There is created the North Carolina Board of Landscape Architects, consisting of seven members appointed by the Governor for four-year staggered terms. Five members of the Board shall have been engaged in the practice of landscape architecture in North Carolina at least five years at the time of their respective appointments. Two members of the Board shall not be landscape architects and shall represent the interest of the public at large. Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term. No member shall serve more than (2) two complete consecutive terms.

The Governor shall appoint the two public members not later than July 1, 1979, to serve four-year terms."

The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

**Sec. 2.** The second sentence of G.S. 89A-4(a) is rewritten to read:

“minimum qualifications under such rules shall require that the applicant be at least 18 years of age and of good moral character; and that the applicant shall be a graduate of an accredited collegiate curriculum in landscape architecture as approved by the Board and have at least one year’s experience; in lieu of such graduation and experience any person who has had a minimum of seven years of education and experience in landscape architecture, in any combination deemed suitable by the Board, may make application to the Board for examination.”

**Sec. 3.** G.S. 89A-4(b) is amended by adding the following sentence at the end thereto: “The Board may adopt rules for administering the examination in one or more parts at the same time or at different times.”

**Sec. 4.** G.S. 89A-5 is amended by adding the following to the end thereof: “When necessary to protect the public health, safety, or welfare, the Board shall require such evidence as it deems necessary to establish the continuing competency of licensees as a condition of license renewal.”

**Sec. 5.** G.S. 89A-6 is rewritten to read: “Fees. Fees are to be determined by the Board, but shall not exceed the amounts specified herein, however; fees must reflect actual expenses of the Board.

application	\$100.00
examination	\$250.00
license by reciprocity	\$250.00
annual license renewal	\$100.00
late renewal penalty	\$ 50.00
reissue of certificate	\$ 25.00
temporary permit	\$150.00
corporate certificate	\$250.00

Fees shall be paid to the Board at the times specified by the Board.”

**Sec. 6.** G.S. 143-34.11 is amended by deleting line 5 of the section which reads as follows:

“Chapter 89A, entitled ‘Landscape Architects’.”

**Sec. 7.** This Chapter is repealed effective July 1, 1981, subject to continuation for one year after that date for a “winding-up” period pursuant to the provisions of G.S. 143-34.14.

**Sec. 8.** This act is effective upon ratification except for Section 5, which is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1104

## CHAPTER 873

### AN ACT TO PROHIBIT LOITERING FOR THE PURPOSE OF PROSTITUTION OR AIDING AND ABETTING PROSTITUTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The General Assembly finds and declares that loitering for the purpose of prostitution or aiding and abetting prostitution is disruptive of the public peace in that certain persons engaged in such conduct in public places harass and interfere with the use and enjoyment by other persons of such public places, thereby constituting a danger to the public health and safety.

The General Assembly further finds that in recent years the incidence of such conduct in public places has increased significantly in that persons

aggressively engaging in promoting, patronizing or soliciting for the purposes of prostitution have, by their course of conduct in public places, caused citizens who venture into such public places to be the unwilling victims of repeated harassment, interference and assault upon their individual privacy, as a result of which such public places have become unsafe and the ordinary community and commercial life of certain neighborhoods has been disrupted and has deteriorated.

**Sec. 2.** A new section is added to Chapter 14 of the General Statutes to read:

“§ 14-204.1. *Loitering for the purpose of engaging in prostitution offense.*—(a) For the purposes of this section, ‘public place’ means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entrance ways to any building which fronts on any of those places, or a motor vehicle in or on any of those places.

(b) If a person remains or wanders about in a public place and

(1) repeatedly beckons to, stops, or attempts to stop passers-by, or repeatedly attempts to engage passers-by in conversation; or

(2) repeatedly stops or attempts to stop motor vehicles; or

(3) repeatedly interferes with the free passage of other persons

for the purpose of violating any subdivision of G.S. 14-204 or G.S. 14-177, that person is guilty of a misdemeanor and, upon conviction, shall be punished as for a violation of G.S. 14-204.”

**Sec. 3.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1117

## CHAPTER 874

AN ACT TO REWRITE G.S. 115-147 AND TO PERMIT THE PERMANENT  
EXPULSION OF PUBLIC SCHOOL STUDENTS GUILTY OF FELONIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-147 as the same now appears in Replacement Volume 3A, Part II, of the General Statutes is hereby rewritten to read as follows:

“§ 115-147. *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 any student who willfully violates policies of conduct established by the local board of education for a period of 10 days or less: 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 any pupil who willfully violates the policies of conduct established by the local board of education for periods of times in excess of 10 school days, but not exceeding the time remaining in the school year. 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. 115-374, 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."

**Sec. 2.** Add a new paragraph to G.S. 115-374 to read as follows:

"The expulsion or suspension of a child with special needs shall not be subject to the provisions of G.S. 115-179.1 and there shall be no requirement for continued special education or related services unless 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."

**Sec. 3.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1118

## CHAPTER 875

AN ACT TO APPROPRIATE FEDERAL REED BILL FUNDS HELD IN THE NORTH CAROLINA UNEMPLOYMENT TRUST FUND TO THE NORTH CAROLINA EMPLOYMENT SECURITY COMMISSION TO BE UTILIZED IN ACCORDANCE WITH SECTION 903 OF THE SOCIAL SECURITY ACT AND G.S. 96-5(e) OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding any other provision of law, and pursuant to Section 903 of the Social Security Act and G.S. 96-5(e), there is hereby appropriated to the North Carolina Employment Security Commission the sum of two million five hundred thousand dollars (\$2,500,000) from federal Reed Bill funds credited to and held in this State's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States. Said funds shall be utilized for the administration of the Employment Security Law, including personal services, operating and other expenses incurred in the administration of said law, as well as for the purchase or rental, either or both, of offices, lands, buildings or parts of buildings, fixtures, furnishings, equipment, supplies, and the construction of buildings or parts of buildings, suitable for use in this State by the Employment Security Commission, and for the payment of expenses incurred for the construction, maintenance, improvements or repair of, or alterations to, such real or personal property. Provided, that any such



funds appropriated by the General Assembly shall not exceed the amount in the Unemployment Trust Fund which may be obligated for expenditure for such purposes; and provided that said funds shall not be obligated for expenditure, as herein provided, after the close of the two-year period which begins on the effective date of the appropriation. Provided, further, that such uses shall be approved by the Advisory Budget Commission.

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1127

## CHAPTER 876

## AN ACT TO REWRITE THE HEALTH MAINTENANCE ORGANIZATION ACT OF 1977.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 57A of the General Statutes is rewritten to read:

“Chapter 57A.

“Health Maintenance Organization Act.

“§ 57A-1. *Short title.*—This Chapter may be cited as the Health Maintenance Organization Act of 1979.

“§ 57A-2. *Definitions.*—(a) ‘Commissioner’ means the Commissioner of Insurance.

(b) ‘Enrollee’ means an individual who has been enrolled in a health care plan.

(c) ‘Evidence of coverage’ means any certificate, agreement, or contract issued to an enrollee setting out the coverage to which he is entitled.

(d) ‘Health care plan’ means any arrangement whereby any person undertakes on a prepaid basis to provide, arrange for, pay for, or reimburse any part of the cost of any health care services and at least part of such arrangement consists of arranging for or the provision of health care services, as distinguished from mere indemnification against the cost of such services on a prepaid basis through insurance or otherwise.

(e) ‘Health care services’ means any services included in the furnishing to any individual of medical or dental care, or hospitalization or incident to the furnishing of such care of hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

(f) ‘Health maintenance organization’ means any person who undertakes to provide or arrange for one or more health care plans.

(g) ‘Person’ includes associations, trusts, or corporations, but does not include professional associations, or individuals.

(h) ‘Provider’ means any physician, hospital, or other person that is licensed or otherwise authorized in this State to furnish health care services.

“§ 57A-3. *Establishment of health maintenance organizations.*—(a) Notwithstanding any law of this State to the contrary, any person may apply to the Commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this Chapter. No person shall establish or operate a health maintenance organization in this State, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a health maintenance organization

without obtaining a certificate of authority under this Chapter. A foreign corporation may qualify under this Chapter, subject to its registration to do business in this State as a foreign corporation under Article 17 of Chapter 58.

- (b) (1) It is specifically the intention of this section to permit such persons as were providing health services on a prepaid basis on July 1, 1977, or receiving federal funds under Section 254(c) of Title 42, U.S. Code, as a community health center, continue to operate in the manner which they have heretofore operated.
- (2) Notwithstanding anything contained in this Chapter to the contrary, any person can provide health services on a fee for service basis to individuals who are not enrollees of the organization, and to enrollees for services not covered by the contract, provided that the volume of services in this manner shall not be such as to affect the ability of the health maintenance organization to provide on an adequate and timely basis those services to its enrolled members which it has contracted to furnish under the enrollment contract.
- (3) This Chapter shall not apply to any employee benefit plan to the extent that the Federal Employee Retirement Income Security Act of 1974 preempts State regulation thereof.
- (4) Except as provided in paragraphs (1), (2), and (3) of this subsection, the persons to whom these paragraphs are applicable shall be required to comply with all provisions contained in this Chapter.
- (c) Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the Commissioner, and shall be set forth or be accompanied by the following:
  - (1) a copy of the basic organizational document, if any, of the applicant such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;
  - (2) a copy of the bylaws, rules and regulations, or similar document, if any, regulating the conduct of the internal affairs of the applicant;
  - (3) a list of the names, addresses, and official positions of persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation, and the partners or members in the case of a partnership or association;
  - (4) a copy of any contract made or to be made between any providers or persons listed in paragraph (3) and the applicant;
  - (5) a statement generally describing the health maintenance organization, its health care plan or plans, facilities, and personnel;
  - (6) a copy of the form of evidence of coverage to be issued to the enrollees;
  - (7) a copy of the form of the group contract, if any, which is to be issued to employers, unions, trustees, or other organizations;
  - (8) financial statements showing the applicant's assets, liabilities, and sources of financial support. If the applicant's financial affairs are audited by independent certified public accountants, a copy of the applicant's most recent regular certified financial statement shall be deemed to satisfy this requirement unless the Commissioner directs

that additional or more recent financial information is required for the proper administration of this Chapter;

- (9) a description of the proposed method of marketing the plan, a financial plan which includes a three-year projection of the initial operating results anticipated, and a statement as to the sources of working capital as well as any other sources of funding;
  - (10) a power of attorney duly executed by such applicant, if not domiciled in this State, appointing the Commissioner and his successors in office, and duly authorized deputies, as the true and lawful attorney of such applicant in and for this State upon whom all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this State may be served;
  - (11) a statement reasonably describing the geographic area or areas to be served;
  - (12) such other information as the Commissioner may require to make the determinations required in G.S. 57A-4.
- (d) (1) A health maintenance organization shall, unless otherwise provided for in this Chapter, file a notice describing any modification of the operation set out in the information required by subsection (c). Such notice shall be filed with the Commissioner prior to the modification. If the Commissioner does not disapprove within 30 days of filing, such modification shall be deemed approved.
- (2) The Commissioner may promulgate rules and regulations exempting from the filing requirements of subdivision (1) those items he deems unnecessary.

“§ 57A-4. *Issuance of certificate.*—(a) Before issuing any such certificate, the Commissioner of Insurance may make such an examination or investigation as he deems expedient. The Commissioner of Insurance shall issue a certificate of authority upon the payment of the application fee prescribed in G.S. 57A-23 and upon being satisfied on the following points:

- (1) the applicant is established as a bona fide health maintenance organization as defined by this Chapter;
  - (2) the rates charged and benefits to be provided are fair and reasonable;
  - (3) the amounts provided as working capital are repayable only out of earned income in excess of amounts paid and payable for operating expenses and expenses of providing services and such reserve as the Department of Insurance deems adequate, as provided hereinafter;
  - (4) that the amount of money actually available for working capital be sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of the issuance of the certificate and that the health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees.
- (b) In making the determinations required under this section, the Commissioner may consider:
- (1) the financial soundness of the health care plan's arrangements for health care services and the schedule of premiums used in connection therewith;

- (2) the adequacy of working capital;
- (3) any agreement with an insurer, a hospital or medical service corporation, a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of alternative coverage in the event of discontinuance of the plan;
- (4) any agreement with providers for the provision of health care services; and
- (5) any firm commitment of federal funds to the health maintenance organization in the form of a grant, even though such funds have not been paid to the health maintenance organization, provided that the health maintenance organization certifies to the Commissioner that such funds have been committed, that such funds are to be paid to the health maintenance organization with a current fiscal year and that such funds may be used directly for operating purposes and for the benefit of enrollees of the health maintenance organization.

(c) A certificate of authority shall be denied only after compliance with the requirements of G.S. 57A-19.

“§ 57A-5. *Powers of health maintenance organizations.*—(a) The powers of a health maintenance organization include, but are not limited to the following:

- (1) the purchase, lease, construction, renovation, operation, or maintenance of hospitals, medical facilities, or both, and their ancillary equipment, and such property as may reasonably be required for its principal office or for such other purposes as may be necessary in the transaction of the business of the organization;
  - (2) the making of loans to a medical group under contract with it in furtherance of its program or the making of loans to a corporation or corporations under its control for the purpose of acquiring or constructing medical facilities and hospitals or in furtherance of a program providing health care services to enrollees;
  - (3) the furnishing of health care services through providers which are under contract with or employed by the health maintenance organization;
  - (4) the contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment and administration;
  - (5) the contracting with an insurance company licensed in this State, or with a hospital or medical service corporation authorized to do business in this State, for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization;
  - (6) the offering and contracting for the provision or arranging of, in addition to health care services, of:
    - a. additional health care services;
    - b. indemnity benefits, covering out-of-area or emergency services; and
    - c. indemnity benefits, in addition to those relating to out-of-area and emergency services, provided through insurers or hospital or medical service corporations.
- (b) (1) A health maintenance organization shall file notice, with adequate supporting information, with the Commissioner prior to the exercise of any power granted in subsections (a)(1) or (2). The Commissioner shall



disapprove such exercise of power if in his opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. If the Commissioner does not disapprove within 30 days of the filing, it shall be deemed approved.

- (2) The Commissioner may promulgate rules and regulations exempting from the filing requirement of subdivision (1) those activities having a de minimis effect.

“§ 57A-6. *Reserves.*—Every health maintenance organization after the first full year of doing business after the passage of this section shall accumulate and maintain, in addition to proper reserves for current administrative liabilities and whatever reserves are deemed adequate and proper by the Commissioner of Insurance for unpaid bills, and unearned membership dues, a special contingent surplus or reserve at the following rates annually of its gross annual collections from membership dues, until said reserve shall equal three times its average monthly expenditures:

- |                         |    |
|-------------------------|----|
| (1) First \$200,000     | 4% |
| (2) Next \$200,000      | 2% |
| (3) All above \$400,000 | 1% |

Any such health maintenance organization may accumulate and maintain a contingent reserve in excess of the reserve hereinabove provided for, not to exceed an amount equal to six times the average monthly expenditures.

In the event the Commissioner of Insurance finds that special conditions exist warranting a decrease in the reserves or schedule of reserves, hereinabove provided for, it may be modified by the Commissioner of Insurance accordingly.

“§ 57A-7. *Fiduciary responsibilities.*—Any director, officer or partner of a health maintenance organization who receives, collects, disburses, or invests funds in connection with the activities of such organization shall be responsible for such funds in a fiduciary relationship to the enrollees.

“§ 57A-8. *Evidence of coverage and premiums for health care services.*—(a)

- (1) Every enrollee residing in this state is entitled to evidence of coverage under a health care plan. If the enrollee obtains coverage under a health care plan through an insurance policy or a contract issued by a hospital or medical service corporation, whether by option or otherwise, the insurer or the hospital or medical service corporation shall issue the evidence of coverage. Otherwise, the health maintenance organization shall issue the evidence of coverage.
- (2) No evidence of coverage, or amendment thereto, shall be issued or delivered to any person in this State until a copy of the form of the evidence of coverage, or amendment thereto, has been filed with and approved by the Commissioner.
- (3) An evidence of coverage shall contain:
- a. no provisions or statements which are unjust, unfair, inequitable, misleading, deceptive, which encourage misrepresentation, or which are untrue, misleading or deceptive as defined in G.S. 57A-12(a); and
  - b. a clear and complete statement, if a contract, or a reasonably complete summary, if a certificate of:

1. the health care services and insurance or other benefits, if any, to which the enrollee is entitled under the health care plan;

2. any limitations on the services, benefits, or kind of benefits, to be provided, including any deductible or copayment feature;

3. where and in what manner information is available as to how services may be obtained;

4. the total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan is contributory or noncontributory with respect to group certificates;

5. a clear and understandable description of the health maintenance organization's method of resolving enrollee complaints.

Any subsequent change may be evidenced in a separate document issued to the enrollee.

(4) A copy of the form of the evidence of coverage to be used in this State, and any amendment thereto, shall be subject to the filing and approval requirements of subsection (b) unless it is subject to the jurisdiction of the Commissioner under the laws governing health insurance or hospital or medical service corporations in which event the filing and approval provisions of such laws shall apply. To the extent, however, that such provisions do not apply the requirements in subsection (c) shall be applicable.

(b)(1) No schedule of premiums for enrollee coverage for health care services, or amendment thereto, may be used in conjunction with any health care plan until a copy of such schedule, or amendment thereto, has been filed with and approved by the Commissioner.

(2) Such premiums may be established in accordance with actuarial principles for various categories of enrollees, provided that premiums applicable to an enrollee shall not be individually determined based on the status of his health. However, the premiums shall not be excessive, inadequate, or unfairly discriminatory.

(c) The Commissioner shall, within a reasonable period, approve any form if the requirements of paragraph (1) are met and any schedule of premiums if the requirements of paragraph (2) are met. It shall be unlawful to issue such form or to use such schedule of premiums until approved. If the Commissioner disapproves such filing, he shall notify the filer. In the notice, the Commissioner shall specify the reasons for his disapproval. A hearing will be granted within 30 days after a request in writing by the person filing. If the Commissioner does not approve or disapprove any form or schedule of premiums within 30 days of the filing of such forms or premiums, they shall be deemed approved.

(d) The Commissioner may require the submission of whatever relevant information he deems necessary in determining whether to approve or disapprove a filing made pursuant to this section.

“§ 57A-9. *Annual report.*—Every such health maintenance organization shall annually on or before the first day of March of each year, file in the office of the Commissioner of Insurance a sworn statement verified by at least two of the principal officers of the health maintenance organization showing its condition on the thirty-first day of December, then next preceding; which shall be in such form as the Commissioner of Insurance shall prescribe. In case any such health maintenance organization shall fail to file any such annual statement as herein

required, the said Commissioner of Insurance shall be authorized and empowered to suspend the certificate of authority issued to such health maintenance organization until such statement shall be properly filed.

“§ 57A-10. *Investments.*—With the exception of investments made in accordance with G.S. 57A-5(a)(1) and (2) and G.S. 57A-5(b), the investable funds of a health maintenance organization shall be invested only in securities or other investments permitted by the laws of this State for the investment of assets constituting the legal reserves of life insurance companies or such other securities or investments as the Commissioner may permit.

“§ 57A-11. *Dual choice.*—(a) The State government, or any agency, board, commission, institution, or political subdivision thereof, and any city or county, or board of education, which offers its employees a health benefits plan may make available to and inform its employees or members of the option to enroll in at least one health maintenance organization holding a valid certificate of authority which provides health care services in the geographic areas in which such employees or members reside.

(b) The first time a prepaid health plan is offered, each covered employee must make an affirmative choice between the two or more plans. Thereafter, those who wish to change from one plan to another will be allowed to do so annually.

(c) This section shall impose no responsibilities or duties upon State government or any agency, board, commission, institution or political subdivision thereof or any other employer, either public or private to offer health maintenance organization coverage when no health maintenance organization exists for the purpose of providing health care services in the geographic areas in which the employees or members reside.

(d) No employer in this State shall in any way be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract of obligation for the provision of health benefits between such employer and its employees, or in any plan provided voluntarily by an employer.

(e) In the event of election to become subscribers of the health maintenance organization plan or to return to the alternative plan, this shall be done without any penalty as to waiting period, pre-existing conditions provisions, or any other provisions which would otherwise effect the credit for the period.

“§ 57A-12. *Prohibited practices.*—(a) No health maintenance organization, or representative thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of this Chapter:

- (1) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a health care plan.
- (2) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue, if, in the total context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person, not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of

possible significance to an enrollee of, or person considering enrollment in a health care plan, if such benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist.

- (3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography and format, as well as language, shall be such as to cause a reasonable person, not possessing special knowledge regarding health care plans and evidences of coverage therefor, to expect benefits, services, premiums, or other advantages which the evidence of coverage does not provide or which the health care plan issuing such evidence of coverage does not regularly make available for enrollees covered under such evidence of coverage.

(b) The provisions of Article 3A of Chapter 58 of the General Statutes shall be construed to apply to health maintenance organizations, health care plans and evidences of coverage except to the extent that the Commissioner determines that the nature of health maintenance organizations, health care plans and evidences of coverage render such sections clearly inappropriate.

(c) An enrollee may not be cancelled or not renewed because of any deterioration in the health of the enrollee.

(d) No health maintenance organization, unless licensed as an insurer, may use in its name, contracts, or literature any of the words ‘insurance’, ‘casualty’, ‘surety’, ‘mutual’, or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this State.

(e) The HMO shall not refuse to enroll employees except when they can demonstrate they are unable to arrange adequate services.

“§ 57A-13. *Regulation of agents.*—The Commissioner may, after notice and hearing, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents.

“§ 57A-14. *Powers of insurers and hospital and medical service corporations.*—(a) An insurance company licensed in this State, or a hospital or medical service corporation authorized to do business in this State, may either directly or through a subsidiary or affiliate organize and operate a health maintenance organization under the provisions of this Chapter. Notwithstanding any other law which may be inconsistent herewith, any two or more such insurance companies, hospital or medical service corporations, or subsidiaries or affiliates thereof, may jointly organize and operate a health maintenance organization. The business of insurance is deemed to include the arranging of health care by a health maintenance organization owned or operated by an insurer or a subsidiary thereof.

(b) Notwithstanding any provision of the insurance and hospital or medical service corporation laws contained in Chapters 57 and 58 of the General Statutes, an insurer or a hospital or medical service corporation may contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through health maintenance organizations and to provide coverage in the event of the failure of the health maintenance organization to meet its obligations. The enrollees of a health maintenance organization constitute a permissible group under such laws. Among other things, under such contracts, the insurer or hospital or medical service corporation may make benefit payments to health maintenance



organizations for health care services rendered by providers pursuant to the health care plan.

“§ 57A-15. *Examinations.*—(a) The Commissioner may make an examination of the affairs of any health maintenance organization and the contracts, agreements or other arrangements pursuant to its health care plan as often as he deems it necessary for the protection of the interests of the people of this State but not less frequently than once every three years.

(b) Every health maintenance organization shall submit its books and records relating to the health care plan to such examinations and in every way facilitate them. For the purpose of examinations, the Commissioner may administer oaths to, and examine the officers and agents of the health maintenance organization concerning their business.

(c) The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the Commissioner for whom the examination is being conducted.

(d) In lieu of such examination, the Commissioner may accept the report of an examination made by the Commissioner of Insurance or Commissioner of Public Health of another state.

“§ 57A-16. *Suspension or revocation of certificate of authority.*—(a) The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this Chapter if he finds that any of the following conditions exist:

- (1) The health maintenance organization is operating significantly in contravention of its basic organizational document, or in a manner contrary to that described in and reasonably inferred from any other information submitted under G.S. 57A-3, unless amendments to such submissions have been filed with and approved by the Commissioner.
- (2) The health maintenance organization issues evidence of coverage or uses a schedule of premiums for health care services which do not comply with the requirements of G.S. 57A-8.
- (3) The health maintenance organization no longer maintains the financial reserve specified in G.S. 57A-6 or is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.
- (4) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner.
- (5) The continued operation of the health maintenance organization would be hazardous to its enrollees.
- (6) The health maintenance organization has otherwise failed to substantially comply with this Chapter.

(b) A certificate of authority shall be suspended or revoked only after compliance with the requirements of G.S. 57A-19.

(c) When the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of such suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(d) When the certificate of authority of a health maintenance organization is revoked, such organization shall proceed, immediately following the effective

date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of such organization. It shall engage in no advertising or solicitation whatsoever. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.

“§ 57A-17. *Rehabilitation, liquidation, or conservation of health maintenance organization.*—Any rehabilitation, liquidation or conservation of a health maintenance organization shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the Commissioner pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies, except that the provisions of Articles 17B and 17C of Chapter 58 of the General Statutes shall not apply to health maintenance organizations. The Commissioner may apply for an order directing him to rehabilitate, liquidate, or conserve a health maintenance organization upon one or more grounds set out in Article 17A of Chapter 58 of the General Statutes or when in his opinion the continued operation of the health maintenance organization would be hazardous either to the enrollees or to the people of this State.

“§ 57A-18. *Regulations.*—The Commissioner may, after notice and hearing, promulgate reasonable rules and regulations as are necessary or proper to carry out the provisions of this Chapter. Such rules and regulations shall be subject to review in accordance with G.S. 57A-19.

“§ 57A-19. *Administrative procedures.*—(a) When the Commissioner has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the health maintenance organization in writing specifically stating the grounds for denial, suspension, or revocation and fixing a time of at least 30 days thereafter for a hearing on the matter.

(b) After such hearing, or upon the failure of the health maintenance organization to appear at such hearing, the Commissioner shall take action as is deemed advisable on written findings which shall be mailed to the health maintenance organization. The action of the Commissioner shall be subject to review by the Superior Court of Wake County. The court may, in disposing of the issue before it, modify, affirm, or reverse the order of the Commissioner in whole or in part.

(c) The provisions of Chapter 150A of the General Statutes of this State shall apply to proceedings under this section to the extent that they are not in conflict with subsections (a) and (b).

“§ 57A-20. *Fees.*—Every health maintenance organization subject to this Chapter shall pay to the Commissioner the following fees:

(1) for filing an application for a certificate of authority or amendment thereto, twenty dollars (\$20.00);

(2) for filing each annual report, ten dollars (\$10.00).

“§ 57A-21. *Penalties and enforcement.*—(a) The Commissioner may, in lieu of suspension or revocation of a certificate of authority under G.S. 57A-16, levy an administrative penalty in an amount not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), if reasonable notice in writing is given of the intent to levy the penalty and the health maintenance

organization has a reasonable time within which to remedy the defect in its operations which gave rise to the penalty citation.

(b) Any person who violates this Chapter shall be guilty of a misdemeanor and on conviction may be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for a period not exceeding two years or both, at the discretion of the court.

(c) (1) If the Commissioner shall for any reason have cause to believe that any violation of this Chapter has occurred or is threatened, the Commissioner may give notice to the health maintenance organization and to the representatives or other persons who appear to be involved in such suspected violation to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

(2) Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the Commissioner may deem appropriate under the circumstances.

(d) (1) The Commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this Chapter.

(2) Within 30 days after service of the order of cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this Chapter have occurred. Such hearings shall be conducted pursuant to Chapter 150A of the General Statutes, and judicial review shall be available as provided by the said Chapter 150A.

(e) In the case of any violation of the provisions of this Chapter, if the Commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection (d), the Commissioner may institute a proceeding to obtain injunctive relief, or seeking other appropriate relief, in the Superior Court of Wake County.

“§ 57A-22. *Statutory construction and relationship to other laws.*—(a) Except as otherwise provided in this Chapter, provisions of the insurance laws and provisions of hospital or medical service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this Chapter. This provision shall not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this Chapter.

(b) Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(c) Any health maintenance organization authorized under this Chapter shall not be deemed to be practicing medicine and shall be exempt from the provisions of Chapter 90 of the General Statutes relating to the practice of medicine.

“§ 57A-23. *Filings and reports as public documents.*—All applications, filings and reports required under this Chapter shall be treated as public documents.

“§ 57A-24. *Confidentiality of medical information.*—Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this Chapter; or upon the express consent of the enrollee or applicant; or pursuant to statute or court order for the production of evidence or the discovery thereof; or in the event of claim or litigation between such person and the health maintenance organization wherein such data or information is pertinent. A health maintenance organization shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the health maintenance organization is entitled to claim.

“§ 57A-25. *Severability.*—If any section, term, or provision of this Chapter shall be adjudged invalid for any reason, such judgments shall not affect, impair, or invalidate any other section, term, or provision of this Chapter, but the remaining sections, terms, and provisions shall be and remain in full force and effect.”

**Sec. 2.** G.S. 131-178(b) is amended by adding the following new language at the end of the subsection:

“A health maintenance organization is subject to review only when new institutional health services are offered in hospitals controlled directly or indirectly by health maintenance organizations. A health maintenance organization is also subject to review when diagnostic or therapeutic equipment is purchased by a health maintenance organization or hospital controlled by a health maintenance organization under circumstances defined by G.S. 131-176(10) or G.S. 131-176(17).”

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1160

## CHAPTER 877

AN ACT TO INCREASE THE TORT CLAIM SETTLEMENT AUTHORITY OF THE ATTORNEY GENERAL FROM ONE THOUSAND DOLLARS (\$1,000) TO THREE THOUSAND DOLLARS (\$3,000).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-295(a) and (b), as the same appears in 1978 Replacement Volume 3C of the General Statutes, is hereby amended by deleting in each place where they appear the words and figures “one thousand dollars (\$1,000)” and substituting therefor the words and figures “three thousand dollars (\$3,000)”.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 1161

**CHAPTER 878**

AN ACT TO PERMIT DISTRICT COURT JUDGES AS WELL AS  
SUPERIOR COURT JUDGES TO BE CALLED OUT OF RETIREMENT  
AS EMERGENCY JUDGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The title of Article 8 of Chapter 7A of the General Statutes is rewritten to read as follows:

“Retirement of Judges of the Superior Court; Retirement Compensation for Superior Court Judges; Recall to Emergency Service of Judges of the District and Superior Court; Disability Retirement for Judges of the Superior Court.”

**Sec. 2.** G.S. 7A-52 is rewritten to read as follows:

“§ 7A-52. *Retired district and superior court judges may become emergency judges subject to recall to active service, compensation for emergency judges on recall.*—(a) Judges of the district court and judges of the superior court who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed 15 years of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the court from which they retired. The Chief Justice of the Supreme Court may order any emergency judge of the district or superior court who, in his opinion, is competent to perform the duties of a judge of the court from which such judge retired, to hold regular or special sessions of such court, as needed. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned.

(b) In addition to the compensation or retirement allowance which 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 one hundred dollars (\$100.00) for each week of active service rendered upon recall.”

**Sec. 3.** G.S. 7A-53 is rewritten to read as follows:

“§ 7A-53. *Application to the Governor, commission as emergency judge.*—No retired judge of the district or superior court may become an emergency judge except upon his written application to the Governor certifying his desire and ability to serve as an emergency judge. If the Governor is satisfied that the applicant qualifies under G.S. 7A-52(a) to become an emergency judge and that he is physically and mentally able to perform the official duties of an emergency judge, he shall issue to such applicant a commission as an emergency judge of the court from which he retired. The commission shall be effective upon the date of its issue and shall terminate when the judge to whom it is issued reaches the maximum age for judicial service under G.S. 7A-4.20(a).”

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1209

**CHAPTER 879****AN ACT TO PROHIBIT DECEPTIVE SOLICITATIONS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 75 of the General Statutes is hereby amended by adding the following sections:

“§ 75-31. *Representation of winning a prize.*—No person, firm or corporation engaged in commerce shall, in connection with the sale or lease or solicitation for the sale or lease of any goods, property, or service, represent that any other person, firm or corporation has won anything of value or is the winner of any contest, unless all of the following conditions are met:

(1) the recipient of the prize must have been selected by a method in which no more than ten percent (10%) of the names considered are selected as winners of any prize;

(2) the recipient of the prize must be given the prize without any obligation; and

(3) the prize must be delivered to the recipient at no expense to him, within 10 days of the representation.

The use of any language that has a tendency to lead a reasonable person to believe he has won a contest or anything of value, including but not limited to ‘congratulations’, and ‘you are entitled to receive’, shall be considered a representation of the type governed by this section.

“§ 75-32. *Representation of eligibility to win a prize.*—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 any other person, firm or corporation may win or is eligible to win anything of value, unless all of the following information is clearly and prominently conveyed at the time of the representation:

(1) the actual retail value of each prize (the price at which substantial sales of the item which constitutes the prize were made in the area within the last 90 days, or if no substantial sales were made, the actual cost of the prize to the conductor of the contest);

(2) the actual number of each prize to be awarded;

(3) the odds of winning each prize.

“§ 75-33. *Representation of being specially selected.*—No person, firm or corporation engaged in commerce shall represent that any other person, firm or corporation has been specially selected in connection with the sale or lease or solicitation for sale or lease of any goods, property, or service, unless all of the following conditions are met:

(1) the selection process is designed to reach a particular type or particular types of person, firm or corporation;

(2) the selection process uses a source other than telephone directories, city directories, tax listings, voter registration records, purchased mailing lists, or similar common sources of names;

(3) no more than ten percent (10%) of those considered are selected.

The use of any language that has a tendency to lead a reasonable person to believe he has been specially selected, including but not limited to ‘carefully selected’ and ‘you have been chosen’, shall be considered a representation of the type governed by this selection.

“§ 75-34. *Simulation of checks and invoices.*—No person engaged in commerce shall in any manner issue any writing which simulates or resembles: (1) a negotiable instrument; or (2) an invoice, unless the intended recipient has actually contracted for goods, property, or services for which the issuer seeks proper payment.”

**Sec. 2.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1213

## CHAPTER 880

AN ACT TO CLARIFY THE LAW OF RESIDENTIAL RENTAL AGREEMENTS BY FURTHER DEFINING “DWELLING UNITS” AND “LANDLORD”.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 42-40(2) is amended by inserting in line 1, after the word “unit” the following:

“, including mobile homes or mobile home spaces,”.

**Sec. 2.** G.S. 42-40 is amended by adding a new subdivision (3) to read as follows:

“(3) ‘Landlord’ means any owner and any rental management company, rental agency, or any other person having the actual or apparent authority of an agent to perform the duties imposed by this Article.”

**Sec. 3.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1261

## CHAPTER 881

AN ACT TO DELETE THE LANGUAGE OF G.S. 58-9(4) THAT REQUIRES THE COMMISSIONER OF INSURANCE TO PREPARE AN ABSTRACT OF EACH ANNUAL STATEMENT FILED BY INSURANCE COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (4) of G.S. 58-9 is amended by deleting therefrom all of the following words which occur immediately following the words “...required by this Chapter”: “...and prepare an abstract of each annual statement at the expense of the company, association, order or bureau making the same and receive therefor the sum of four dollars (\$4.00).”

**Sec. 2.** This act shall become effective immediately and shall apply to all annual statements filed or required to be filed with the Commissioner of Insurance after January 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1275

## CHAPTER 882

AN ACT TO GIVE GOVERNING BODY OF A LAW ENFORCEMENT AGENCY THE DISCRETION TO DETERMINE IF A RETIRING MEMBER OR SURVIVING SPOUSE OR CHILDREN OF A DECEASED MEMBER MAY RECEIVE THE MEMBER'S SERVICE SIDE ARM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-187.2, as the same is found in Volume 1C of the General Statutes, 1978 Replacement, is amended by rewriting the catch line and subsection (a) to read as follows:

“§ 20-187.2. *Badges and service side arms of deceased or retiring members of State, city and county law enforcement agencies' revolvers of active members.*— (a) Surviving spouses, or in the event such members die unsurvived by a spouse, surviving children of members of North Carolina State, city and county law enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies shall receive upon request and at no cost to them, the badge worn or carried by such deceased or retiring member. The governing body of a law enforcement agency may, in its discretion, also award to a retiring member or surviving relatives as provided herein, upon request, the service side arm of such deceased or retiring members, at a price determined by such governing body, upon securing a permit as required by G.S. 14-402 et seq. or G.S. 14-409.1 et seq., or without such permit provided the revolver shall have been rendered incapable of being fired. Governing body shall mean for county and local alcohol beverage control officers, the county or local board of alcoholic control; for all other law enforcement officers with jurisdiction limited to a municipality or town, the city or town council; for all other law enforcement officers with countywide jurisdiction, the board of county commissioners; for all State law enforcement officers, the head of the department.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1281

## CHAPTER 883

AN ACT TO AMEND THE UNIFORM GIFT TO MINORS ACT TO PERMIT DONOR CUSTODIANS TO RESIGN AND TO DESIGNATE SUCCESSOR CUSTODIANS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 33-74(b) is amended by deleting the words “other than the” and replacing them with the words “whether or not a” in the first line of said subsection, following the first two words of the subsection.

**Sec. 2.** G.S. 33-69 is amended by adding to it a new subsection (d) to read as follows:

“(d) A donor who makes a gift to a minor as provided in subsection (a)(3) may designate a successor custodian who shall become custodian if the original custodian is not eligible, renounces or dies before the minor attains the age of 18 years. The successor custodian shall be a person eligible to be a custodian as provided in subsection (a)(3). The successor custodian may be designated in the



name of the account described in subsection (a)(3) by substantially the following words which may appear after the words required in subsection (a)(3):

‘(name of custodian) is designated as successor custodian.’”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1346

## CHAPTER 884

AN ACT TO AMEND G.S. 7A-39.3 AND G.S. 7A-39.6, RELATING TO RECALL TO ACTIVE SERVICE OF EMERGENCY JUSTICES AND JUDGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-39.3 is hereby rewritten to read as follows:

“§ 7A-39.3. *Retired justices and judges may become emergency justices and judges subject to recall to active service; compensation for emergency justices and judges on recall.*—(a) Justices of the Supreme Court and judges of the Court of Appeals who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but who have retired under the provisions of G.S. 7A-39.2, or under the Uniform Judicial Retirement Act after having completed 15 years of creditable service, may apply as provided in G.S. 7A-39.6 to become emergency justices and emergency judges of the court from which they retired, and upon being commissioned as an emergency justice or emergency judge shall be subject to temporary recall to active service on that court in the place of any justice of the Supreme Court or judge of the Court of Appeals, respectively, who is temporarily incapacitated to the extent that he cannot perform efficiently and promptly all the duties of his office.

(b) In addition to the compensation or retirement allowance which 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 one hundred dollars (\$100.00) for each week of active service rendered upon recall.

**Sec. 2.** G.S. 7A-39.6 is rewritten to read as follows:

“§ 7A-39.6. *Application to the Governor; commission as emergency justice or emergency judge.*—No retired justice of the Supreme Court or retired judge of the Court of Appeals may become an emergency justice or emergency judge except upon his written application to the Governor certifying his desire and ability to serve as an emergency justice or emergency judge. If the Governor is satisfied that the applicant qualifies under G.S. 7A-39.3 (a) to become an emergency justice or emergency judge and that he is physically and mentally able to perform the official duties of an emergency justice or emergency judge, he shall issue to such applicant a commission as an emergency justice or emergency judge of the court from which he retired. The commission shall be effective upon the date of its issue and shall terminate when the judge to whom it is issued reaches the maximum age for judicial service under G.S. 7A-4.20(a).”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1352

**CHAPTER 885**

AN ACT TO AMEND CHAPTER 115 OF THE GENERAL STATUTES TO AUTHORIZE PARTICIPATION BY LOCAL BOARDS OF EDUCATION IN CIVIL PREPAREDNESS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-183(6), as the same is found in Volume 3A, Part II of the General Statutes 1978 Replacement, is rewritten to read as follows:

“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 tort claims resulting from the test.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1357

**CHAPTER 886**

AN ACT TO LIMIT THE AMOUNT PAYABLE FOR STATE EMPLOYEES ALLEGED TO BE JOINT TORT-FEASORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-300.6(a), as the same appears in 1978 Replacement Volume 3C of the General Statutes, is hereby amended by deleting the second sentence and substituting in lieu thereof:

“Nothing in this section shall be deemed to waive the sovereign immunity of the State with respect to a claim covered by this section. No payment of a judgment or settlement of a claim against a State employee or several State employees as joint tort-feasors shall exceed the amount payable for any one claim under the Tort Claims Act.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1432

**CHAPTER 887**

AN ACT TO AMEND G.S. 20-130.1 TO PERMIT THE USE OF RED LIGHTS ON VEHICLES DRIVEN BY MEMBERS OF RESCUE SQUADS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-130.1, as the same appears in Chapter 653 of the 1979 Session Laws, is amended in subdivision (9) of subsection (b) by inserting after the words “voluntary life-saving organization” the following:

“(including the private vehicles of the members of such an organization)”.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1450

## CHAPTER 888

## AN ACT TO AMEND THE NORTH CAROLINA CEMETERY ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 65-53, as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is amended by adding thereto a new subdivision (6) to read as follows:

“(6) Whenever any special additional audit or examination of a licensee’s premises, facilities, books or records is necessary because of the failure of the licensee to comply with the requirements imposed in this Article or by the rules and regulations of the Commission, to charge a fee based on the cost of the special examination or audit, taking into consideration the salary of any employees involved in the special audit or examination and any expenses incurred.”

**Sec. 2.** G.S. 65-53, as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is further amended by adding thereto a new subdivision (7) to read as follows:

“(7) Promulgate rules and regulations requiring licensees to file with the Commission plans and specifications for the minimum quality of any product sold. The sale of any product for which plans and specifications required by the rules and regulations have not been filed or sale of any product of a lesser quality than the plans and specifications filed with the Commission is a violation of this Article.”

**Sec. 3.** G.S. 65-53, as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is further amended by adding thereto subdivision (8) to read as follows:

“(8) When the Commission finds that failure by a licensee to maintain a cemetery properly has caused that cemetery to be a public nuisance or a health or safety hazard, the Commission may bring an action for injunctive relief, against the responsible licensee, in the superior court of the county in which the cemetery or any part thereof is located.”

**Sec. 4.** G.S. 65-63, as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is amended by deleting from line 4 the phrase “twenty dollars (\$20.00)” and substituting in lieu thereof the phrase “twenty-five dollars (\$25.00)”; and is further amended by deleting from line 5 thereof the phrase “forty dollars (\$40.00)” and substituting in lieu thereof the phrase “forty-five dollars (\$45.00)”.

**Sec. 5.** G.S. 65-64(a), as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is amended by deleting from lines 3 and 4 thereof the phrase “not later than 10 days following the close of the calendar month” and substituting in lieu thereof the phrase “on or before the last day of the calendar month following the calendar month”.

**Sec. 6.** G.S. 65-64(e), as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is amended by deleting from line 8 the phrase “twenty dollars (\$20.00)” and substituting in lieu thereof the phrase “twenty-five dollars (\$25.00)”; and is further amended by deleting from line 9 the phrase “forty dollars (\$40.00)” and substituting in lieu thereof the phrase “forty-five dollars (\$45.00)”.

**Sec. 7.** G.S. 65-66, as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is rewritten to read as follows:

“§ 65-66. *Receipts from sale of personal property or services; trust account; penalties.*—(a) It shall be deemed contrary to public policy if any person or legal entity receives, holds, controls or manages funds or proceeds received from the sale of, or from a contract to sell, personal property or services which may be used in a cemetery in connection with the burial of or the commemoration of the memory of a deceased human being, where payments for the same are made either outright or on an installment basis prior to the demise of the person or persons so purchasing them or for whom they are so purchased, unless such person or legal entity holds, controls or manages said funds, subject to the limitations and regulations prescribed in this section. This section shall apply to all cemetery companies or other legal entities that offer for sale or sell personal property or services which may be used in a cemetery in connection with the burial of, or the commemoration of the memory of, a deceased human being, but shall exclude persons holding a certificate under G.S. 65-36.1 through G.S. 65-36.8.

(b) Any cemetery company or other entity entering into a contract for the sale of personal property or services, to be used in a cemetery in connection with disposing of, or commemorating the memory of a deceased human being wherein the use of the personal property or the furnishing of services is not immediately requested or required, shall comply with the following requirements and conditions:

- (1) The cemetery company or other entity shall deposit an amount equal to sixty percent (60%) of all proceeds received on such contracts into a trust account, either in the form of an account governed by a trust agreement and handled by a corporate trustee or in the form of a passbook savings account, certificates of deposit for time certificates, and/or money-market certificates with a licensed and insured bank or savings institution located in the State of North Carolina until the amount deposited equals sixty percent (60%) of the actual sale price of the property or services sold. Such accounts and/or deposits shall be in the name of the cemetery company or other entity in a form which will permit withdrawals only with the participation and consent of the Cemetery Commission as required by subdivision (4) of this subsection.
- (2) All funds received on account of a contract for the sale of such personal property or services, whether the funds be received directly from the purchaser or from the sale or assignment of notes entered into by the purchase or otherwise, shall be deposited into the trust account as required by subdivision (1) of this section.
- (3) All deposits required herein shall be made into the trust account so established on or before the last day of the month following receipt of the funds by the cemetery company or other entity.
- (4) Withdrawals from a trust account may be made by the depositor, but only with the written approval of the Commission or officer or employee of the Commission authorized to act for the Commission. Withdrawals may be made only upon delivery of the merchandise or services for which the funds were deposited, cancellation of a contract, the presence of excess funds in the trust account, or under other



circumstances deemed appropriate by the Commission. The Commission shall promulgate rules and regulations governing withdrawals from trust accounts, including time and frequency of withdrawals, notice to the Commission prior to withdrawals, the number and identity of persons other than the owner who are authorized by the owner to make withdrawals, the officers and employees of the Commission authorized to approve withdrawals, and any other matters necessary to implement the provisions of this subdivision. Withdrawals will not be allowed if the amount remaining in the trust account would fall below sixty per cent (60%) of all proceeds received on account of contracts for the sale of such personal property or services.

- (5) If for any reason a cemetery company or other entity who has entered into a contract for the sale of personal property or services cannot or does not provide the personal property or perform the services called for by the contract after request in writing to do so, the purchaser or his heirs or assigns or duly authorized representative shall be entitled to receive the entire amount paid on the contract and any income if any, earned thereon by the trust account.
- (6) Every year after September 1, 1975, the cemetery company, the trustee or other entity shall within 75 days after the end of the calendar year, file a financial report of the trust funds with the Commission, setting forth the principal thereof, the investments and payments made, the income earned and disbursed; provided, however, that the Commission may require the cemetery, trustee, or other entity to make such additional financial reports as it may deem advisable.

(c) Whenever a contract for the sale of personal property and/or services allocates payments to apply to one item at a time under a specific schedule, the contract shall be considered divisible. Title to each item of personal property or the right to each item of services shall pass to the purchaser upon full payment for that item regardless of the remaining balance on other items under the same contract.

(d) Any contract for the sale of personal property and/or services shall state separate costs for each item of personal property, for each act of installation required by the contract, and for each other item of services included in the contract.

(e) All contracts for the sale of personal property and/or services must be printed in type size as required by the Truth in Lending Act, 15 U.S.C. G.S. 1601 et seq., and regulations adopted pursuant to that act.

(f) In the event of prepayment, interest charged shall be no more than the interest earned on the unpaid balance computed on a per cent per month basis for each month or part of a month up to the date of final payment. Any excess interest which has been paid by the purchaser must be refunded to him, his assigns, or his representative within 30 days after the final payment. No penalty or additional charge for prepayment may be required.

(g) In lieu of the deposits required under subsection (b) of this section, the cemetery company or other entity may post with the Commission a good and sufficient performance bond by surety company licensed to do business in North Carolina and in an amount sufficient to cover all payments made directly or indirectly by or on account of purchasers who have not received the purchased

property and services. Money received from the sale or assignment of notes entered into by the purchasers, or otherwise, shall be treated as payments made by the purchasers.

(h) The Commission shall have the power and is required from time to time as it may deem necessary to examine the business of any cemetery company or other entity writing contracts for the sale of the property or services as herein contemplated. The written report of such examination shall be filed in the office of the Commission. Any person or entity being examined shall produce the records of the company needed for such examination.

(i) Any provision of any contract for the sale of the personal property or the performance of services herein contemplated under which the purchaser or beneficiary waives any of the provisions of this section shall be void.

(j) Any cemetery company or other entity, as defined in this section, failing to make contributions required by subsection (b) of this section shall be guilty of a misdemeanor punishable as provided in G.S. 14-3, and each violation of this section shall constitute a separate offense.

(k) Nothing in G.S. 65-66 and subsections thereunder shall apply to persons or legal entities holding licenses or certificates under G.S. 65-36.1 and 65-36.8 when performing services or selling items authorized by said sections.

(l) If any report is not received within the time stipulated by the Commission or herein, the Commission may levy and collect a penalty of twenty-five dollars (\$25.00) per day for each day of delinquency.

(m) At any time prior to delivery of personal property or performance of services, a purchaser may cancel his contract by giving written notice to the seller. The seller may cancel the contract, upon default by purchaser, by giving written notice to the purchaser. Within 30 days of notice of cancellation, the cemetery company or other entity shall refund to purchaser the principal amount on deposit in the trust account for his benefit on any undelivered merchandise or services. This amount (no other obligations owed the purchaser by the seller) shall constitute the purchaser's entire entitlements under the contract. The seller may not terminate the contract without complying with this subsection."

**Sec. 8.** G.S. 65-70, as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is hereby rewritten to read as follows:

"§ 65-70. *Construction of mausoleums and belowground crypts; trust fund for receipts from sale of preconstruction crypts; compliance requirements.*—(a) A cemetery company shall be required to start construction of that section of a mausoleum or bank of belowground crypts in which sales, contracts for sale, reservations for sales or agreements for sales are being made, within 48 months after the date of the first such sale. The construction of such mausoleum section or bank of belowground crypts shall be completed within five years after the date of the first sale made; provided, however, extensions for completion, not to exceed one year, may be granted by the Commission for good reasons shown.

(b) A cemetery company which plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust account. The trust account shall be administered and operated in the same manner as the merchandise trust account provided for in G.S. 65-66 and shall be exclusive of the merchandise trust account or such other trust accounts or funds that may be required by law.

The personal representative of any purchaser of such space who dies before completion of construction shall be entitled to a refund of all monies paid for such space including any income earned thereon.

(c) Before a sale, contract for sale, reservation for sale or agreement for sale in the first mausoleum section or bank of underground crypts in each cemetery may be made the funds (one hundred twenty percent (120%) of construction cost) to be deposited to the preconstruction trust account shall be computed as to said section or bank of crypts and such trust account payments must be made on or before the last day of the calendar month following receipt by the cemetery company or its agent of each payment. The trust account portion of each such payment shall be computed by dividing the cost of the project plus twenty percent (20%) of said cost, as computed by a licensed contractor, engineer or architect by the number of crypts in the section or bank of crypts to ascertain the cost per unit. The unit cost shall be divided by the contract sales price of each unit to obtain a percentage which shall be multiplied by the amount of each payment. The formula shall be computed as follows:

Cost plus twenty percent (20%) divided by number of crypts = cost per unit

Cost per unit divided by contract sales price = percentage

Percentage x payment received = deposit required to preconstruction trust account.

(d) The cemetery company shall be entitled to withdraw the funds from said preconstruction trust account only after the Commission has become satisfied that construction has been completed; provided, however, that during construction of the mausoleum or bank of belowground crypts the Commission may, in its discretion, authorize a specific percentage of the funds to be withdrawn when it appears that at least an equivalent percentage of construction has been completed.

(e) If a mausoleum section or bank of underground crypts is not completed within the time limits set out in this section the corporate trustee, if any, shall contract for and cause said project to be completed and paid therefor from the trust account funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company. In the event there is no corporate trustee, the Commission shall appoint a committee to serve as trustees to contract for and cause said project to be completed and paid therefor from the trust account funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company.

(f) In lieu of the payments outlined hereunder to the preconstruction trust account the cemetery company may deliver to the Commission a good and sufficient completion or performance bond in an amount and by surety companies acceptable to the Commission."

**Sec. 9.** G.S. 65-60.1(c), as the same appears in the 1977 Supplement to Volume 2C of the North Carolina General Statutes, is hereby amended by deleting from line 5 thereof the following: "shall be audited annually by the State Auditor and" and adding at the end thereof a new sentence to read as follows: "The records shall be audited annually, within 90 days from the end of the trust fund's fiscal year, by an independent certified public accountant, and a copy of the audit report shall be promptly forwarded to the Commission."

**Sec. 10.** Partial Invalidity. 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 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. 11.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 12.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1458

## CHAPTER 889

AN ACT TO AMEND G.S. 143-215.2 CONCERNING THE USE OF SPECIAL ORDERS AGAINST FARM OPERATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.2(a) is amended by adding the following sentence at the end thereof:

“Provided, however, that the provisions of this section shall not apply to any agricultural operation, such as the use or preparation of any land for the purposes of planting, growing, or harvesting plants, crops, trees or other agricultural products, or raising livestock or poultry.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1465

## CHAPTER 890

AN ACT TO PERMIT THE LEGISLATIVE COMMISSION ON MEDICAL COST CONTAINMENT TO REPORT TO THE 1979 GENERAL ASSEMBLY, SECOND SESSION, 1980.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 968 of the 1977 Session Laws is amended by deleting the last sentence of Section 4 and is further amended by rewriting the second sentence of Section 6 to read as follows:

“The commission shall file another report with the President of the Senate and the Speaker of the House of Representatives by April 1, 1979, and may file an additional report to the 1979 General Assembly, Second Session, 1980.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1509

## CHAPTER 891

AN ACT TO REQUIRE THAT CONTRACT DOCUMENTS FOR CERTAIN BUILDINGS INCLUDE THE COLOR SCHEDULE FOR JOB-INSTALLED FINISHES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 133-1.1 is amended by adding a new subsection (g) to read:

“(g) On all facilities which are covered by this Article, other than those listed in subsection (c) of this section and which require any job-installed finishes, the plans and specifications shall include the color schedule.”

**Sec. 2.** This act shall become effective July 1, 1979.



In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 33

**CHAPTER 892****AN ACT TO REDEFINE "SOLAR HOT WATER, HEATING AND COOLING EQUIPMENT" FOR PURPOSES OF INCOME TAX CREDIT.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-130.23(b) is rewritten to read as follows:

"(b) For the purpose of this section, the term 'solar hot water, heating and cooling equipment' means any hot water, heating, cooling, or heating and cooling equipment which meets the definitive performance criteria established by the U. S. Secretary of the Treasury or any other performance criteria approved and published by the Secretary of Revenue."

**Sec. 2.** G.S. 105-151.2(c) is rewritten to read as follows:

"(c) For the purpose of this section, the term 'solar hot water, heating and cooling equipment' means any hot water, heating, cooling, or heating and cooling equipment which meets the definitive performance criteria established by the U. S. Secretary of the Treasury or any other performance criteria approved and published by the Secretary of Revenue."

**Sec. 3.** This act shall be effective with respect to taxable years beginning on and after January 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 127

**CHAPTER 893****AN ACT TO PERMIT THE LIMITED OPERATION OF RAFFLES AND BINGO GAMES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-292 is rewritten to read as follows:

"§ 14-292. *Gambling.*—Except as provided in G.S. 14-292.1, any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, shall be guilty of a misdemeanor."

**Sec. 2.** Chapter 14 of the General Statutes is amended by adding the following new section:

"§ 14-292.1. *Bingo and raffles.*—(a) It is lawful for an exempt organization to conduct raffles and bingo games in accordance with the provisions of this section. Any person who conducts a raffle or bingo game in violation of any provision of this section shall be guilty of a misdemeanor under G.S. 14-292 and shall be punished in accordance with G.S. 14-3. Upon conviction such person shall not conduct a raffle or bingo game for a period of one year. It is lawful to participate in a raffle or bingo game conducted pursuant to this section. It shall not constitute a violation of State law to advertise a raffle or bingo game conducted in accordance with this section.

(b) For purposes of this section, the term:

(1) 'exempt organization' means an organization that has been in continuous existence in the county of operation of the raffle or bingo

game for at least one year and that is exempt from taxation under Sections 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code or is exempt under similar provisions of North Carolina General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. (If the organization has local branches or chapters, the term 'exempt organization' means the local branch or chapter operating the raffle or bingo game);

(2) 'bingo game' means a specific game of chance played with individual cards having randomly numbered squares ranging from one to seventy-five, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random (but shall not include 'instant bingo', which is a game of chance played by the selection of one or more prepacked cards, with winners determined by the appearance of a preselected designation on the card);

(3) 'raffle' means a lottery in which the prize is won by a random drawing of the name or number of one or more persons purchasing chances.

(c) The exempt organization must prominently display in the specific place or room where the raffle or bingo game is being conducted a determination letter (or a reproduction copy thereof) from the Internal Revenue Service or the North Carolina Department of Revenue that indicates that the organization is an exempt organization.

(d) The exempt organization may expend proceeds derived from a raffle or bingo game only for 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. All proceeds remaining after the above authorized expenditures shall inure to the exempt organization to be used for religious, charitable, civic, scientific, testing for public safety, literary, or educational purposes, or for purchasing, constructing, maintaining, operating or using equipment or land or a building or improvements thereto owned by and for the exempt organization and used for civic purposes or made available by the exempt organization for use by the general public from time to time, or to foster amateur sports competition or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended for social functions for the members of the exempt organization.

(e) No person may be compensated for conducting a raffle or bingo game. 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 lease space for such purpose at a fixed sum and not at a percentage of receipts or proceeds. Such leases shall be at a fixed rate not subject to change during the term of the lease. The provisions of this subsection notwithstanding, an exempt organization may compensate a person for conducting raffles or bingo games conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.

(f) The number of sessions of bingo conducted or sponsored by an exempt organization shall be limited to two sessions per week and such sessions must

not exceed a period of five hours each per county. No more than two sessions of bingo shall be operated or conducted in any one building, hall or structure during any one calendar week; provided, however, that two exempt organizations may operate up to two sessions of bingo each per week in the same building, hall or structure, if the organizations do not use the same equipment and personnel. Four consecutive nights of bingo may not be held on the same premises during any one calendar week. Raffles shall be limited to one per month per county. This subsection shall not apply to raffles or bingo games conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.

(g) The maximum prize in cash or merchandise that may be offered or paid for any one game of bingo is five hundred dollars (\$500.00). The maximum aggregate amount of prizes, in cash and/or merchandise, that may be offered or paid at any one session of bingo is one thousand five hundred dollars (\$1,500). Provided, however, that if an exempt organization holds only one session of bingo during a calendar week, the maximum aggregate amount of prizes, in cash and/or merchandise, that may be offered or paid at any one session is two thousand five hundred dollars (\$2,500). The maximum cash prize that may be offered or paid for any one raffle is five hundred dollars (\$500.00).

(h) The operation of raffles or bingo games shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the exempt organization in the manner provided by the rules of the exempt organization. Upon their selection, the members of the committee shall register with the sheriff of the county in which the raffle or bingo game is to be conducted. The registration shall disclose the identity and address of the members of the committee and the exempt organization.

(i) All funds received in connection with a raffle or bingo game (except funds given as prizes in connection with a particular raffle or bingo game) shall be placed in a separate bank account. No funds may be disbursed from this account except for the purposes authorized by subsection (d) of this section. A separate account shall be kept of all funds received in connection with raffles or bingo games (including the amount of any prize) and the amount and purpose of any disbursement. An audit of the account shall be conducted annually by the special committee for the period July 1 to June 30. A copy of the audit shall be filed on or before September 15 of each year with the sheriff of the county in which the raffle or bingo game is conducted. All books, papers, records and documents relevant to determining whether an organization has acted or is acting in compliance with this section shall be open to inspection by the sheriff or his designee or the district attorney or his designee at reasonable times and during reasonable hours.

(j) A raffle or bingo game conducted otherwise than in accordance with the provisions of this section is 'gambling' within the meaning of G.S. 19-1 *et seq.*, and proceedings against such raffle or bingo game may be instituted as provided for in Chapter 19 of the General Statutes.

(k) Any exempt organization operating a bingo game or raffle which is open to persons other than members of the exempt organization, their spouses, and their children shall make such bingo game or raffle open to the general public.

(l) Nothing in this Article except subsection (k) of this section shall apply to bingo games when the only prize given is ten dollars (\$10.00) or less or

merchandise that is not redeemable for cash and that has a value of ten dollars (\$10.00) or less. G.S. 18A-30(9) and G.S. 18A-35(h) shall apply to such games.”

**Sec. 3.** G.S. 14-289, as it appears in Volume 1B of the General Statutes, 1969 Replacement, is hereby amended by striking out the word “If” in line one and substituting therefor the words “Except in connection with a lawful raffle as provided in G.S. 14-292.1, if”.

**Sec. 4.** G.S. 14-290, as it appears in Volume 1B of the General Statutes, 1969 Replacement, is hereby amended by striking out the word “If” in line one and substituting therefor the words “Except in connection with a lawful raffle as provided in G.S. 14-292.1, if”.

**Sec. 5.** G.S. 14-291, as it appears in Volume 1B of the General Statutes, 1969 Replacement, is hereby amended by striking out the word “If” in line one and substituting therefor the words “Except in connection with a lawful raffle as provided in G.S. 14-292.1, if”.

**Sec. 6.** G.S. 14-291.1, as it appears in Volume 1B of the General Statutes, 1969 Replacement, is hereby amended by striking out the word “If” in line one and substituting therefor the words “Except in connection with a lawful raffle as provided in G.S. 14-292.1, if”.

**Sec. 7.** All general or local laws that permit the operation of raffles or bingo games in counties or towns are repealed.

**Sec. 8.** 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. 9.** Nothing contained in this act shall be construed to render lawful any act committed prior to the effective date of this act and unlawful at the time the act occurred; and nothing contained in this act shall be construed to affect any prosecution pending on the effective date of this act.

**Sec. 10.** G.S. 18A-30 is amended by adding a new subdivision to read:

“(9) Sale or consumption at bingo game or raffle. It is unlawful for any person to sell or consume alcoholic beverages, fortified wine, or mixed beverages in any room while a raffle or bingo game is being conducted in that room under G.S. 14-292.1.”

**Sec. 11.** G.S. 18A-35 is amended by adding a new subsection (h) to read:

“(h) It is unlawful for any person to sell or consume beer or unfortified wine in any room while a raffle or bingo game is being conducted in that room under G.S. 14-292.1.”

**Sec. 12.** This act is effective September 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



S. B. 128

**CHAPTER 894****AN ACT TO ESTABLISH THE SOUTHERN LATERAL SEAWARD BOUNDARY BETWEEN NORTH CAROLINA AND SOUTH CAROLINA.***The General Assembly of North Carolina enacts:***Section 1.** G.S. 141-7.1 is hereby enacted to read as follows:

“§ 141-7.1. *Southern lateral seaward boundary.*—The lateral seaward boundary between North Carolina and South Carolina from the low-water mark of the Atlantic Ocean shall be and is hereby designated as a continuation of the North Carolina-South Carolina boundary line as described by existing monuments located at Latitude 33° 51' 50.7214" North, Longitude 78° 33' 22.9448" West and Latitude 33° 51' 36.4626" North, Longitude 78° 33' 06.1937" West, in a straight line projection of said line to the seaward limits of the States' territorial jurisdiction, such line to be extended on the same bearing insofar as a need for further delimitation may arise.”

**Sec. 2.** This act shall become effective upon ratification and with approval thereof, and concurrence therein, by the State of South Carolina and upon the approval and consent to this act by the Congress of the United States; provided, that this act shall stand repealed if the State of South Carolina and the Congress of the United States do not ratify, confirm, adopt, or otherwise consent to the effect of the act establishing the lateral seaward boundary between North Carolina and South Carolina by January 1, 1985.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 213

**CHAPTER 895****AN ACT TO REQUIRE THAT WEAPONS PERMITS BE OBTAINED FROM THE COUNTY OF RESIDENCE OF THE PURCHASER.***The General Assembly of North Carolina enacts:***Section 1.** The first paragraph of G.S. 14-402 is rewritten to read:

“It shall be unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other place within or without the State any pistol unless a license or permit therefor has first been obtained by the purchaser or receiver from the sheriff of the county in which that purchaser or receiver resides.”

**Sec. 2.** The second paragraph of G.S. 14-402 is rewritten to read:

“It shall be unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same the permit from the sheriff as provided in G.S. 14-403. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or imprisoned not less than 30 days nor more than six months, or both, in the discretion of the court.”

**Sec. 3.** The first paragraph of G.S. 14-409.1 is rewritten to read:

“It shall be unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State

from any other place within or without the State any pistol unless a license or permit therefor has first been obtained by the purchaser or receiver from the clerk of the superior court of the county in which that purchaser or receiver resides."

**Sec. 4.** The second paragraph of G.S. 14-409.1 is rewritten as follows:

"It shall be unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same, the permit from the clerk of superior court as provided in G.S. 14-409.2. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or imprisoned not less than 30 days nor more than six months, or both, in the discretion of the court."

**Sec. 5.** The provisions of any local act which are in conflict with this act are repealed.

**Sec. 6.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 266

## CHAPTER 896

### AN ACT TO REVISE THE PROVISIONS RELATING TO THE ADMINISTRATION OF THE COMMUNITY COLLEGES AND TECHNICAL INSTITUTES IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115D-2(5) is rewritten to read:

"(5) The term 'State Board' refers to the State Board of Community Colleges and Technical Institutes."

**Sec. 2.** Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-2.1. *State Board of Community Colleges and Technical Institutes.*—  
(a) Establishment. The State Board of Community Colleges and Technical Institutes is established.

(b) Structure and Appointment. The State Board shall consist of 19 members, including the Lieutenant Governor, and the Treasurer of North Carolina who shall be ex officio members. The Governor shall appoint one person to the State Board from each of the six Trustee Association Regions defined in G.S. 115D-54, and four persons from the State at large; appointment of these 10 original members shall be made by July 1, 1980; three shall be appointed for terms expiring June 30, 1981, three shall be appointed for terms expiring June 30, 1983, and four shall be appointed for terms expiring June 30, 1985. Thereafter appointments to these positions shall be for six-year terms. The General Assembly by joint resolution shall select seven persons from the State at large and the Governor shall appoint these persons to membership on the State Board by July 1, 1980; two members shall be for terms expiring June 30, 1981; two shall be for terms expiring June 30, 1983; and three shall be for terms expiring June 30, 1985; thereafter, selection and appointment of these members

shall be for six-year terms. No person shall be appointed to more than two full terms in succession. In 1980, at a meeting to be called by the Governor, the State Board shall elect from its voting membership for a one-year term a chairman and such other officers as the State Board deems necessary. At the first regular meeting held after appointment of new members in each odd-numbered year, the State Board shall elect from its voting membership for a two-year term a chairman and such other officers as the State Board deems necessary. No member of the General Assembly or officer or employee of the State or of any constituent institution or the spouse of any such member, officer, or employee may be a member of this Board, provided however, that the Lieutenant Governor and the State Treasurer shall serve as provided in this subsection.

(c) Meetings. Regular meetings of the State Board of Community Colleges and Technical Institutes shall be held each month on a day fixed by the State Board. Ten voting members shall constitute a quorum for the transaction of business. Special meetings of the State Board may be set at any regular meeting or may be called by the chairman.

(d) Legislative Confirmation. Except as otherwise provided in subsection (e) of this section, all persons appointed to the State Board by the Governor, other than those selected by the General Assembly, shall be subject to confirmation by the General Assembly by joint resolution.

(e) Vacancies, Interim Appointments. A vacancy in an appointive position shall be filled for the unexpired term in the same manner as the appointment of the person causing the vacancy was made. If a vacancy occurs while the General Assembly is not in session or when the General Assembly has recessed or adjourned for more than 10 days, the Governor may appoint any qualified person to serve without confirmation until the close of the 10th legislative day after the vacancy occurs, provided however, that no such interim appointment shall be valid beyond the expiration of the term."

**Sec. 3.** G.S. 115D-3 is rewritten to read:

"§ 115D-3. *State Board of Community Colleges and Technical Institutes to establish department to administer systems of educational institutions, employment of personnel in community college system.*—The State Board of Community Colleges and Technical Institutes is authorized to establish and organize a department to provide State-level administration, under the direction of the State Board, of a system of community colleges and technical institutes separate from the free public school system of the State. The State Board shall have authority to adopt and administer all policies, regulations, and standards which it may deem necessary for the establishment and operation of the department.

The State Board shall elect a State President of the Department of Community Colleges. He shall be the chief administrative officer of the Department. The compensation of this position shall be fixed by the Governor, upon the recommendation of the State Board, subject to approval by the Advisory Budget Commission.

The State President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on nomination of the State President. The State Board shall fix the compensation of the staff members it elects. These staff members shall include such officers as may be deemed desirable by the State

President and the State Board. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the State Board. In addition, the State President shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the State Board on recommendation of the State President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. The State Board shall appoint an advisory council consisting of at least seven members to advise the State Board on matters relating to personnel, curricula, finance, articulation, and other matters concerning institutional programs and coordination with other educational institutions of the State. The State Board of Community Colleges and Technical Institutes shall have all other powers, duties, and responsibilities delegated to the State Board of Education affecting the Department of Community Colleges not otherwise stated in this Chapter."

**Sec. 4.** G.S. 115D-4 is amended by deleting the words "the Board" in each of the four places that such words appear and inserting in lieu thereof the words "the State Board", and by deleting the words "State Board of Education" in both places and inserting in lieu thereof the words "State Board of Community Colleges and Technical Institutes".

**Sec. 5.** G.S. 115D-5 is amended in the catchline and section by deleting the words "State Board of Education" in the twelve places those words appear and inserting in lieu thereof the words "State Board of Community Colleges and Technical Institutes".

**Sec. 6.** G.S. 115D-5(a) and G.S. 115D-5(e) are amended by deleting the words "the Board" and inserting in lieu thereof the words "the State Board".

**Sec. 7.** G.S. 115D-5(a) is further amended by deleting the words "The Board" and inserting in lieu thereof "The State Board".

**Sec. 8.** G.S. 115D-6 is amended by deleting the words "State Board of Education" and inserting in lieu thereof the words "State Board of Community Colleges and Technical Institutes".

**Sec. 9.** Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-54. *Trustee Association Regions.*—The State is divided into six Trustee Association Regions as follows:

Region 1: The counties of Buncombe, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Jackson, Lincoln, Macon, McDowell, Polk, Rutherford, Swain, and Transylvania.

Region 2: The counties of Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Madison, Mitchell, Rowan, Surry, Watauga, Wilkes, Yadkin, and Yancey.

Region 3: The counties of Alamance, Chatham, Davidson, Caswell, Durham, Forsyth, Franklin, Granville, Guilford, Orange, Person, Randolph, Rockingham, Stokes, Vance, Warren, and Wake.



Region 4: The counties of Anson, Cabarrus, Cumberland, Harnett, Hoke, Johnston, Lee, Mecklenburg, Montgomery, Moore, Richmond, Robeson, Scotland, Stanly, and Union.

Region 5: The counties of Bladen, Brunswick, Carteret, Craven, Columbus, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Sampson, and Wayne.

Region 6: The counties of Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, and Wilson."

**Sec. 10.** The expenses of the State Board of Community Colleges and Technical Institutes shall be paid in the fiscal year 1980-81 from funds appropriated to the Department of Community Colleges with the approval of the Governor and the Advisory Budget Commission.

**Sec. 11.** Passage of this act shall not obligate the General Assembly for an additional appropriation.

**Sec. 12.** The State Board of Community Colleges and Technical Institutes may adopt regulations beginning July 1, 1980, but no such regulation shall become effective prior to January 1, 1981.

**Sec. 13.** G.S. 115D-12, G.S. 115D-13, G.S. 115D-15, G.S. 115D-17, G.S. 115D-18, G.S. 115D-21, G.S. 115D-23, G.S. 115D-27, G.S. 115D-29(e), G.S. 115D-32, G.S. 115D-35, G.S. 115D-38, G.S. 115D-40, G.S. 115D-41, G.S. 115D-42, G.S. 115D-43, G.S. 115D-44, G.S. 115D-51, G.S. 115D-65, G.S. 115D-66, G.S. 115D-67, G.S. 115D-68, G.S. 116-11(1) and G.S. 116-15(d) are amended by deleting the words "State Board of Education" and inserting in lieu thereof the words "State Board of Community Colleges and Technical Institutes".

**Sec. 14.** Sections 2, 9, 10, 11, 12, and 14 of this act are effective upon ratification. The remainder of this act shall become effective January 1, 1981.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 332

## CHAPTER 897

## AN ACT TO MAKE CERTAIN TYPES OF CHILD ABUSE A FELONY.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Chapter 14 of the General Statutes to read as follows:

"§ 14-318.3. *Child abuse a felony.*—(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child who intentionally inflicts any serious physical injury which results in:

(1) permanent disfigurement, or

(2) bone fracture, or

(3) substantial impairment of physical health, or

(4) substantial impairment of the function of any organ, limb, or appendage of such child,

is guilty of a felony punishable by imprisonment for a period not to exceed five years.

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies."

**Sec. 2.** This act applies to acts occurring on or after the date of ratification. This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 389

## CHAPTER 898

AN ACT TO PROVIDE MORE EFFECTIVE SERVICES TO CHILDREN  
AND FAMILIES THROUGH STATE AND COUNTY NEW  
GENERATION INTERAGENCY COMMITTEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 9 of G.S. Chapter 143B is amended by adding the following new Part:

“Part 20. New Generation Interagency Committees.

“§ 143B-422. *Declaration of findings and policy.*—It is the policy of the State of North Carolina to afford each new generation of children greater opportunities and to burden it with fewer disabilities than the preceding generation had. The General Assembly finds that the family is the most effective institution through which to meet the needs of children; that the family alone can not meet all of the essential needs of each new generation of children, 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 their efforts. 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 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; to encourage the establishment of a system of child care accessible to families that need and want the service; and to provide a structure through which child-centered programs may be coordinated for maximum effectiveness.

“§ 143B-422.1. *New Generation Interagency Committee; creation; membership; structure.*—(a) The New Generation 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 chairperson of the committee. The vice-chairperson 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-422.2. *New Generation Interagency Committee; powers and duties.*—The New Generation 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 formulate new programs and changes in existing programs to effectuate the policies set out in this Article;

(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 modify policy, programs, procedures and regulations that serve as barriers to the effective delivery of services to families and children;

(7) to perform other duties assigned by the Governor for the purpose of effectuating the policies set out in this Article.

“§ 143B-422.3. *County New Generation Interagency Committees authorized; purpose.*—Boards of county commissioners may create county New Generation 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 New Generation Interagency Committee for that county. County New Generation Interagency Committees shall be committed to raising a literate and healthy new generation of children, and shall bring together all existing resources to help the family and the community ensure good development, health care and education for each child in his early formative years.

“§ 143B-422.4. *County New Generation Interagency Committees; membership; organization; procedures.*—(a) County New Generation 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 office; 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 chairperson of the county committee. Members of the county committee shall elect one of their number as vice-chairperson 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 chairperson. Each county committee may create working groups needed to assist the committee. The chairperson shall have general administrative authority to organize the work of the committee.

“§ 143B-422.5. *County New Generation Interagency Committees, powers and duties.*—County New Generation 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;

(7) upon approval by the county commissioners, to recommend to the State New Generation 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;

(9) to perform such other powers, duties, and functions as the board of county commissioners may prescribe.”

**Sec. 2.** *Schedule.* The initial appointments of the legislative members of the New Generation Interagency Committee shall be made for terms to expire January 31, 1981; thereafter appointments of these members shall be for terms of two years.

**Sec. 3.** *Funding.* The provisions of this act shall be implemented without the appropriation of additional funds by the General Assembly.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 485

## CHAPTER 899

AN ACT TO AMEND G.S. 7A-343.1.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-343.1 is hereby amended, in the distribution table, by deleting the figure “17” opposite the heading entitled “Campbell College” and substituting in lieu thereof the figure “25”.

**Sec. 2.** In addition to the Appellate Division Reports heretofore published and distributed to Campbell College pursuant to G.S. 7A-343.1, eight complete sets of the Appellate Division Reports heretofore published, insofar as the same are available and without necessitating reprinting, shall be furnished without charge to Campbell College.



**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 631

## CHAPTER 900

### AN ACT TO ESTABLISH THE NORTH CAROLINA AGENCY FOR PUBLIC TELECOMMUNICATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 9 of Chapter 143B of the General Statutes is amended by adding a new Part 20 to read as follows:

#### "PART 20.

#### "NORTH CAROLINA AGENCY FOR PUBLIC TELECOMMUNICATIONS.

"§ 143B-422.1. *Definitions.*—As used in this Part, except where the context clearly requires otherwise:

(1) 'Agency' means the North Carolina Agency for Public Telecommunications.

(2) 'Board' means the Board of Public Telecommunications Commissioners.

(3) '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.

"§ 143B-422.2. *North Carolina Agency for Public Telecommunications; creation; membership; appointments, terms and vacancies; officers; meetings and quorum; compensation.*—The North Carolina Agency for Public Telecommunications is created. It is governed by the Board of Public Telecommunications Commissioners, composed of 27 members as follows:

(1) a Chairman appointed by, and serving at the pleasure of, the Governor;

(2) 10 at-large members, appointed by the Governor from the general public;

(3) two members of the North Carolina House of Representatives, appointed by the Speaker of the House of Representatives;

(4) two members of the North Carolina Senate, appointed by the President of the Senate;

(5) the Secretary of Administration, ex officio;

(6) the Chairman of the Board of Trustees of The University of North Carolina Center for Public Television (if and when established), ex officio;

(7) the Chairman of the State Board of Education, ex officio;

(8) the Chairman of the North Carolina Privacy and Freedom of Information Commission (if and when established), ex officio;

(9) the Chairman of the North Carolina Utilities Commission, ex officio;

(10) the Director of the Public Staff of the North Carolina Utilities Commission, ex officio;

(11) the Chairman of the Public Radio Advisory Committee of the North Carolina Agency for Public Telecommunications, ex officio;

(12) the Superintendent of Public Instruction, ex officio;

(13) the President of The University of North Carolina, ex officio;

(14) the President of the Department of Community Colleges, ex officio; and

(15) two members ex officio who shall rotate from among the remaining heads of departments enumerated in G.S. 143A-11 or G.S. 143B-6, appointed by the Governor.

The 10 at-large members shall serve for terms staggered as follows: four terms shall expire on June 30, 1980; and three terms shall expire on June 30, 1982; and three terms shall expire on June 30, 1984. Thereafter, the members at large shall be appointed for full four-year terms and until their successors are appointed and qualified. In making appointments of members at large, the Governor shall seek to appoint persons from the various geographic areas of the State including both urban and rural areas; persons from various classifications as to sex, race, age, and handicapped persons; and persons who are representatives of the public broadcast, commercial broadcast, nonbroadcast distributive systems and private education communities of the State.

The terms of the ex officio members are coterminous with their respective terms of office. In the event that any of the offices represented on the Board ceases to exist, the successor officer to the designated member shall become an ex officio member of the Board; if there shall be no successor, then the position on the Board shall be filled by a member to be appointed by the Governor from the general public. The ex officio members shall have the right to vote.

The terms of the members of the North Carolina House of Representatives and the North Carolina Senate are coterminous with their terms in office and until their successors are appointed and qualified.

The terms of the rotating ex officio members shall be of one-year duration, and the schedule of rotation is determined by the Governor.

Each State official who serves on the Board may designate a representative of his department, agency or institution to sit in his place on the Board and to exercise fully the official's privileges of membership.

The Secretary of Administration or his designee serves as secretary of the Board.

Ad interim appointments to fill vacancies on the Board are for the balance of the unexpired term and are made in the same manner as was the original appointment.

The Governor may remove any member of the Board from office in accordance with the provisions of G.S. 143B-16.

The Board meets quarterly and at other times at the call of the Chairman or upon written request of at least six members.

A majority of the Board members shall constitute a quorum for the transaction of business.

“§ 143B-422.3. *Purpose of Agency.*—The North Carolina Agency for Public Telecommunications shall serve as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

(1) to advise the Governor, the Council of State, the principal State departments, The University of North Carolina, the General Assembly and all other State agencies and institutions on all matters of telecommunications policy as may affect the State of North Carolina and its citizens;

(2) to foster and stimulate the use of telecommunications programming, services and systems for noncommercial educational and cultural purposes by public agencies for the improvement of the performance of governmental services and functions;

(3) to serve State government, local governments and other public agencies and councils in the following ways:

(a) to provide a clearinghouse of information about innovative projects, programs or demonstrations in telecommunications;

- (b) to provide advice on the acquisition, location and operation of telecommunications systems, equipment, and facilities and to provide particularly such advice as may foster compatibility of systems, equipment and facilities and as may reduce or eliminate duplication or mismatching of systems and facilities;
  - (c) to provide advice on the disposition of excess or unused telecommunications equipment;
  - (d) to provide information and advice on new telecommunications developments and emerging technologies;
  - (e) to provide advice on procurement matters on all purchases and contracts for telecommunications systems, programming and services;
  - (f) to provide information and advice on the most cost-effective means of using telecommunications for management, operations and service delivery;
  - (g) to provide advice and assistance in the evaluation of alternative media programming so that the most efficient and effective products may be developed and used;
  - (h) to provide advice and assistance in the identification of various methods of distributing programs and materials;
- (4) to study the utilization of the frequency spectrum and to advise appropriate authorities as to effective frequency management;
- (5) to assist in the development of a State plan or plans for the best development of telecommunications systems, both public and private, to insure that all citizens of North Carolina will enjoy the benefits which such systems may deliver;
- (6) in addition to and not in place of the programs, projects, and services of The University of North Carolina Center for Public Television (or its functional predecessor), to develop and provide media programs and programming materials and services of a noncommercial educational, informational, cultural or scientific nature;
- (7) to undertake innovative projects in interactive telecommunications and teleconferencing whenever such projects might serve to improve services, expand opportunities for citizen participation in government and reduce the costs of delivering a service;
- (8) to serve as a means of acquiring governmental and private funds for use in the development of services through telecommunications;
- (9) to serve as a means of distributing State funds and awarding grants for any purpose determined to be in furtherance of the purposes of this Part;
- (10) to operate such telecommunications facilities or systems as may fall within the purview of this Part or as may be assigned to the Agency by the the Governor, by the General Assembly, or by the Secretary of Administration consistent with the provisions of G.S. 143-340(14);
- (11) to review, assess and report to the Governor on an annual basis on the telecommunications needs and services of State and local government and on the production capabilities and services, the nonproduction services, and the research and development services offered by the Agency and by all other agencies of State government;
- (12) to review, assess and report to the Governor, after a period of not less than two years and not more than three years after the enactment of this Part, on the telecommunications statutes, plans and operations in State government,

including those resulting from the enactment of this Part and from revision of statutes pertaining to telecommunications in the Department of Administration;

(13) to serve as liaison between State government and local governments, regional organizations, the federal government, foundations and other states and nations on common telecommunications concerns;

(14) to study and evaluate all existing or proposed statutes, rules or regulations at all levels of government touching upon or affecting telecommunications policy, services, systems, programming, rates or funds and to advise the appropriate officials, agencies and councils;

(15) to acquire, construct, equip, maintain, develop and improve such facilities as may be necessary to the fulfillment of the purpose of the Part;

(16) to provide information and advice on any related matter which may be referred to it by any agency or council of State or local government;

(17) and in general to do and perform any act or function which may tend to be useful toward the development and improvement of telecommunications services within State government and which may increase the delivery of services through telecommunications programs or systems.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the possibilities of telecommunications programming, services and systems in the State of North Carolina.

“§ 143B-422.4. *Powers of Agency.*—In order to enable it to carry out the purposes of this Part, the Agency:

(1) has the powers of a body corporate, including the power to sue and be sued, to make contracts, to hold and own copyrights and to adopt and use a common seal and to alter the same as may be deemed expedient;

(2) may make all necessary contracts and arrangements with any parties which will serve the purposes and facilitate the business of the North Carolina Agency for Public Telecommunications; except that, the Agency may not contract or enter into any agreement for the production by the Agency of programs or programming materials with any person, group, or organization other than government agencies; principal State departments; public and noncommercial broadcast licensees;

(3) may rent, lease, buy, own, acquire, mortgage, or otherwise encumber and dispose of such property, real or personal; and construct, maintain, equip and operate any facilities, buildings, studios, equipment, materials, supplies and systems as said Board may deem proper to carry out the purposes and provisions of this Part;

(4) may establish an office for the transaction of its business at such place or places as the Board deems advisable or necessary in carrying out the purposes of this Part;

(5) may apply for and accept loans and grants of money from any federal agency or the State of North Carolina or any political subdivision thereof or from any public or private sources for any and all of the purposes authorized in this Part; may extend or distribute the funds in accordance with directions and requirements attached thereto or imposed thereon by the federal agency, the State of North Carolina or any political subdivision thereof, or any public or private lender or donor; and may give such evidences of indebtedness as shall be required, but no indebtedness of any kind incurred or created by the Agency



shall constitute an indebtedness of the State of North Carolina or any political subdivision thereof, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State of North Carolina or any political subdivision thereof. At no time may the total outstanding indebtedness of the Agency, excluding bond indebtedness, exceed five hundred thousand dollars (\$500,000) without approval of the Advisory Budget Commission;

(6) may pay all necessary costs and expenses involved in and incident to the formation and organization of the Agency and incident to the administration and operation thereof, and may pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Part;

(7) subject to the approval of the Advisory Budget Commission and under such conditions as the Board may deem appropriate to the accomplishment of the purposes of this Part, may distribute in the form of grants, gifts, or loans any of the revenues and earnings received by the Agency from its operations;

(8) may adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be exercised, and may provide for the creation of such divisions and for the appointment of such committees, and the functions thereof, as the Board deems necessary or expedient in facilitating the business and purposes of the Agency;

(9) the Board shall be responsible for all management functions of the Agency. The Chairman shall serve as the chief executive officer and shall have the responsibility of executing the policies of the Board. The Executive Director shall be the chief operating and administrative officer and shall be responsible for carrying out the decisions made by the Board and its Chairman. The Executive Director shall be appointed by the Governor upon the recommendation of the Board and shall serve at the pleasure of the Governor. The salary of the Executive Director shall be fixed by the Governor subject to the approval of the Advisory Budget Commission. Subject to the approval of the Board, the Executive Director may appoint, employ, dismiss and fix the compensation of such administrative, clerical and other employees as the Board deems necessary to carry out the purposes of this Part; but the salaries of all employees designated by the Board as professional personnel shall be fixed by the Governor; and any employee who serves as the director of any division of the agency which may be established by the Board shall be appointed with the additional approval of the Secretary of Administration. There shall be an executive committee consisting of three of the appointed members and three of the ex officio members elected by the Board and the Chairman of the Board, who shall serve as chairman of the executive committee. The executive committee may do all acts which are authorized by the bylaws of the Agency. Members of the executive committee shall serve until their successors are elected;

(10) may do any and all other acts and things in this Part authorized or required to be done, whether or not included in the general powers in this section; and

(11) may do any and all things necessary to accomplish the purposes of this Part.

Nothing herein authorizes the Agency to exercise any control over any public noncommercial broadcast licensee, its staff or facilities or over any community

antenna television system (Cable TV; CATV), its staff, employees or facilities operating in North Carolina, or the Police Information Network (PIN), its staff, employees or facilities or the Judicial Department.

The property of the Agency shall not be subject to any taxes or assessments.

“§ 143B-422.5. *Public Radio Advisory Committee, policy; creation; duties; members.*—It is the policy of the State of North Carolina that at least one public radio signal shall be made available to every resident of North Carolina, that there be diversity in the kinds of public radio licensees, that there be a uniform policy for extending State financial aid to stations eligible to participate in federal funds for public radio, that State financial support shall constitute less than one half of the operating budget of any station, that program content shall not be influenced by the State by virtue of State financial support to the stations, and that technical facilities be established and operated to achieve station interconnection.

The Public Radio Advisory Committee of the North Carolina Agency on Public Telecommunications is created. That Committee shall advise the Board on the distribution of State funds to public radio licensees in North Carolina and on any other matter which the Board may refer to it. There shall be nine members of said Committee; three of whom shall be representatives selected by the public radio broadcast licensees in the State; six of whom shall be at-large members chosen by the Governor from the general public. The members shall choose one of the at-large members to serve as Chairman of the Committee; and that Chairman shall serve ex officio as a member of the Board. The terms of the members of the Committee shall be established by the Board.

“§ 143B-422.6. *Approval of acquisition and disposition of real property.*—Any transaction relating to the acquisition or disposition of any estate or interest in real property by the North Carolina Agency for Public Telecommunications shall be subject to prior review by the Governor and Council of State, and shall become effective only after the transaction has been approved by the Governor and Council of State. Upon the acquisition of an estate in real property by the North Carolina Agency for Public Telecommunications, the fee title or other estate shall vest in and the instrument of conveyance shall name ‘North Carolina Agency for Public Telecommunications’ as grantee, lessee, or transferee. Upon the disposition of an interest or estate in real property, the instrument of lease conveyance or transfer shall be executed by the North Carolina Agency for Public Telecommunications. The approval of any transaction by the Governor or Council of State shall be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Governor and the Council of State, attested by the Governor or by the private secretary to the Governor, reciting the approval, affixed to the instrument of acquisition or transfer; the certificate may be recorded as a part of the instrument, and shall be conclusive evidence of review and approval of the subject transaction by the Governor and Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such classes of lease, rental, easement or right-of-way transactions as he deems advisable, and he may likewise delegate the review and approval of the severance of buildings and timber from the land.

“§ 143B-422.7. *Issuance of bonds.*—(a) As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance and operation of any facility, building, structure, telecommunications equipment or

systems or any other matter or thing which the Agency is herein authorized to acquire, construct, equip, maintain, or operate, the Agency may, with the approval of the Advisory Budget Commission, at one time or from time to time issue negotiable revenue bonds of the Agency. The principal and interest of the revenue bonds shall be payable solely from the revenues to be derived from the operation of all or any part of the Agency's properties and facilities. A pledge of the net revenues derived from the operation of specified properties and facilities of the Agency may be made to secure the payment of the bonds as they mature. Revenue bonds issued under the provisions of this Part shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State. The issuance of revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The bonds and the income therefrom shall be exempt from all taxation within the State.

"§ 143B-422.8. *Exchange of property; removal of building, etc.*—The Agency may exchange any property or properties acquired under the authority of this Chapter for other property or properties usable in carrying out the powers hereby conferred, and also may remove from lands needed for its purposes and reconstruct on other locations, buildings, facilities, equipment, telecommunications systems or other structures, upon the payment of just compensation.

"§ 143B-422.9. *Treasurer of the Agency.*—The Board shall select its own treasurer from among the at-large members. The Board shall require a corporate surety bond of the treasurer in an amount fixed by the Board, and the premium or premiums thereon shall be paid by the Board as a necessary expense of the Agency.

"§ 143B-422.10. *Deposit and disbursement of funds.*—All Agency funds shall be handled in accordance with the Executive Budget Act.

"§ 143B-422.11. *Annual audit; copies to be furnished.*—At least once in each year the State Auditor shall cause to be made a detailed audit of all monies received and disbursed by the Agency during the preceding year. The audit shall show the several sources from which funds were received and the balance on hand at the beginning and end of the preceding year and shall show complete financial condition of the Agency. A copy of the audit shall be furnished to each member of the Board and to the officers thereof and to the Governor, the Department of Administration and the Attorney General.

"§ 143B-422.12. *Purchase of supplies, material and equipment.*—All the provisions of Article 3 of Chapter 143 of the General Statutes relating to the purchase of supplies, material and equipment by the State government are applicable to the North Carolina Agency for Public Telecommunications.

"§ 143B-422.13. *Liberal construction of Part.*—It is intended that the provisions of this Part shall be liberally construed to accomplish the purposes provided for herein."

**Sec. 2.** The costs incurred in providing facilities, equipment, staff, and operating expenses of the Agency for Public Telecommunications shall be paid from funds appropriated to the Department of Administration for that purpose.

**Sec. 3.** This act is effective upon July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 632

**CHAPTER 901****AN ACT TO REVISE THE DEPARTMENT OF ADMINISTRATION  
TELECOMMUNICATIONS STATUTES.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-340, as the same appears in Volume 3C of the General Statutes, 1978 Replacement, is amended by substituting a new subdivision (14) in lieu of existing subdivision (14) to read as follows:

“(14) With respect to the principal State offices and Departments as defined in G.S. 143A-11 and G.S. 143B-6, or a division thereof, to exercise general coordinating authority for all telecommunications matters relating to the internal management and operations of State government. In discharging that responsibility the Secretary may in cooperation with affected State Agency Heads, do such of the following things as he deems necessary and advisable:

a. Provide for the establishment, management, and operation, through either State ownership or commercial leasing of the following systems and services as they affect the internal management and operation of State government:

1. central telephone systems and telephone networks;
2. teleprocessing systems;
3. teletype and facsimile services;
4. satellite services;
5. closed-circuit TV systems;
6. two-way radio systems;
7. microwave systems;
8. related systems based on telecommunications technologies.

b. Coordinate the development of cost sharing systems for respective user agencies for their proportionate parts of the cost of maintenance and operation of the systems and services listed in item a. of this subdivision, in accordance with the rules and regulations adopted by the Governor and approved by the Council of State, pursuant to G.S. 143-341(8)k.

c. Assist in the development of coordinated telecommunications services or systems within and among all agencies and departments, and recommend, where appropriate, cooperative utilization of telecommunication facilities by aggregating users.

d. Perform traffic analysis and engineering for all telecommunications services and systems listed in item a. of this subdivision.

e. Pursuant to G.S. 143-49, establish telecommunications specifications and designs so as to promote and support compatibility of the systems within State government.

f. Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of requests by State agencies for the procurement of telecommunications systems or services.

g. Pursuant to G.S. 143-341 and Chapter 146, coordinate the review of requests by State agencies for State government property acquisition, disposition, or construction for telecommunications systems requirements.

h. Provide a periodic inventory of telecommunications costs, facilities, systems, and personnel within State government.

i. Promote, coordinate, and assist in the design and engineering of emergency telecommunications systems, including but not limited to the 911 emergency



telephone number program, Emergency Medical Services, and other emergency telecommunications services.

j. Perform frequency coordination and management for State and local governments, including all public safety radio service frequencies, in accordance with the rules and regulations of the Federal Communications Commission or any successor federal agency.

k. Advise all State agencies and institutions on telecommunications management planning and related matters and provide through the State Personnel Training Center training to users with State government in telecommunications technology and systems.

l. Assist and coordinate the development of policies and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems; and base such policies and plans on current information about State telecommunications activities in relation to the full range of emerging technologies.

m. Work cooperatively with the North Carolina Agency for Public Telecommunications in furthering the purpose of this subdivision."

**Sec. 2.** The provisions of this act shall not apply to the Police Information Network (P.I.N.) of the Department of Justice or to the Judicial Information System in the Judicial Department.

**Sec. 3.** This act is effective upon July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 644

## CHAPTER 902

### AN ACT TO AMEND G.S. 160A-475 RELATING TO THE POWERS OF REGIONAL COUNCIL OF GOVERNMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-475(8) is amended by changing the period at the end thereof to a comma and by adding immediately after such comma the following:

"provided, that no regional council of governments shall have the authority to construct or purchase buildings, or acquire title to real property, except in order to exercise the authority granted by Chapter 260 of the Session Laws of 1979."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 691

## CHAPTER 903

AN ACT TO ESTABLISH AN ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOL AND TO STRENGTHEN THE LAWS AGAINST PERSONS WHO OPERATE VEHICLES UNDER THE INFLUENCE OF ALCOHOL AND DRUGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (b) of G.S. 20-179 is rewritten to read as follows:

“(b) (1) Upon a first conviction only of any offense included in G.S. 20-138 or G.S. 20-139, and subject to the provisions of this subsection (b) the trial judge may issue a limited driving privilege when feasible and if the person convicted requests that he do so. The limited privilege, if issued, shall contain a condition that the person convicted enroll in and successfully complete, within 75 days of the date of the issuance of said limited privilege, the program of instruction at an Alcohol and Drug Education Traffic School approved by the Department of Human Resources pursuant to G.S. 20-179.2. The limited privilege shall contain a provision allowing the person convicted to drive to and from classes required for successful completion of such program of instruction. In addition, the judge may include in the limited privilege conditions allowing the person convicted to drive a motor vehicle for proper purposes directly connected with the health, education and welfare of the person convicted and his family. The judge, in establishing the limited driving privilege, may impose restrictions as to the days, hours, types of vehicles, routes and geographic boundaries and specific purposes for which the limited driving privilege is issued. The trial judge may issue a limited driving privilege that does not contain a condition that the defendant successfully complete the program of instruction at an Alcohol and Drug Education Traffic School if:

- a. there is no Alcohol or Drug Education Traffic School within a reasonable distance of the defendant's residence; or
- b. the defendant because of his history of alcohol or drug abuse, is not likely to benefit from the program of instruction; or
- c. there are specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

The trial judge shall enter such specific findings in the record provided that in the case of subsection b. above such findings shall include the exact reasons why the defendant is not likely to benefit from the program of instruction and that in the case of subsection c. 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, no prior offense occurring more than 7 years before the date of the current offense shall be considered. In addition, convictions for violations of any provision of G.S. 20-138(a), G.S. 20-138(b), G.S. 20-139(a), or G.S. 20-139(b) shall be considered previous convictions. Convictions prior to the effective date of this act shall be considered for purposes of this subsection.

The limited driving privilege and the restrictions imposed thereon shall be specifically recorded in a written judgment of the court, shall be

signed by the trial judge and shall be affixed with the seal of the court. The written judgment shall be as near as practicable in the format established by G.S. 20-179(b)(2). A notice of the conviction and a copy of the judgment must be transmitted to the Division of Motor Vehicles, along with any operator's or chauffeur's license in the possession of the person convicted.

The limited driving privilege is valid for such length of time, not to exceed six months, as shall be set forth in the judgment of the trial judge. A limited privilege that does not contain a condition that the defendant successfully complete the program of instruction at an Alcohol or Drug Education Traffic School is valid for such length of time, not to exceed 12 months, as shall be set forth in the judgment of the trial court. Such permit shall constitute a valid license to operate a motor vehicle upon the streets and highways of this or any other state in accordance with the restrictions noted thereon. The holder of a limited driving privilege is subject to all provisions of this Chapter concerning operator's or chauffeur's licenses which are not by their nature inapplicable.

A limited driving privilege issued pursuant to this subsection does not authorize a person to drive while the license of such person is also revoked pursuant to G.S. 20-16.2 for failure to take a chemical test of the blood or breath to determine blood alcoholic content.

(2) The judgment issued by the trial judge as herein permitted shall as near as practical be in the form and contents as follows:

STATE OF NORTH CAROLINA  
OF  
COUNTY OF \_\_\_\_\_

IN THE GENERAL COURT

JUSTICE  
RESTRICTED DRIVING  
PRIVILEGES

This cause coming on to be heard and being heard before the Honorable \_\_\_\_\_, Judge presiding, and it appearing to the Court that the defendant, \_\_\_\_\_, has been convicted of the offense of

(describe offense under G.S. 20-138 or G.S. 20-139

or as appropriate),

and it further appearing to the Court that the defendant should be issued a limited driving privilege and is entitled to the issuance of a limited driving privilege under and by the authority of G.S. 20-179(b);

Now, therefore, it is ordered, adjudged and decreed that the defendant be allowed to operate a motor vehicle under the following conditions and under no other circumstances.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Race: \_\_\_\_\_ Sex: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Color of Hair: \_\_\_\_\_ Color of Eyes: \_\_\_\_\_

Birth Date: \_\_\_\_\_

Driver's License Number: \_\_\_\_\_

## CONDITIONS OF RESTRICTION

1. The defendant must successfully complete the approved program of instruction at an Alcohol and Drug Education Traffic School within 75 days from the date when this limited privilege was issued.

2. Geographical restrictions: \_\_\_\_\_

3. Hours of restriction: \_\_\_\_\_

4. Type(s) of vehicles that may be operated: \_\_\_\_\_

5. Other Restrictions: \_\_\_\_\_

This limited license shall be effective from (month) (day), (year) to (month) (day), (year) subject to further orders as the court in its discretion may deem necessary and proper.

Issued on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Judge Presiding)

Accepted on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Signature of Licensee)

(3) If a person is convicted in another state or county or in a federal court of an offense that is equivalent to one of the provisions of G.S. 20-138(a), G.S. 20-138(b), G.S. 20-139(a) or G.S. 20-139(b), and if the person's North Carolina driver's license is revoked as a result of that conviction, the person so convicted may apply to the presiding or resident judge of the superior court or a district court judge of the district in which he resides for a limited driving privilege. Upon such application the judge may issue a limited driving privilege in the same manner as if he were the trial judge.

(4) A district court judge may modify a limited driving privilege if:

- a. the holder of the limited privilege petitions the court for a modification of the privilege; and
- b. the privilege was issued by a district court judge; and
- c. the privilege was issued in the county in which the district judge is conducting court.

A superior court judge may modify a limited driving privilege if:

- a. the holder of the limited privilege petitions the court for a modification of the privilege; and
- b. the privilege was issued by a superior court judge; and
- c. the privilege was issued in the county in which the superior court judge is conducting court.

(5) Any violation of the conditions or restrictions as set forth in the judgment of the trial court allowing such privileges, other than the failure to successfully complete the prescribed program of instruction at an Alcohol and Drug Education Traffic School, shall constitute the offense of driving while license revoked as set forth in G.S. 20-28(a).



When a person is charged with operating a motor vehicle in violation of the restrictions, the limited driving privilege shall be suspended pending the final disposition of the charge.

Failure to successfully complete an approved program of instruction at an Alcohol and Drug Education Traffic School shall constitute grounds to revoke the limited privilege for the remainder of the time for which such limited privilege was issued. Failure to successfully complete an approved program of instruction at an Alcohol and Drug Education Traffic School shall not constitute the offense of driving while license revoked. For purposes of this subsection, the phrase 'failure to successfully complete the prescribed program of instruction at an Alcohol and Drug Education Traffic School' includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 75 days of the issuance of the limited privilege, wilful 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 successfully complete the program of instruction to the court which issued the limited driving privilege. The court shall revoke the limited privilege. The person possessing the limited privilege may obtain a hearing prior to revocation.

- (6) Notwithstanding any other provisions of this section, no person who has wilfully refused to submit to a chemical test upon request of the officer as provided by G.S. 20-16.2 may be granted a limited driving privilege or license while the driving privilege of such person is revoked pursuant to the provisions of G.S. 20-16.2(c) for the wilful refusal of such person to submit to such chemical test.
- (7) 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. 2.** Subsection (a) of G.S. 20-179, as the same appears in the 1978 Replacement Volume 1C of the General Statutes of North Carolina, is amended by deleting the words and figures "G.S. 20-138" each time the same appear therein and inserting in lieu thereof the words and figures: "G.S. 20-138(a), G.S. 20-138(b)".

**Sec. 3.** G.S. Chapter 20 is amended by adding a new section numbered G.S. 20-179.2 to read as follows:

"§ 20-179.2. *Alcohol and Drug Education Traffic Schools curriculum approved by Commission for Mental Health and Mental Retardation Services; responsibilities of the Department of Human Resources; fees.*—(a) The Commission for Mental Health and Mental Retardation Services shall establish standards and guidelines for the curriculum and operation of local Alcohol and Drug Education Traffic School programs. The Department 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 Alcohol and Drug Education Traffic School program established pursuant to this section. That fee shall be paid to the clerk of court in the county in which the person was convicted. The amounts received by the clerk from the fees shall be remitted in monthly

payments to the Area Mental Health Authority located in the catchment area where the court is located. Area Mental Health Authorities will remit five percent (5%) of the above fees from the clerks of court to the Department of Human Resources on a monthly basis. Fees received by the Department of Human Resources may only be used in supporting and administering Alcohol and Drug Education Traffic Schools. Any excess funds will revert to the General Fund.

- (2) The Department of Human Resources shall have the authority to approve programs to be implemented by area mental health authorities. Area mental health authorities may subcontract for the delivery of Alcohol and Drug Education Traffic School 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) All fees retained by the Area Mental Health Authorities from the clerks of court shall be placed in a nonreverting fund. Monies in that fund shall be disbursed for the operation, evaluation and administration of Alcohol and Drug Education Traffic School programs. Any excess funds shall be used to fund other Drug and Alcohol programs.
- (4) All fees collected by the Area Mental Health Authorities from the clerks of court may not be used in any manner to match other State funds or to be included in any computation for State formula-funded allocations.

(b) Wilful failure to pay the fee is one ground for a finding that a person given a limited privilege has not successfully completed the course. Wilful failure to pay the fee does not include cases in which the court determines the person is unable to pay."

**Sec. 4.** Subsection (d) of G.S. 20-19, as the same appears in 1978 Replacement Volume 1C of the General Statutes, is hereby amended: (1) by inserting after the word "drugs" on line 18 thereof a period; (2) by striking the remainder of said subsection (d); and (3) by inserting after said period following the word "drugs" on line 18 thereof the following language: "When a new license is issued pursuant to the provisions of this subsection, it may be issued upon such terms and conditions as the division may see fit to impose, including when feasible the condition that said former licensee successfully complete the program of instruction at an Alcohol and Drug Education Traffic School. The terms and conditions imposed by the division may be imposed for the balance of a four-year revocation, which period shall be computed from the date of the original revocation."

**Sec. 5.** Subdivision (e) of G.S. 20-19, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is amended by striking the period after the word "impose" on line 19 of said subsection (e) and inserting in lieu of said period a comma, and inserting after said comma the following language:

"including when feasible the condition that the former licensee successfully complete the program of instruction at an Alcohol and Drug Education Traffic School."

**Sec. 6.** G.S. 20-19, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by inserting after subsection (c) a new subsection therein as subsection (c1) to read as follows:

“(c1) When a license is revoked under subdivision (2) of G.S. 20-17, and the period of revocation is not determined by the provisions of G.S. 20-19(d) and (e), the period of revocation shall be one year unless the trial judge issues a limited driving privilege to the person convicted that contains a condition that the defendant successfully complete the course of instruction at an Alcohol and Drug Education Traffic School. If the trial judge issues a limited privilege and the person convicted complies with the conditions and restrictions included in the limited privilege, the division must restore the person’s license after six months if the person’s license or limited driving privilege is not otherwise revoked or suspended, and if the division has received a certificate from the Alcohol and Drug Education Traffic School certifying that the person convicted has successfully completed the program of instruction at the Alcohol and Drug Education Traffic School. If the person fails to comply with the conditions and restrictions contained in the limited privilege, the period of revocation is 12 months, beginning at the time the limited privilege is revoked.”

**Sec. 7.** Subsection (d) of G.S. 20-140 as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by deleting the words “reckless driving” on line 1 thereof and inserting in lieu thereof the words:

“violating subsection (a) or subsection (b) of this section”.

**Sec. 8.** G.S. 20-140, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by adding at the end thereof a new subsection (e) as follows:

“(e) Any person convicted of violating subsection (c) of this section shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and a term of imprisonment not to exceed six months, which term of imprisonment may be suspended by the trial court upon such terms and conditions as it may see fit provided that such terms and conditions shall include the term and condition that the person so convicted shall successfully complete the program of instruction at an Alcohol and Drug Education Traffic School within 75 days of the date of said conviction, unless the judges make a written finding in the record that:

- (1) there is no Alcohol or Drug Education Traffic School within a reasonable distance of the defendant’s residence; or
- (2) the defendant, because of his history of alcohol or drug abuse, is not likely to benefit from the program of instruction; or
- (3) there are specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

The trial judge shall enter such specific findings in the record provided that in the case of subdivision (2) above such findings shall include the exact reasons why the defendant is not likely to benefit from the program of instruction and that in the case of subdivision (3) above such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.”

**Sec. 9.** G.S. 20-26(a), as same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by inserting the word and punctuation “test,” immediately before the word “proceeding” appearing in line 2 thereof.

**Sec. 10.** G.S. 20-26(b), as same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by striking the period at the end

thereof and adding the following proviso: "Provided a certified copy of such record may be transmitted via the police information network and that such copy shall be competent for the purpose of establishing the status of a person's operator's license and driving privilege without further authentication. The Attorney General and the Commissioner of Motor Vehicles are authorized to promulgate such rules and regulations as may be necessary to implement the provision of this subsection."

**Sec. 11.** G.S. 20-27, as same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by designating the existing section as subsection "(a)" and by adding a new subsection to be designated subsection (b) to read as follows:

"(b) All records of the division pertaining to chemical tests as provided in G.S. 20-16.2 shall be available to the courts as provided in G.S. 20-26(b)."

**Sec. 12.** G.S. 20-23.2, as the same is found in Volume 1C of the General Statutes, 1978 Replacement, is hereby amended by deleting the last sentence.

**Sec. 13.** This program and 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. 14.** There shall be an evaluation of the effectiveness of the course of instruction at alcohol and drug education traffic schools, and the result of that evaluation shall be made available to the 1983 Session of the General Assembly.

**Sec. 15.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 695

## CHAPTER 904

### AN ACT TO AMEND ARTICLE 4 OF CHAPTER 87 OF THE GENERAL STATUTES RELATING TO ELECTRICAL CONTRACTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 87-39 is amended by rewriting the first paragraph of the section to read:

"The State Board of Examiners of Electrical Contractors shall continue as the State agency responsible for the licensing of persons engaging in electrical contracting within this State, and shall consist of one member from the North Carolina Department of Insurance to be designated by the Commissioner of Insurance; one member who is a representative of the North Carolina Association of Electrical Contractors to be designated by the governing body of that organization; and five members to be appointed by the Governor: one from the faculty of The Greater University of North Carolina who teaches or does research in the field of electrical engineering, one who is serving as a chief electrical inspector of a municipality or county in North Carolina, one who has satisfied the requirements for a license classified under G.S. 87-43.3 and who represents a sole proprietorship, partnership or corporation located in North Carolina which is actively engaged in the business of electrical contracting, and two who have no ties with the construction industry and who represent the interest of the public at large. The Governor shall appoint the two public members as soon as practicable after July 1, 1979, for terms of seven years. The



terms of the successors to all members shall be seven years and until their successors are designated or appointed and are qualified. A vacancy occurring during a term shall be filled for the remainder of the unexpired term by the authority which designated or appointed the seat being vacated. No member appointed after the date of ratification of this act shall serve more than one complete consecutive term."

**Sec. 2.** G.S. 87-39 is amended by rewriting the fourth sentence in the second paragraph to read: "Four members of the Board shall constitute a quorum."

**Sec. 3.** G.S. 87-39 is further amended by rewriting the sixth sentence in the second paragraph to read as follows:

"Payment of compensation and reimbursement of expenses of Board members shall be governed by G.S. 93B-5."

**Sec. 4.** Subdivision (3) of G.S. 87-43.1 is rewritten to read:

"(3) To any person in the course of his work as a bona fide employee of a licensee of this Board;"

**Sec. 5.** Subdivision (5) of G.S. 87-43.1 is rewritten to read:

"(5) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by persons, firms or corporations, upon their own property when such property is not intended at the time for rent, lease, sale or gift, who regularly employ one or more electricians or mechanics for the purpose of installing, maintaining, altering or repairing of electrical wiring, devices or equipment used for the conducting of the business of said persons, firms or corporations;"

**Sec. 6.** G.S. 87-43.1 is amended by adding a new subdivision (6) to read:

"(6) To any person who is himself and for himself installing, maintaining, altering or repairing electric work, wiring, devices, appliances or equipment upon his own property when such property is not intended at the time for rent, lease, or sale;" and by renumbering existing subdivision (6) as subdivision (7)."

**Sec. 7.** G.S. 87-43.1 is amended by renumbering subdivision (7) as subdivision (8) and rewriting the subdivision to read:

"(8) To the replacement of lamps and fuses and to the installation and servicing of cord-connected appliances and equipment connected by means of attachment plug-in devices to suitable receptacles which have been permanently installed or to the servicing of appliances connected to a permanently installed junction box. This exception does not apply to permanently installed receptacles or to the installation of the junction box."

**Sec. 8.** G.S. 87-44 is amended by rewriting the caption to read: "Fees; license term."

**Sec. 9.** G.S. 87-44 is further amended by substituting for the words and figure "twenty dollars (\$20.00)" in line 4 the words and figure "thirty dollars (\$30.00)"; by substituting for the words and figure "fifty dollars (\$50.00)" in line 6 the words and figure "seventy-five dollars (\$75.00)"; by substituting for the words and figure "one hundred dollars (\$100.00)" in lines 7 and 8 the words and figure "one hundred fifty dollars (\$150.00)"; and by rewriting lines 9, 10 and 11 to read:

"and the annual license fee for the special restricted classifications and for the single-family detached residential dwelling license shall not be in excess of thirty dollars (\$30.00) for each principal and each branch place of business."

**Sec. 10.** G.S. 87-44 is further amended by adding at the end of the section the following new paragraph:

“The Board may collect fees from applicants for examinations in amounts not exceeding the maximum annual license fees for the respective license classifications prescribed in this Article, except the fee for a specially arranged examination shall not exceed two hundred dollars (\$200.00).”

**Sec. 11.** G.S. 87-47 is amended by designating the first two paragraphs of the section as subsection (a), by designating the remainder of the section as subsection (d), and by adding the following new subsections:

“(b) The Board shall adopt and publish rules, consistent with the provisions of this Article, governing the suspension and revocation of licenses.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee. This record shall include, for each licensee, the date and nature of each complaint, investigatory action taken by the Board, any findings by the Board, and the disposition of the matter.”

**Sec. 12.** G.S. 87-50 is amended to change the caption to read “Reciprocity.”

**Sec. 13.** Article 4 of Chapter 87 of the General Statutes is amended by adding the following new section:

“§ 87-50.1. *Public awareness program.*—The Board shall establish and implement a public awareness program to inform the general public of the purpose and function of the Board.”

**Sec. 14.** G.S. 87-48(b) is amended by inserting the following sentence at the end thereof:

“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. 15.** G.S. 143-34.11 is amended by deleting line 9 which reads:

“Chapter 87, Article 4, entitled ‘Electrical Contractors’.”

**Sec. 16.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 707

## CHAPTER 905

AN ACT TO REWRITE G.S. 159-40 TO INSURE FISCAL ACCOUNTABILITY BY NONPROFIT CORPORATIONS AND ORGANIZATIONS RECEIVING PUBLIC FUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-40 is rewritten to read as follows:

“§ 159-40. *Special regulations pertaining to nonprofit corporations receiving public funds.*—(a) If a city or county grants or appropriates one thousand dollars (\$1,000) or more in any fiscal year to a nonprofit corporation or organization, the city or county may require that the nonprofit corporation or organization have an audit performed for the fiscal year in which the funds are received and may require that the nonprofit corporation or organization file a copy of the audit report with the city or county.

(b) Any nonprofit corporation or organization which receives one thousand dollars (\$1,000) or more in State funds shall, at the request of the State Auditor,

submit to an audit by the office of the State Auditor for the fiscal year in which such funds were received.

(c) Every nonprofit corporation or organization which has an audit performed pursuant to this section shall file a copy of the audit report with the office of the State Auditor.

(d) The provisions of this section shall not apply to sheltered workshops or to Adult Development Activity Programs or to private residential facilities for the mentally retarded and developmentally disabled or to Developmental Day Care Centers or to any nonprofit corporation or organization whose sole use of public funds is to provide hospital services or operate as a volunteer fire department, rescue squad, ambulance squad, or which operates as a junior college, college or university duly accredited by the southern regional accrediting association."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 840

## CHAPTER 906

### AN ACT TO ADOPT GRANITE AS THE OFFICIAL ROCK FOR THE STATE OF NORTH CAROLINA.

Whereas, the State of North Carolina has been blessed with an abundant source of the noble rock, granite; and

Whereas, the granite quarry located in Mount Airy in Surry County is the largest open face granite quarry in the world measuring a mile long and 1,800 feet in width; and

Whereas, the granite from the Mount Airy quarry is unblemished, gleaming and without interfering seams to mar its splendor; and

Whereas, the high quality of North Carolina granite allows its widespread use as a building material, and for industrial purposes as well as providing super smooth laboratory plates; and

Whereas, North Carolina granite has been used for magnificent government edifices throughout the United States such as the Wright Brothers Memorial at Kitty Hawk, the gold depository at Fort Knox, the Arlington Memorial Bridge and numerous courthouses throughout the land; and

Whereas, granite is a symbol of strength and steadfastness, qualities characteristic of North Carolinians; and

Whereas, it is fitting and just that the State of North Carolina recognize the contribution of granite in providing employment to its citizens and enhancing the beauty of its public buildings, and so that this noble rock should not be taken for granted; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 145 is amended by adding a new section to read as follows:

"§ 145-10. *State rock.*—Granite is adopted as the official State rock of the State of North Carolina."

**Sec. 2.** G.S. 145 is further amended by rewriting the caption of the Chapter to read:

"State Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone, Reptile and Rock."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 858

## CHAPTER 907

AN ACT TO REWRITE G.S. 108-48 TO MAKE IT CLEAR WHAT PERSONS AND MISDEEDS ARE SUBJECT TO PUNISHMENT THEREUNDER.

*The General Assembly of North Carolina enacts:*

**Sec. 1.** G.S. 108-48 is rewritten to read as follows:

“§ 108-48. *Fraudulent misrepresentation.*—(a) Any person whether provider or recipient who willfully and knowingly and with 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 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 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 felony, and upon conviction or plea of guilty shall be punished as in cases of larceny.

(c) As used in this section the word ‘person’ means person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization.”

**Sec. 2.** This act shall become effective January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 879

## CHAPTER 908

AN ACT TO REDUCE THE NUMBER OF PERSONS REQUIRED TO FORM AN AGRICULTURAL COOPERATIVE MARKETING ASSOCIATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-131 is hereby amended by deleting the words “Five or more persons” in line 1 and substituting in lieu thereof the words “Three or more persons”.

**Sec. 2.** G.S. 54-134 is hereby amended by deleting the words “(not less than five)” in line 12.

**Sec. 3.** G.S. 54-146 is hereby amended by deleting the words “not less than five directors” in line 2 and substituting in lieu thereof the words “not less than three directors”.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 569

**CHAPTER 909**

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 said section to read as follows:

“§ 14-344. *Sale of admission tickets in excess of printed price.*—Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket and the authorized service fee. This fee shall not exceed ten percent (10%) of the sales price. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00), imprisonment for not more than six months, or both.”

**Sec. 2.** This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1408

**CHAPTER 910**

AN ACT TO CLARIFY THE WAIVER PROVISION OF G.S. 75-53.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 75-53(1)a. is amended by inserting the words “given after default” between the word “attorney” and the semicolon.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 176

**CHAPTER 911**

AN ACT TO MAKE A SUPPLEMENTAL APPROPRIATION TO COMPLETE THE FOREST SERVICE DISTRICT HEADQUARTERS BUILDING IN NORTHWESTERN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to the appropriations made by Chapter 964, Session Laws of 1977, there is appropriated from the General Fund to the Department of Natural Resources and Community Development for the fiscal year 1979-80 the sum of thirty-three thousand dollars (\$33,000) for the purpose of completing the district headquarters of the forest service in Caldwell County.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 261

**CHAPTER 912****AN ACT TO ESTABLISH AND MAKE APPROPRIATIONS FOR THE EASTERN NORTH CAROLINA HIGH 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, in addition to all other funds, the sum of five hundred thousand dollars (\$500,000) in fiscal year 1979-80, and one hundred thousand dollars (\$100,000) in fiscal year 1980-81. These funds shall be expended for renovation and operating expenses as shown below:

	Fiscal Year 1979-80	Fiscal Year 1980-81
Renovation	\$ 385,000	\$ -
Reserve for Operating Expenses	115,000	100,000
Total General Fund	\$ 500,000	\$ 100,000

**Sec. 2.** Funds are appropriated in Section 1 of this act to establish the Eastern North Carolina High School for the Deaf to be located in the City of Wilson on the campus of the Eastern North Carolina School for the Deaf. These funds shall be used to renovate sufficient space on the campuses of the Eastern North Carolina School for the Deaf and the North Carolina Special Care Center to provide both dormitory and administrative space.

**Sec. 3.** Funds are also appropriated in Section 1 of this act to a reserve to be allocated by the Governor and Advisory Budget Commission. These funds shall be used to supplement the operating expenses of the Eastern North Carolina High School for the Deaf in the event that sufficient funds cannot be transferred from the North Carolina School for the Deaf.

**Sec. 4.** This high school shall be phased in over a four-year period beginning with the 9th grade in the 1979-80 school year. Another grade shall be offered in each successive school year until grades 9 through 12 are available. It shall be the responsibility of the Department of Human Resources to establish the attendance zone for this high school.

**Sec. 5.** Where practical and feasible, the Department of Human Resources shall transfer movable equipment, academic educational supplies, vocational educational supplies, and personnel positions to the Eastern North Carolina High School for the Deaf in Wilson.

**Sec. 6.** The high school established by this act shall be a part of the Eastern North Carolina School for the Deaf. The entire school shall be under the supervision of a single administration.

**Sec. 7.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 318

**CHAPTER 913****AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA SOCIETY FOR AUTISTIC CHILDREN'S SUMMER CAMP PROGRAM.***The General Assembly of North Carolina enacts:*

**Section 1.** The sum of twenty thousand dollars (\$20,000) is appropriated from the General Fund to the North Carolina Society for Autistic Children for the 1979-80 fiscal year for the operation of the society's summer camp program. The sum of twenty thousand dollars (\$20,000) is further appropriated from the General Fund to the North Carolina Society for Autistic Children for the operation of the society's summer camp program, for the 1980-81 fiscal year.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 322

**CHAPTER 914****AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE FOR THE PURPOSE OF ENABLING IT TO MEET INCREASING DEMAND FOR SOIL TESTING AND TO PROVIDE TESTING OF ALL SOIL SAMPLES FOR ZINC, COPPER AND OTHER ESSENTIAL MICRONUTRIENTS.***The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Department of Agriculture, the sum of fifty-three thousand seven hundred eighty-two dollars (\$53,782) for the 1979-80 fiscal year and thirty-five thousand six hundred sixty dollars (\$35,660) for the 1980-81 fiscal year. These funds shall be used to perform soil tests, including tests for zinc, copper and other essential micronutrients, for citizens of the State, pursuant to the provisions of G.S. 106-19 and G.S. 106-22.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 324

**CHAPTER 915****AN ACT TO AMEND ARTICLE 5A OF CHAPTER 122 TO CHANGE AND CLARIFY THE "DANGEROUSNESS" STANDARD FOR INVOLUNTARILY COMMITTING A PERSON TO A MENTAL HEALTH FACILITY AND TO MAKE OTHER CHANGES TO THE INVOLUNTARY COMMITMENT LAW.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-58.2(1) is hereby amended by rewriting that subsection to read as follows:

"(1) The phrase 'dangerous to himself or others' when used in this Article is defined as follows:

a. 'Dangerous to himself' shall mean that within the recent past:

1. The person has acted in such manner as to evidence:

I. that he would be unable without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and

II. that there is a reasonable probability of serious physical debilitation to him within the near future unless adequate treatment is afforded pursuant to this Article. A showing of behavior that is grossly irrational or of actions which the person is unable to control or of behavior that is grossly inappropriate to the situation or other evidence of severely impaired insight and judgment shall create a prima facie inference that the person is unable to care for himself; or

2. The person has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is afforded under this Article; or

3. The person has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is afforded under this Article.

b. 'Dangerous to others' shall mean that within the recent past, the person has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another or has acted in such a manner as to create a substantial risk of serious bodily harm to another and that there is a reasonable probability that such conduct will be repeated."

**Sec. 2.** G.S. 122-58.1 is hereby amended by striking the word "imminently" immediately following the word "and" and immediately preceding the word "dangerous" on line 3 of that section.

**Sec. 3.** G.S. 122-58.3 is hereby amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on lines 2 and 3 of that section. G.S. 122-58.3 is further amended by striking the word "imminently" immediately following the word "and" and immediately preceding the word "dangerous" on line 12 of that section. G.S. 122-58.3 is further amended by striking the word "imminently" immediately following the word "is" on line 13 of that section.

**Sec. 4.** G.S. 122-58.4 is hereby amended by striking the word "imminently" immediately following the word "not" and immediately preceding the word "dangerous" on line 21 of that section. G.S. 122-58.4 is further amended by striking the word "imminently" immediately preceding the word "dangerous" on line 23 of that section. G.S. 122-58.4 is further amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on lines 25 and 27 of that section.

**Sec. 5.** G.S. 122-58.5 is hereby amended by striking the word "imminently" immediately preceding the word "dangerous" on line 3 of that section. G.S. 122-58.5 is further amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on line 4 of that section.

**Sec. 6.** G.S. 122-58.6 is hereby amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on lines 5 and 6 of that section. G.S. 122-58.6 is further amended by striking the word "imminently" immediately following the word



“not” and immediately preceding the word “dangerous” on line 9 of that section.

**Sec. 7.** G.S. 122-58.7 is hereby amended by striking the word “imminently” immediately following the word “and” and immediately preceding the word “dangerous” on line 43 of that section. G.S. 122-58.7 is further amended by striking the word “imminently” immediately following the word “is” and immediately preceding the word “dangerous” on line 44 of that section.

**Sec. 8.** G.S. 122-58.8 is hereby amended by striking the word “imminently” immediately following the word “not” and immediately preceding the word “dangerous” on line 2 of that section. G.S. 122-58.8 is further amended by striking the word “imminently” immediately following the word “be” and immediately preceding the word “dangerous” on line 4 of that section. G.S. 122-58.8 is further amended by striking the word “imminently” immediately following the word “is” and immediately preceding the word “dangerous” on lines 7 and 9.

**Sec. 9.** G.S. 122-58.11 is hereby amended by striking the word “imminently” immediately following the word “and” and immediately preceding the word “dangerous” on line 21 of that section. G.S. 122-58.11 is further amended by striking the word “imminently” immediately following the word “is” and immediately preceding the word “dangerous” on line 23 of that section.

**Sec. 10.** G.S. 122-58.19 is hereby amended by striking the word “imminently” immediately following the word “is” and immediately preceding the word “dangerous” on line 2 of that section.

**Sec. 11.** Wherever the phrase “imminently dangerous to himself or others” or the phrase “imminently dangerous to others” or phrases of like import appear in the General Statutes in connection with the involuntary commitment standard, then those phrases are hereby amended by striking the modifier “imminently”.

**Sec. 12.** Article 5A of Chapter 122 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 122-58.24 and to read as follows:

“§ 122-58.24. *Representation of State's interest by Attorney General.*—The Attorney General is hereby authorized to employ four attorneys, one to be assigned by him full time to each of the State's four regional psychiatric facilities to represent the State's interest at commitment hearings, rehearings, and supplemental hearings held at the hospitals under Articles 4 and 5A of Chapter 122 of the General Statutes of North Carolina, and to provide liaison and consultation services concerning these matters. Such attorney shall be subject to all the provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform additional duties as may be assigned to him by the Attorney General.”

**Sec. 13.** G.S. 122-58.7(b), as the same appears in the 1977 Cumulative Supplement to Volume 3B of the North Carolina General Statutes, is hereby rewritten to read as follows:

“(b) The attorney who is a member of the staff of the Attorney General assigned to one of the State's four regional psychiatric facilities shall represent the State's interest at commitment hearings, rehearings, and supplemental hearings held at the hospital to which he is assigned under Articles 4 and 5A of

Chapter 122 of the General Statutes of North Carolina. Each of these attorneys shall also provide the liaison and consultation services necessary for these matters.”

**Sec. 14.** Wherever the phrases “special advocate,” “special advocate for the petitioner,” or words of similar import appear in the General Statutes, then those phrases are hereby amended by deleting them and substituting the phrase “Attorney General representing the State’s interest” in their place.

**Sec. 15.** G.S. 122-58.8(b) is hereby rewritten to read as follows:

“(b) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill or inebriate, and is dangerous to himself or others, or is mentally retarded, and because of an accompanying behavior disorder, is dangerous to others, it may order treatment, inpatient or outpatient, or a combination of both for a period not in excess of 90 days, at a mental health facility, public or private, designated or licensed by the Department of Human Resources. The court shall make findings of facts as to the availability and appropriateness of available outpatient treatment before ordering outpatient treatment. If the court has sufficient evidence to order commitment, but lacks sufficient evidence to determine if the commitment should be to an inpatient or outpatient facility, or a combination of both, the court may continue the case for disposition for not more than seven days for the production of evidence to help in determining such disposition. Such continuance may be granted on motion of special counsel, Attorney General representing the State’s interest, or on the court’s own motion. Treatment at a private facility shall be at the expense of the respondent to the extent that such charges are not disposed of by contract between the area mental health authority and the private facility. If the court orders outpatient treatment a copy of the court order will be sent to the outpatient treatment facility to which the respondent was committed.”

**Sec. 16.** G.S. 122-58.8(c) is hereby rewritten to read as follows:

“(c) If the court orders outpatient treatment, and the respondent fails to adhere to the prescribed outpatient treatment program, the director of the mental health center or his designee shall promptly notify the Attorney General representing the State’s interest. The Attorney General representing the State’s interest then shall notify the clerk of superior court of the county in which the respondent was committed for outpatient treatment and the clerk of superior court in the county where the inpatient mental health facility is located. Upon receipt of written or oral notice from the Attorney General representing the State’s interest, the clerk of the county in which the respondent was committed for outpatient treatment shall issue a custody order, authorizing a law enforcement officer to take the respondent into custody and transport him to the appropriate mental health facility. Before the respondent is transported to a private mental health facility, the director of the facility must agree to the admission.

When the respondent is returned to the appropriate mental health facility, the clerk of superior court in that county shall calendar a supplemental hearing to be held within 10 days of the time the respondent was taken into custody.

At the supplemental hearing the court must find by clear, cogent, and convincing evidence: (1) that the respondent had been given a copy of his prescribed outpatient treatment plan and the plan had been explained to the respondent; (2) that the respondent had not adhered to the prescribed outpatient treatment program; and (3) that the respondent meets the criteria

for commitment as set out above in subsection (b). Upon such findings, the court may order inpatient treatment in a designated or licensed facility for a period of not more than 90 days running from the date of the order."

**Sec. 17.** G.S. 122-58.11(d) and G.S. 122-58.11(e) are hereby rewritten to read as follows:

"(d) If the court finds that the respondent is not in need of continued hospitalization or outpatient care, it shall unconditionally discharge him. A copy of the discharge order shall be furnished by the clerk of superior court of the county of original commitment to the facility from which the respondent is being discharged. If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill or inebriate, and dangerous to himself or others, or is mentally retarded, and because of an accompanying behavior disorder, is dangerous to others, and in need of continued hospitalization, or, in the alternative, in need of outpatient care, or a combination of both, it may order hospitalization (or outpatient care, as the case may be) for an additional period not in excess of 180 days. If outpatient commitment is ordered and the respondent fails to adhere to the prescribed treatment program, a supplemental hearing may be held as in G.S. 122-58.8(c) above.

(e) Fifteen days before the end of the second commitment period, and annually thereafter, the chief of medical services of the facility shall review and evaluate the condition of each respondent, and if he determines that a respondent is in continued need of hospitalization or, in the alternative, in need of outpatient treatment, or a combination of both, he shall so notify the respondent, his counsel, and the clerk of superior court of the county in which the facility is located. Unless the respondent through his counsel files with the clerk a written waiver of his right to a rehearing, the clerk, on order of a district court judge of the district in which the facility is located, shall calendar a rehearing for not later than the end of the current commitment period. The procedures and standards for the rehearing are the same as for the first rehearing. Any recommitment ordered shall be for only such period of time as continued treatment is deemed necessary by the chief of medical services of the treatment facility, but in no event longer than one year."

**Sec. 18.** G.S. 122-58.3(d) is hereby rewritten to read as follows:

"(d) Any affiant who is a qualified physician may execute the oath to the affidavit before any official authorized to administer oaths. He is not required to appear before the clerk or magistrate for this purpose. If a physician executes an affidavit for commitment of a respondent already hospitalized or presented for hospitalization at a mental health facility described in G.S. 122-58.4(c), a second qualified physician, not treating the patient, shall be required to perform the examination required by G.S. 122-58.6."

**Sec. 19.** G.S. 122-58.9 is hereby rewritten to read as follows:

"§ 122-58.9. *Appeal.*—Judgment of the district court is final. Appeal may be had to the Court of Appeals, on the record as in civil cases. Appeal does not stay the commitment, unless so ordered by the Court of Appeals. The Attorney General shall represent the State's interest on appeal. The district court retains limited jurisdiction for the purpose of hearing all reviews, rehearings, or supplemental hearings allowed or required under this Article."

**Sec. 20.** Article 5A of Chapter 122 of the General Statutes is hereby amended by adding two new sections at the end of said Article to be numbered as G.S. 122-58.25 and G.S. 122-58.26, and to read as follows:

“§ 122-58.25. *Confidentiality of court record of minors committed involuntarily.*—(a) The court records of a minor made in all proceedings pursuant to this Article are hereby declared to be confidential and shall not be open to the general public for inspection except when such disclosure is provided for in G.S. 122-58.26.

(b) It shall be a misdemeanor for any person to disclose the confidential court records of subsection (a) of this section to members of the general public.

(c) The court records described in subsection (a) of this section shall, upon the request of the parent, guardian, or person committed involuntarily, be expunged from the files of the court after the person committed involuntarily has reached adulthood and has been released.

“§ 122-58.26. *Exception to confidentiality rule; procedure.*—Any person seeking information contained in the court files or the court records of the proceedings involving minors made pursuant to an action under this Article may file a written motion in the cause setting out why the information is needed. A district court judge may issue an order to disclose the information sought if he finds such order is appropriate under the circumstances and if he finds that it is in the best interest of the minor or of the public to have such information disclosed.”

**Sec. 21.** G.S. 122-58.14 is hereby amended by adding a new subsection to read as follows:

“(c) In providing the transportation required by this section, the law enforcement officer or other governmental employee may use reasonable force to restrain the respondent if it appears necessary to protect himself, the respondent, or others. No law enforcement officer or other governmental employee may be held criminally or civilly liable for assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of this Article.”

**Sec. 22.** G.S. 122-58.14 is hereby amended by adding a new subsection (d) to read as follows:

“(d) Notwithstanding the provisions of subsection (a) of this section, a clerk, a magistrate, or a district court judge where applicable may authorize the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. Such authorization shall only be granted in cases where the danger to the public, the family or friends of the respondent, or the respondent himself is not substantial. The family or immediate friends of the respondent shall bear the costs of providing such transportation.”

**Sec. 23.** There is appropriated to the Department of Justice from the General Fund the sum of one hundred one thousand one hundred dollars (\$101,100) for fiscal year 1979-1980 and the sum of one hundred thirty-five thousand one hundred dollars (\$135,100) for fiscal year 1980-1981, which funds are to be used to employ such four attorneys and four secretaries, as full-time employees of the Department of Justice, to represent the State's interests in involuntary commitment proceedings at State hospitals under Chapter 122 and to administratively and logistically support them. It is contemplated that adequate, appropriate office space, utilities and telephones for such effective operation will be supplied by the respective regional psychiatric hospital where each attorney is located.

**Sec. 24.** This act shall become effective October 1, 1979.



In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 373

## CHAPTER 916

AN ACT AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION  
TO STUDY THE MANAGEMENT OF WASTE DISPOSAL, HAZARDOUS  
AND TOXIC SUBSTANCES, AIR QUALITY, NOISE, AND PESTICIDES.

Whereas, responsibility for the management of North Carolina's waste management, hazardous waste and toxic substances, air quality, noise, and pesticides is currently divided among the Departments of Human Resources, Natural Resources and Community Development, Labor, and Agriculture; and

Whereas, an integrated approach to the management of these areas involving several State agencies is essential; and

Whereas, the present organization of these programs is fragmented among interrelated program areas; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Legislative Research Commission is authorized to study the management of waste disposal, hazardous and toxic substances, air quality, noise, and pesticides.

**Sec. 2.** The commission may study in the following order the present organization for planning and management of waste disposal, (priority I); hazardous and toxic substances (priority II); air quality (priority III); noise (priority IV); pesticides (priority V); in North Carolina and make recommendations to the General Assembly concerning organizational and statutory changes it finds necessary. The commission may include in its study the impact of the Hazardous Substances Act (1979 Senate Bill 231), and the Toxic Substances Act (1979 House Bill 56).

**Sec. 3.** The commission may file an interim report with the 1979 General Assembly (Second Session, 1980). The commission may file its final report with the 1981 General Assembly. The final report of the commission shall summarize the information obtained in the course of its inquiry, set forth any findings, conclusions, and recommended administrative or legislative actions necessary for effective and efficient management of the State's waste disposal, hazardous and toxic hazardous and toxic substances, air quality, noise and pesticides. If legislation is recommended, the commission shall prepare and submit with its report appropriate bills.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 380

**CHAPTER 917****AN ACT TO CHANGE THE COMMISSION CONTRACT RATE PER REGISTRATION PLATE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 93 of Chapter 983 of the 1975 Session Laws is rewritten to read:

“The commission contract rate under G.S. 20-63(h) shall be forty-five cents (45¢) per transaction, for fiscal year 1979-80, and fifty cents (50¢) per transaction for fiscal year 1980-81. The latter rate shall continue past June 30, 1981, until the rate is changed by the General Assembly.”

**Sec. 2.** There is appropriated from the Highway Fund to the Department of Transportation the sum of one hundred fifty thousand dollars (\$150,000) for fiscal year 1979-80, and four hundred one thousand dollars (\$401,000) for fiscal year 1980-81, for the purpose of increasing commission contract rates as set forth in Section 1.

**Sec. 3.** The Department of Transportation is directed to study the feasibility of providing general registration services outside of the central headquarters area by State-owned facilities or local commission contractors. The Department is directed to report the results of the study and make any recommendations to the General Assembly by January 15, 1980.

**Sec. 4.** G.S. 20-63(h) is amended in line 18 by deleting the words “registration plate”, and inserting in lieu thereof the word “transaction”.

**Sec. 5.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 398

**CHAPTER 918****AN ACT TO APPROPRIATE FUNDS FOR HISTORIC QUAKER MEADOWS IN BURKE COUNTY.**

Whereas, Quaker Meadows is a historic area in Burke County just northwest of the City of Morganton; and

Whereas, during the French and Indian War, Quaker Meadows was a forward outpost of the frontier and the scene of many skirmishes; and

Whereas, during the Revolutionary Period, Quaker Meadows served as both a headquarters area and a hospital; and

Whereas, the campaign strategy of the Battle of Kings Mountain, a turning point of the American Revolution, was formulated at Quaker Meadows; and

Whereas, Quaker Meadows is the ancestral home of the family of Joseph McDowell, member of the Third and Fifth Congress of the United States, member of the committee to establish the Post Office Department of the United States, and one of the first Jeffersonian Democrats, who is buried atop the hill overlooking the area; and

Whereas, the cemetery atop the knoll contains the graves of many heroes of the Revolutionary War and the War of 1812 and members of the McDowell, Ervin, Tate and Bynum families; and

Whereas, Quaker Meadows Cemetery Incorporated, in cooperation with the Burke County Historical Society, sponsor a project to place a protective wall

around the area, restore the grave sites and grounds, and erect historical markers for 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, Division of Archives and History, the sum of fifteen thousand dollars (\$15,000) for the 1979-80 fiscal year for the purpose of restoring Quaker Meadows by placing a protective wall around the area, restoring grave sites and grounds, and placing historical markers telling visitors the historic aspects of the Quaker Meadows area. These monies shall not be expended unless they are matched with fifteen thousand dollars (\$15,000) in local funding.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 446

## CHAPTER 919

AN ACT TO PROVIDE FUNDS FOR THE ARRANGEMENT AND  
DESCRIPTION OF THE LEGISLATIVE PAPERS OF THE STATE OF  
NORTH CAROLINA.

Whereas, there are in the State Archives approximately 2,500 boxes containing the legislative records and papers of the Colony and State of North Carolina from the period 1689 to 1974; and

Whereas, these records consist of bills, committee reports, petitions of all types, communications from the Governors and other public officials, and similar materials reflecting the operations and history of the General Assembly; and

Whereas, these records have become intermingled in some instances with the public records of the Governors and the Secretaries of State; and

Whereas, the legislative papers are not arranged nor are they described in such a manner that they can be used either for general research or for research into the history of the General Assembly; and

Whereas, the General Assembly of the State of North Carolina has from its earliest days played a significant and decisive role in the development of the State and its history; 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 nineteen thousand seven hundred thirty-nine dollars (\$19,739) for the fiscal year 1979-80 and eighteen thousand eight hundred eighty-four dollars (\$18,884) for the fiscal year 1980-81 for the purpose of providing staff and necessary materials to arrange, describe, restore, and make available for continuing use the legislative papers of the State of North Carolina.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 510

**CHAPTER 920**

AN ACT TO ELIMINATE CERTAIN HOT WATER HEATERS FROM THE INSPECTION PROGRAM OF THE BOILER AND PRESSURE VESSELS DIVISION OF THE DEPARTMENT OF LABOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 95-69.10(c), as the same appears in the 1977 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended on line one thereof by adding the words “and inspection” after the word “construction” and before the word “requirements”.

G.S. 95-69.10(c) is further amended on the last line thereof by inserting a period following the word “valves” and deleting the phrase “and shall continue to be subject to field inspection”.

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 518

**CHAPTER 921**

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE PRESERVATION OF HAYWOOD HALL IN RALEIGH.

Whereas, John Haywood, the builder of Haywood Hall, served as Treasurer of the State of North Carolina continuously from 1787 until his death in 1827; and

Whereas, John Haywood was a member of the committee which founded The University of North Carolina and selected its site at Chapel Hill, was one of the original trustees of that institution, and remained on the Board of Trustees as long as he lived; and

Whereas, Haywood Hall, built in 1799-1800, is one of the finest Federal-style houses in Raleigh and retains many of its original outbuildings and plantings in a well-preserved urban setting; and

Whereas, in 1977 Haywood Hall was bequeathed to the North Carolina Society of the Colonial Dames of America by Mrs. Mary Haywood Sterns for the purpose of insuring its continued preservation; and

Whereas, the North Carolina Society of the Colonial Dames of America is committed to preserving and restoring Haywood Hall for the benefit of all North Carolinians; 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 1979-80 fiscal year the sum of ten thousand dollars (\$10,000), which will be available to the North Carolina Society of the Colonial Dames of America for the purpose of preserving and restoring Haywood Hall, provided an amount of ten thousand dollars (\$10,000) is raised by the North Carolina Society of the Colonial Dames of America for that purpose. There is further appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1980-81 fiscal year the sum of ten thousand dollars (\$10,000) for the purpose of preserving and restoring Haywood Hall, provided an amount of ten thousand dollars (\$10,000) is raised by the North Carolina Society of the Colonial Dames of America for that purpose.



**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 shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 525

## CHAPTER 922

AN ACT TO AMEND THE SEDIMENTATION POLLUTION CONTROL ACT TO PROVIDE FOR THE APPEAL OF LOCAL GOVERNMENT DECISIONS CONCERNING THE APPROVAL OF EROSION CONTROL PLANS TO THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT AND THE SEDIMENTATION POLLUTION CONTROL COMMISSION AND TO AMEND THE RULEMAKING POWER OF THE COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113A-61(c) is rewritten to read as follows:

“(c) The disapproval or modification of any proposed erosion control plan by a local government shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification. The hearings shall be conducted pursuant to procedures adopted by the local government. If the local government upholds the disapproval or modification of a proposed erosion control plan following the public hearing, the person submitting the erosion control plan shall be entitled to appeal the local government's action disapproving or modifying the plan to the Commission. The Commission, by regulation, shall direct the Secretary to appoint such employees of the Department as may be necessary to hear appeals from the disapproval or modification of erosion control plans by local governments. In addition to providing for the appeal of local government decisions disapproving or modifying erosion control plans to designated employees of the Department, the Commission shall designate an erosion control plan review committee consisting of three members of the Commission. The person submitting the erosion control plan may appeal the decision of an employee of the Department who has heard an appeal of a local government action disapproving or modifying an erosion control plan to the erosion plan review committee of the Commission. Judicial review of the final action of the erosion plan review committee of the Commission may be had in the superior court of the county in which the local government is situated.”

**Sec. 2.** G.S. 113A-54(b) is amended to read as follows:

“(b) The Commission shall develop and adopt and shall revise as necessary from time to time, rules and regulations for the control of erosion and sedimentation resulting from land-disturbing activities. The Commission shall adopt or revise its rules and regulations in accordance with the rulemaking procedures set forth in Article 2 of Chapter 150A of the General Statutes.”

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 544

**CHAPTER 923**

AN ACT TO APPROPRIATE FUNDS TO THE TRIAD HOME FOR AUTISTIC YOUTH.

Whereas, the Triad Home for Autistic Youth, located in Greensboro, serves autistic youth in a year-round residential program; and

Whereas, the children, in addition to their developmental disability exhibit behavioral patterns that necessitate close and constant supervision by a staff with professional expertise; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any other appropriation there is appropriated from the General Fund to the Department of Human Resources, Division of Social Services, for fiscal year 1979-80, the sum of twenty-seven thousand dollars (\$27,000) and for fiscal year 1980-81, the sum of twenty-seven thousand dollars (\$27,000) to provide additional assistance to the Triad Home for Autistic Youth.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 552

**CHAPTER 924**

AN ACT TO GIVE THE DEPARTMENT OF CULTURAL RESOURCES RESPONSIBILITY FOR EMPLOYMENT OF ADMINISTRATIVE PERSONNEL AND EXPENDITURE OF FUNDS APPROPRIATED TO THE NORTH CAROLINA SYMPHONY.

*The General Assembly of North Carolina enacts:*

**Section 1.** In the appropriation made in the 1979-80 Budget Appropriation Bill for the administration of the North Carolina Symphony, the Department of Cultural Resources shall be responsible for the expenditure of funds for administration and have authority over the employment of administrative personnel, subject to the provisions of Chapter 126 of the General Statutes. The department may seek the advice and assistance of the North Carolina Symphony Society, Inc., in administrative personnel actions.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 559

**CHAPTER 925**

AN ACT TO ALLOW NURSING HOME PATIENTS TO TAKE UP TO 18 DAYS LEAVE WITHOUT LOSING MEDICAID BENEFITS.

Whereas, a patient at a nursing home loses medical reimbursement if he or she leaves for a few days to visit family; and

Whereas, therapeutic leave is beneficial to the patient and family and may result in the patient being able to stay at home rather than returning to the nursing home if his or her condition has changed; and

Whereas, forty-four states already allow therapeutic leave; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Department of Human Resources shall provide by regulation that a patient 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 Medicaid (Title XIX of the Social Security Act).

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 566

## CHAPTER 926

## AN ACT TO PROVIDE FOR AN AUDIT OF TAX FUNDS USED FOR POLITICAL PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-278.43 is hereby amended by adding the following:

“(c) On or before the 15th of January of each calendar year or as soon thereafter as practical the Legislative Services Commission shall appoint an independent auditor or auditors and such auditor or auditors shall immediately conduct an audit of the financial records of the receipts, expenditures and disbursements through each political party to the treasurer of each candidate or political committee receiving any of the above-mentioned funds during the previous calendar year; a copy of such audit shall be forwarded promptly to the Executive Secretary of the State Board of Elections and to the Legislative Services Commission; any discrepancies as shown by the audit shall be acted upon by the Executive Secretary of the State Board of Elections in the manner set forth in subsection (b) above.

(d) The cost of the audit of each political party, candidate, or political committee shall be paid from the funds held by the State Treasurer for disbursement to that party, candidate or committee. The Legislative Services Commission shall determine and notify the State Treasurer of a fixed fee or maximum fee to be allowed for each such audit, and the State Treasurer shall withhold from the funds to be disbursed to each party, candidate or committee a sum necessary to pay the cost of the audit of that party, candidate or committee. If the amount withheld exceeds the actual cost of the audit, the Treasurer shall, after paying the costs of the audit, remit the balance to the party, candidate or committee from which it was withheld. If the designated cost of an audit exceeds the funds held by the Treasurer for disbursement to the party, candidate or committee to be audited, the chairman of the party, or the treasurer of the candidate or committee may decline to accept the funds, in which event the funds shall be transferred to the General Fund of the State, and no audit shall be required of those funds under this section. The Legislative Services Commission shall adopt and promulgate rules to implement the provisions of subsections (c) and (d) of this section. The Legislative Services Commission shall ensure that the auditing procedures shall be uniform and standardized.”

**Sec. 2.** This act shall be effective to provide an audit of such funds beginning with the calendar year 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1230

## CHAPTER 927

AN ACT TO REQUIRE A PRISONER TO SERVE THE UNSERVED PORTION OF HIS MAXIMUM TERM OF IMPRISONMENT FOLLOWING PAROLE REVOCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-1373(d)(1) as the same appears in the 1978 Replacement Volume 1C of the General Statutes is hereby rewritten to read as follows:

“(1) The recommitment must be for the unserved portion of the maximum term of imprisonment imposed by the court under G.S. 15A-1351.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 604

## CHAPTER 928

AN ACT CREATING A COMMITTEE TO EXAMINE THE FACILITY NEEDS OF THE NORTH CAROLINA MUSEUM OF HISTORY, THE NORTH CAROLINA STATE ARCHIVES, AND OTHER STATE HISTORY PROGRAMS AND TO DEVELOP A COMPREHENSIVE PLAN FOR MEETING THOSE NEEDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Since 1922 the North Carolina Museum of History has collected one of the largest and most significant artifact collections (currently more than 250,000 items) in the nation. The Museum of History does not now have adequate space for the conservation, display, and interpretation of these materials. The North Carolina State Archives does not now have space for the proper housing, preservation, and servicing of the historic public records of the State of North Carolina and the public records of the State's counties and municipalities.

The conservation, preservation, display and interpretation of artifacts which are meaningful to the people of the State of North Carolina is in the public interest and is vital to the continuing education of the citizens of North Carolina and to the rich heritage of such citizens. The citizens of North Carolina should have full access to the use of and enjoyment of the rich historical collections of artifacts and records.

It is most important that the long-range physical needs of the Museum of History, the State Archives and other State history programs should be examined so that the State of North Carolina may continue to collect, preserve and display the meaningful artifacts of this State and display the same in a mode and manner which will provide for the continued expansion of the historical collection and the preservation of the heritage of the citizens of the State of North Carolina.

**Sec. 2.** There is hereby created a “Committee to Study the Facility Needs of the North Carolina Museum of History, the North Carolina State Archives and Other State History Programs” which shall be composed of eight members to be appointed as follows: (a) two members appointed by the Speaker of the House of Representatives from the membership of the House of Representatives; (b) two members appointed by the Lieutenant Governor from



the membership of the Senate, and (c) four members appointed by the Governor from the State at-large. All appointments shall be made to the committee and the committee shall begin work by July 1, 1979. The chairman and vice-chairman of the committee shall be appointed by the Governor from among the membership of the committee.

**Sec. 3.** This said committee shall have the duty to make a comprehensive study of the long-range facility needs of the North Carolina Museum of History, the North Carolina State Archives, and other State history programs which should be permanently housed in the Archives and History Building and such adjacent structures as may be needed to insure that the essential archival, artifact collection, interpretation, exhibit, and historical publication programs may remain as physically united as possible. The committee shall review the current space utilization of the Archives and History Building, the current financial resources and staffing of the relevant historical programs of the Division of Archives and History, and shall, in conjunction with the professional staffs of the above programs, develop a comprehensive plan for meeting their physical needs in and adjacent to the Archives and History Building. In its work, the committee shall consult with historical museum and archival professionals and with such designers as may be necessary.

**Sec. 4.** The said committee, at its discretion, may consider the financial requirements necessary for the implementation of the committee's report on the physical needs of the North Carolina Museum of History, the North Carolina State Archives and other State history programs.

**Sec. 5.** All administrative and staff assistance shall be provided to the committee by the Department of Cultural Resources.

**Sec. 6.** There is appropriated to the Department of Cultural Resources for the fiscal year 1979-80 the sum of ten thousand dollars (\$10,000) for the use and benefit of the committee.

**Sec. 7.** Members of the committee shall be reimbursed and compensated as follows:

- (a) legislative members at the rates set forth in G.S. 120-3.1;
- (b) public members as set forth in G.S. 138-5;
- (c) State employee members as set forth in G.S. 138-6.

**Sec. 8.** The committee shall upon the completion of its work make a report to the Governor, cause its report to be published and distributed to the members of the General Assembly and shall submit its findings and recommendations to the 1979 General Assembly, Second Session.

**Sec. 9.** Nothing contained herein shall be construed to obligate the General Assembly to appropriate additional funds.

**Sec. 10.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 641

**CHAPTER 929**

AN ACT TO AMEND G.S. 143-214.3 SO AS TO REVISE THE WATER QUALITY STANDARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to Chapter 143 of the General Statutes to read as follows:

“§ 143-214.3. *Revision to water quality standard.*—(a) Any person subject to the provisions of G.S. 143-215.1 may petition the Environmental Management Commission for a hearing pursuant to G.S. 143-215.4 for a revision to water quality standards adopted pursuant to G.S. 143-214.1 as such water quality standards may apply to a specific stream segment into which the petitioner discharges or proposes to discharge.

(b) Upon a finding by the Environmental Management Commission that:

- (1) natural background conditions in the stream segment preclude the attainment of the applicable water quality standards; or
- (2) irretrievable and uncontrollable man-induced conditions preclude the attainment of the applicable water quality standards; or
- (3) application of effluent limitations for existing sources established or proposed pursuant to G.S. 143-215.1 more restrictive than those effluent standards and limitations determined or promulgated by the United States Environmental Protection Agency pursuant to Section 301 of the Federal Water Pollution Control Act in order to achieve and maintain applicable water quality standards would result in adverse social and economic impact, disproportionate to the benefits to the public health, safety or welfare as a result of maintaining the standards; and
- (4) there exists no reasonable relationship between the cost to the petitioner of achieving the effluent limitations necessary to comply with applicable water quality standards to the benefits, including the incremental benefits to the receiving waters, to be obtained from the application of the said effluent limitations;

Then the Environmental Management Commission shall revise the standard or standards, as such standard may apply to the petitioner, provided that such revised standards shall be no less stringent than that which can be achieved by the application of the highest level of treatment which will result in benefits, including the incremental benefits to the receiving waters, having a reasonable relationship to the cost to the petitioner to apply such treatment, as determined by the evidence; provided, however, in no event shall these standards be less stringent than the level attainable with the application by the petitioner of those effluent standards and limitations determined or promulgated by the United States Environmental Protection Agency pursuant to Section 301 of the Federal Water Pollution Control Act; provided, further, that no revision shall be granted which would endanger human health or safety.”

**Sec. 2.** There is appropriated from the General Fund to the Department of Natural Resources and Community Development forty-five thousand dollars (\$45,000) for the 1979-80 fiscal year and forty-five thousand dollars (\$45,000) for the 1980-81 fiscal year, in addition to all other appropriations, for the purpose of carrying out the provisions of this act.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 643

**CHAPTER 930**

AN ACT TO INCREASE THE REWARD AUTHORIZED TO BE PAID TO STATE EMPLOYEES FOR MONEY-SAVING SUGGESTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-340(1) as the same appears in 1978 Replacement Volume 3C of the General Statutes is amended in line 3 by deleting the words and figures "ten percent (10%)" and inserting in lieu thereof the words and figures "twenty-five percent (25%)" and in lines 5 and 6 by deleting the words and figures "one thousand dollars (\$1,000)" and inserting in lieu thereof the words and figures "five thousand dollars (\$5,000)".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 677

**CHAPTER 931**

AN ACT TO AMEND G.S. 143-215.107(f) SO AS TO CLARIFY THE AUTHORITY OF THE ENVIRONMENTAL MANAGEMENT COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.107(f) is amended by rewriting the second paragraph of that subsection as follows:

"It is the intent of the General Assembly (1) that the air quality rules, regulations, procedures, plans, practices, air quality standards, and emission control standards adopted by the Environmental Management Commission pursuant to this Article or Article 21, or by any other State or local regulatory body under the General Statutes of North Carolina, shall be no more restrictive and no more stringent than required to comply with federal ambient air quality standards or other applicable federal requirements, if any, adopted in final or proposed regulations by the United States Environmental Protection Agency under or pursuant to the Federal Clean Air Act, and amendments thereto; except (2) that no air quality rules, regulations, procedures, plans, practices, air quality standards or emission control standards shall be adopted by the Environmental Management Commission with respect to matters on which the United States Environmental Protection Agency has not proposed or adopted final regulations unless the Environmental Management Commission first considers, among other things, an assessment of the economic impact of the proposed standards. The Department shall prepare and submit into the record of the rule-making hearing an economic impact study of such proposed standards. Such study shall include an estimate of the economic and social costs to commerce and industry, units of local government, and agriculture necessary to comply with the proposed standards and an examination of the economic and social benefits of such compliance."

**Sec. 2.** There is appropriated from the General Fund to the Department of Natural Resources and Community Development thirty thousand dollars (\$30,000) for the 1979-80 fiscal year and thirty thousand dollars (\$30,000) for

the 1980-81 fiscal year, in addition to all other appropriations, for the purpose of carrying out the provisions of this act.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 11

## CHAPTER 932

### AN ACT CREATING A MUTUAL BURIAL ASSOCIATION STUDY COMMISSION AND OTHER PURPOSES.

Whereas, there are over 900,000 citizens of North Carolina who belong to approximately 365 mutual burial associations located in all parts of the State; and

Whereas, the membership of these associations has been steadily decreasing since 1951 with a consequent loss in their financial stability; and

Whereas, the average age of members of these mutual burial associations has been steadily increasing over the last 10 years; and

Whereas, under existing law these mutual burial associations can only offer in benefits up to two hundred dollars (\$200.00) per member, which is no longer a sufficient sum to provide a burial for a deceased member; and

Whereas, there is a dire need for the above conditions to be corrected by appropriate legislation; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby created the Committee for the Study of Mutual Burial Associations, to be composed of 10 members. Eight members shall be appointed by the Governor, one member shall be appointed by the President of the Senate and one member shall be appointed by the Speaker of the House.

**Sec. 2.** The Governor shall designate a chairman and vice-chairman of the commission from among the membership of the commission.

**Sec. 3.** It shall be the duty of the commission to make a comprehensive study of mutual burial associations as they now exist in North Carolina and to make appropriate recommendations to the 1981 Session of the General Assembly after it files its report as to how mutual burial associations may be financially strengthened and better serve their membership.

**Sec. 4.** Members of the commission who are members of the General Assembly shall receive subsistence and travel allowance 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 or officials or employees of the State of North Carolina shall receive travel allowances at the rate set forth in G.S. 138-6.

**Sec. 5.** The commission shall have authority to employ clerical assistants, actuarial assistants and legal assistants and to purchase necessary supplies and materials.

**Sec. 6.** The expenses of the commission shall be supported from the receipts of the Burial Commission in the Department of Commerce.



**Sec. 7.** The commission is authorized to conduct public hearings around the State in order to get citizen input as to ways in which mutual burial associations may be strengthened and better carry out their statutory purposes.

**Sec. 8.** The committee shall make a written report of its study to the General Assembly, including recommendations for appropriate legislative action. The report shall be presented no later than the opening date of the 1981 General Assembly.

**Sec. 9.** G.S. 120-74 is amended by deleting in the second sentence the word "assistant".

**Sec. 10.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 207

## CHAPTER 933

AN ACT TO APPROPRIATE TWENTY THOUSAND DOLLARS (\$20,000) TO THE PARKWAY PLAYHOUSE, INC., AT BURNSVILLE IN YANCEY COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated the sum of twenty thousand dollars (\$20,000) from the General Fund to Parkway Playhouse, Inc., a nonprofit organization, for the advancement of the performing arts in Burnsville, Yancey County, for the fiscal year 1979-80.

**Sec. 2.** The above sum of twenty thousand dollars (\$20,000) shall be spent during the fiscal year 1979-80 for the purpose of constructing, altering and improving the physical plant owned by the Board of Education of Yancey County at Burnsville, which plant includes buildings utilized by the Parkway Playhouse for dormitories, shops, theatres, lunchrooms, and for other purposes. Such expenditures shall be made under the direction and supervision of the superintendent of the county board of education.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 211

## CHAPTER 934

AN ACT TO PROVIDE FOR INCREASED CONTAINER SHIPPING AT THE PORTS OF MOREHEAD CITY AND WILMINGTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-454.1. *Container shipping.*—The State Ports Authority shall provide at the ports of Morehead City and Wilmington adequate equipment and facilities including container cranes at each port as needed, in order to maintain existing and future levels of containerized cargo shipping at both ports and provide and encourage growth in handling of containerized cargoes at both ports."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 242

**CHAPTER 935****AN ACT TO ESTABLISH A UNIFORM SALARY SYSTEM FOR ALL PUBLIC SCHOOL NONCERTIFIED SUPPORT PERSONNEL.**

Whereas, the Legislative Research Commission Subcommittee on Public School Employees Salary has worked for many months in studying the matter of an equitable salary system for North Carolina public school employees, including involvement of the State and local boards of education and their respective staffs in devising means to insure realistic and effective implementation of the recommendations contained in the subcommittee's report; and

Whereas, North Carolina public school employees, have, in the past, been subject to many inequities because they have been paid according to different salary schedules; and

Whereas, a uniform salary system, which makes all noncertified public school employees, subject to the same salary schedule, although not necessarily the same conditions, as State employees subject to the State Personnel Act, will minimize present inequities, prevent future unfairness, and promote needed administrative efficiency; and

Whereas, it is the intent of the General Assembly that the State Board of Education shall classify all public school support positions within the framework of uniform pay grades included in the salary schedule of the State Personnel Commission, without any individual receiving any less in salary than he or she is currently receiving from State funds, and without any encroachment on the local unit's prerogative to place specific support employees on the salary schedule within the appropriate classification; and

Whereas, a uniform salary system can provide a minimum salary amount to be paid to all noncertified support employees covered by the schedule and a maximum amount which may be paid from State funds; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-11 is hereby amended by adding a new subsection at the end thereof to read as follows:

"(20)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.

(20)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.

(20)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 county or city board of education does not adopt a salary schedule of its own for personnel paid from other than State appropriations."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 251

## CHAPTER 936

AN ACT TO APPROPRIATE FUNDS TO THE HEALTH ADVENTURE, A  
NONPROFIT CORPORATION.

Whereas, The Health Adventure is a nonprofit corporation which is successor to the Asheville Health Education Museum; and

Whereas, The Health Adventure is located in the Mountain Area Health Education Center at Asheville, North Carolina; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to The Health Adventure, a nonprofit corporation, for fiscal year 1979-80 and for fiscal year 1980-81 the sum of thirty-six thousand nine hundred sixty dollars (\$36,960) for each year as a grant-in-aid.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 319

## CHAPTER 937

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN  
RESOURCES FOR FISCAL YEARS 1979-81 TO BE USED TO INCREASE  
THE FOSTER CARE BOARD RATE.

Whereas, foster parents provide an invaluable service to the State's homeless children; and

Whereas, it is difficult to recruit and retain foster home resources without the support of an adequate board rate; and

Whereas, the foster care board rate does not adequately meet the cost of caring for a child; and

Whereas, additional State funds are needed to increase the foster care board rate from one hundred twenty-five dollars (\$125.00) to one hundred thirty-five dollars (\$135.00) per month for fiscal year 1979-1980 and to one hundred thirty-five dollars (\$135.00) per month for fiscal year 1980-1981; Now, therefore,

*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 for fiscal year 1979-80 the sum of two hundred and four thousand three hundred sixty-six dollars (\$204,366) and for fiscal year 1980-81 the sum of two hundred four thousand three hundred sixty-six dollars (\$204,366) to be used to increase the foster care board rate in accordance with G.S. 108-66.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 346

**CHAPTER 938****AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE COMPLETION OF THE RESTORATION OF THE OLD WILKES JAIL IN WILKESBORO.**

Whereas, the Old Wilkes County Jail is one of the best remaining examples of nineteenth century penal architecture in North Carolina, retaining its primitive security and sanitary devices; and

Whereas, the building, completed in 1859, was used by the Confederacy during a portion of the Civil War and later by the State as the place of incarceration of the famous Tom Dula; and

Whereas, with the assistance of the State, federal, and local governments, private foundations, businesses, and citizens of the area, Old Wilkes, Incorporated, has undertaken the restoration of the historic building for the use, education, and enjoyment of the citizens of North Carolina as a reception center, museum, and library; and

Whereas, the Old Wilkes Jail restoration is not complete, although Old Wilkes, Incorporated, has operated the jail since 1973 in cooperation with the Appalachian Regional Library as a Branch Library and a historic jail-museum; and

Whereas, funds are needed to complete the restoration of the Old Wilkes Jail and to provide a handicap ramp for better access to the library and the historic jail-museum; and

Whereas, Old Wilkes, Incorporated, has pledged to raise additional funds to match State funds for the completion of the restoration and handicap ramp and agrees to continue to maintain and operate the restored building without the requests for State funds for those purposes; 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 1979-80 fiscal year the sum of seven thousand five hundred dollars (\$7,500) for the purpose of completing the restoration of the Old Wilkes Jail and providing a handicap ramp for better access to the library and the historic jail-museum, provided an amount of seven thousand five hundred dollars (\$7,500) is raised by Old Wilkes, Incorporated.

**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 shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



## S. B. 385

## CHAPTER 939

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION  
TO CONTINUE TO STUDY THE NEED FOR RETIREMENT  
COVERAGE FOR TEMPORARY EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Legislative Research Commission is authorized to continue to study the need for retirement coverage for State temporary employees as authorized by Chapter 1294 of the 1977 Session Laws (Second Session, 1978). The Legislative Research Commission may report to the 1981 Session of the General Assembly.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 393

## CHAPTER 940

AN ACT TO PROVIDE FOR CONTINUED LEVEL OF SERVICES AT  
TRYON PALACE.

Whereas, Tryon Palace in New Bern served as the seat of government from 1770 until the outbreak of the American Revolution; and

Whereas, several revolutionary governors of North Carolina including Richard Caswell and Abner Nash conducted their duties from the Palace; and

Whereas, the Tryon Palace Complex including the John Wright Stanly and Stevenson houses and adjacent gardens have received national recognition for their excellence, including the Award of Merit of the American Association for State and Local History and the Judges' Award of the American Association of Nurserymen; and

Whereas, the Tryon Palace Complex annually draws nearly 50,000 visitors to North Carolina from every state and several foreign countries including England, France, Germany, and Japan; 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 the fiscal year beginning July 1, 1979, and the sum of ten thousand dollars (\$10,000) for the fiscal year beginning July 1, 1980, to provide for a high level of service at Tryon Palace.

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 529

**CHAPTER 941**

**AN ACT TO AUTHORIZE THE DEPARTMENT OF HUMAN RESOURCES TO ASSUME THE COUNTY SHARE OF THE UNBUDGETED MEDICAID COSTS INCURRED FOR RESIDENTS OF STATE OPERATED INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.**

Whereas, the counties' share of the Medicaid expenditures incurred for residents of State operated intermediate care facilities for the mentally retarded during fiscal year 1978-79 exceeded the sum budgeted by the counties for this purpose; and

Whereas, it was through no fault on the part of the counties that their fiscal year 1978-79 Medicaid budgets for residents of State operated intermediate care facilities for the mentally retarded were exceeded by actual expenditures but rather was the result of State action amending the reimbursement plan and effectuating cost settlements for prior years as well as State law enacted in 1978 whereby the counties' share of the nonfederal costs of skilled nursing and intermediate care facilities was increased; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Department of Human Resources is hereby authorized to assume the county share of the unbudgeted Medicaid costs incurred for residents of State operated intermediate care facilities for the mentally retarded during fiscal year 1978-79. These unbudgeted county costs for intermediate care facilities for the mentally retarded include the additional expenditures that occurred because of the change in the State's method of reimbursement that retrospectively allowed reimbursement on the basis of allowable costs, and increased fiscal year 1976-77 and fiscal year 1977-78 cost settlements due to a removal of the forty dollar (\$40.00) per day maximum rate of reimbursement. The State assumption of the unbudgeted county costs does not apply to cost settlements for fiscal year 1978-79.

**Sec. 2.** The Department of Human Resources shall use as the source of funds to implement this act the sum of up to one million four hundred thirty-two thousand twenty-nine dollars (\$1,432,029) in over realized receipts from State institutions for fiscal year 1978-79, if available, to assume the unbudgeted county costs.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 622

**CHAPTER 942**

AN ACT TO AUTHORIZE THE ATTORNEY GENERAL TO EMPLOY AN ATTORNEY TO PERFORM LEGAL SERVICES FOR THE ENERGY DIVISION OF THE DEPARTMENT OF COMMERCE AND TO PROVIDE FOR THE SALARY AND EXPENSES FOR SUCH ATTORNEY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 114 of the General Statutes is hereby amended by adding a new section immediately following G.S. 114-4.2C and immediately preceding G.S. 114-4.3, to be numbered G.S. 114-4.2D, and to read as follows:

“§ 114-4.2D. *Employment of attorney for Energy Division of Department of Commerce.*—The Attorney General shall assign an attorney on his staff to work full time with the Energy Division of the Department of Commerce. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned to him by the Attorney General.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 683

**CHAPTER 943**

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ESTABLISHMENT OF A SALARY CONTINUATION PLAN FOR INCAPACITATED STATE LAW ENFORCEMENT OFFICERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Legislative Research Commission may study the need, cost, and feasibility for and all issues relating to the establishment of a salary continuation plan for all State law enforcement officers who are totally or partially incapacitated while performing official duties, and may report to the 1979 General Assembly, Second Session 1980.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 712

**CHAPTER 944**

AN ACT TO MAKE AN APPROPRIATION 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 for fiscal year 1979-80 the sum of fifty thousand dollars (\$50,000) 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 shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 750

## CHAPTER 945

AN ACT TO PROVIDE INCENTIVE PAY FOR STATE EMPLOYEES FOR GAINS IN ECONOMY AND EFFICIENCY IN THE RENDERING OF GOVERNMENTAL SERVICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1031, Session Laws of 1977, is repealed.

**Sec. 2.** Chapter 126 of the General Statutes is hereby amended by adding a new Article 10 to read as follows:

### "Article 10.

#### "Committee for Review of Applications for Incentive Pay for State Employees.

"§ 126-46. *Committee established.*—There is hereby created the committee for Review of Applications for Incentive Pay for State Employees, hereinafter referred to as 'the Committee'. The committee shall consist of the Secretary of Administration, who shall act as chairman, the State Auditor, the State Budget Officer, and the State Personnel Director. The Governor, Lieutenant Governor and Speaker of the House of Representatives shall each also appoint one person who has experience in administering incentive as used in industry.

"§ 126-47. *Application for incentive awards.*—With the exception of units within the General Assembly, the Governor's office, the Lieutenant Governor's office, and the Department of the State Auditor, any unit of State government (i) having an identifiable self-contained budget, or (ii) having its financial records maintained according to an accounting system which identifies to the satisfaction of the State Auditor the expenditures and receipts properly attributable to that unit, may make application to the committee for selection as a candidate for the award of incentive pay to its employees. Such application must be submitted prior to the beginning of any fiscal year and must have the approval of the head of the State department within which the unit is located.

Applications shall be in the format specified by the committee and shall contain such information as it may require, including but not limited to those evaluation components developed by the applying unit which will provide quantitative measures of program output and performance.

The committee shall evaluate the applications submitted; and from those proposals which are considered to be reasonable and practical, and which are found to include developed performance indicators which lend themselves to a judgment of success or failure, the committee shall select the units to participate in the incentive pay program for the fiscal year.

"§ 126-48. *Qualifications.*—(a) To qualify for the award of incentive pay to its employees, a unit selected must demonstrate to the satisfaction of the committee that it has operated during the fiscal year:

- (1) at less cost than the immediately preceding fiscal year, and either with an increase in the level of services rendered or with no decrease in the level of services rendered; or



(2) at no greater cost than the immediately preceding fiscal year and with an increase in the level of services rendered.

(b) The committee shall satisfy itself that the claimed cost of operation is real and not merely apparent, and that it is not, in whole or in part, the result of:

- (1) chance;
- (2) a lowering of the quality of the service rendered;
- (3) reduced pass-through or transfer expenditures;
- (4) receipts realized in excess of amounts budgeted;
- (5) nonrecurrence of expenditures which were single outlay, or one-time expenditures, in the preceding fiscal year;
- (6) failure to reward deserving employees through promotions, reclassification, award of merit salary increments, or salary increases authorized by salary range revisions;
- (7) postponement of normal purchases and/or repairs to a future fiscal year;
- (8) stockpiling inventories in the immediately preceding fiscal year so as to reduce requirements in the eligible fiscal year;
- (9) substitution of federal funds, other receipts, or non-State funds for State appropriations;
- (10) unreasonable postponement of payments of accounts payable until the fiscal year immediately following the eligible fiscal year;
- (11) shifting of expenses to another unit of government;
- (12) any other practice, event, or device which the committee decides has caused a distortion which makes it falsely appear that a savings or increase in level of services has occurred.

(c) Conversely, the committee shall consider as legitimate savings those reductions in expenditures made possible by such items as the following:

- (1) reductions in overtime;
- (2) elimination of consultant fees;
- (3) less temporary help;
- (4) elimination of budgeted positions;
- (5) improved methods of communication;
- (6) improved systems and procedures;
- (7) better deployment and utilization of manpower;
- (8) elimination of unnecessary travel;
- (9) elimination of unnecessary printing and mailing;
- (10) elimination of unnecessary payments for advertising, memberships, dues, subscriptions, etc.;
- (11) elimination of waste, duplication, and operations of doubtful value;
- (12) improved space utilization;
- (13) any other items considered by the committee as representing true savings.

“§ 126-49. *Awards.*—At the conclusion of the eligible fiscal year, the committee shall compare the expenditures for that year of each unit selected against the expenditures of that unit for the immediately preceding fiscal year and, after making such adjustments as in its judgment are required to eliminate distortions, shall determine the amount, if any, that the unit has reduced its cost of operations or increased its level of services in the eligible fiscal year. Adjustments to eliminate distortions may include any legislative increases in employee compensation and inflationary increases in the cost of services,

materials and supplies. If the committee shall also determine that in its judgment a unit qualifies for award, it shall award and is hereby authorized to award, with the approval of the Advisory Budget Committee, to the employees of that unit a sum not in excess of twenty-five percent (25%) of the amount determined to be the savings to the State for the level of services rendered. The amount awarded shall be divided and distributed in equal shares to the employees of the unit, except that employees who worked for that unit less than the full 12 months of the fiscal year shall receive only a pro rata share based on the fraction of the year worked for that unit. Funds for this incentive pay shall be drawn from the unit's principal department's ending balance for the eligible fiscal year.

“§ 126-50. *Annual report.*—The Secretary of Administration shall cause to be prepared and submitted to the General Assembly a comprehensive annual status report on the committee's activities, decisions, awards, and recommendations with respect to the employee incentive pay program.”

**Sec. 3.** This act shall become effective July 1, 1979, and will expire July 1, 1984. This act does not affect any existing policy during the existing term of the policy.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 863

## CHAPTER 946

AN ACT TO PERMIT THE REIMBURSEMENT FROM STATE FUNDS OF THE COST OF OPERATING COMMUNITY COLLEGE MOTOR VEHICLES FOR CERTAIN PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115D-27(a) is amended by changing the number of the present paragraph “(3)” to number “(4)”, and by inserting a new paragraph to read:

“(3) Current expense of operating an institution's motor vehicles to support any of the budget items in subdivision (2) of this subsection shall be reimbursable from State funds.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 400

## CHAPTER 947

AN ACT TO APPROPRIATE FUNDS FOR AN OFFICE BUILDING IN ANSON COUNTY FOR THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the Highway Fund to the Department of Transportation the sum of two hundred thousand dollars (\$200,000) for fiscal year 1979-80 for the purpose of constructing an office building in Anson County for use by personnel of the Division of Motor Vehicles and the Department of Crime Control and Public Safety.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 481

**CHAPTER 948**

AN ACT TO APPROPRIATE FUNDS FOR A HIGHWAY PATROL STATION IN CASWELL COUNTY FOR THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the Highway Fund to the Department of Transportation the sum of two hundred thousand dollars (\$200,000) for fiscal year 1979-80 for the purpose of constructing an office building in Caswell County for use by personnel of the Division of Motor Vehicles and the Department of Crime Control and Public Safety, as a Highway Patrol Station.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 490

**CHAPTER 949**

AN ACT TO APPROPRIATE FUNDS TO BE USED AS A GRANT-IN-AID TO THE AURORA FOSSIL MUSEUM.

Whereas, the phosphate mines near the Town of Aurora offer an unparalleled opportunity to study the geologic history of the east coast of the American continents dating back for many millions of years; and

Whereas, the values of this resource are of world-wide significance and have been recognized by the Smithsonian Museum, by university scholars, by the phosphate mining interests, by the United States Geologic Survey, and by other persons interested in geology and paleontology; and

Whereas, interested persons, realizing the great scientific, historical, educational and cultural values of the fossil resources in the area have worked together to create the Aurora Fossil Museum to provide the people of the entire State and of the nation with exhibits, educational program materials, and fossil exploration opportunities; and

Whereas, the Town of Aurora has provided a building, Beaufort County has provided funds for program materials and staff costs, the Washington Chamber of Commerce has funded program expenses, and many other businesses, industries, community groups and individuals have made contributions to the establishment and development of the Aurora Fossil Museum; 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 1979-80, the sum of ten thousand dollars (\$10,000), provided this sum is matched with an equal amount of funds which are not State funds, to be used as a grant-in-aid to the Aurora Fossil Museum to pay the costs of internal improvements in the building housing the Aurora Fossil Museum and the design and purchase of audio-visual hardware and equipment.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 494

## CHAPTER 950

### AN ACT TO APPROPRIATE FUNDS FOR HISTORIC HALIFAX STATE HISTORIC SITE.

Whereas, North Carolina was the first of all the thirteen colonies to take official action for independence by the all-important Halifax Resolves, April 12, 1776, thereby preceding by more than a month the Colony of Virginia; and

Whereas, our first State constitution was framed 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 historic part of the town Halifax has been developed as a State Historic Site by the Department of Cultural Resources; and

Whereas, more than one hundred fifty thousand dollars (\$150,000) worth of land and other property has been donated to the State at Halifax; and

Whereas, in order to keep on with the development schedule and to continue the services now offered to the thousands of school children who visit the site annually; 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, for use in the restoration of the Jail, the Historical Independency, and the construction of a new maintenance complex the sum of twenty thousand dollars (\$20,000) in fiscal year 1979-1980.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 502

## CHAPTER 951

### AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION FOR CONSTRUCTION OF A MULTI-PURPOSE STATE OFFICE BUILDING IN MONTGOMERY COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the Highway Fund to the Department of Administration, in addition to all other appropriations, the sum of one hundred thousand dollars (\$100,000) for fiscal year 1979-80. The funds appropriated in this act shall be used for construction of a multi-purpose State office building in Montgomery County. The office building shall be shared by the Division of Motor Vehicles, the Highway Patrol, the Department of Revenue, the Department of Correction, and any other State agency requiring office space in Montgomery County.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



## S. B. 504

## CHAPTER 952

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE RESTORATION  
OF THE NEWBOLD-WHITE HOUSE IN PERQUIMANS COUNTY.

Whereas, the Perquimans County Restoration Association, Incorporated, has committed itself to the acquisition, restoration, and dedication to the public of the Newbold-White House in Perquimans County; and

Whereas, this nonprofit corporation, with the assistance of the State and federal grants, private foundations, and citizens of the area, has undertaken the acquisition and restoration of this historic place for the use, education, and enjoyment of North Carolinians; and

Whereas, the Newbold-White House is situated on land granted to Joseph Scott in 1684 and is believed to be the oldest surviving dwelling house in North Carolina; and

Whereas, the General Assembly of North Carolina met at or near the site on several occasions between 1689 and 1697; and

Whereas, the house has been associated with personages of great importance in the early history of North Carolina; and

Whereas, the house is of architectural importance exhibiting the persistence of the medieval building practices and architectural forms better than any other structure in the State; and

Whereas, additional funds are required to complete the restoration of the Newbold-White House and its one original dependency, the root cellar; 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 1979-80 fiscal year the sum of ten thousand dollars (\$10,000) for the purpose of continuing the restoration of the Newbold-White House, provided an amount of ten thousand dollars (\$10,000) is raised by the Perquimans County Restoration Association, Incorporated, for that purpose. There is further appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1980-81 fiscal year the sum of seven thousand five hundred dollars (\$7,500) for the purpose of completing the restoration of the Newbold-White House and its one original dependency, the root cellar, provided an amount of seven thousand five hundred dollars (\$7,500) is raised by the Perquimans County Restoration Association, Incorporated, for that purpose.

**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 shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 507

**CHAPTER 953****AN ACT TO APPROPRIATE FUNDS IN HONOR OF THE WARREN COUNTY BICENTENNIAL CELEBRATION.**

Whereas, Warren County was created by an act of Legislature from Bute County on the 29th day of January, 1779, the eve of the American Revolution, and named for the American Patriot General Joseph Warren; and

Whereas, Warren County has contributed to the State of North Carolina four Governors, six Attorneys General, three Supreme Court Justices, and the only North Carolinian to ever serve as Speaker of the United States House of Representatives; and

Whereas, Warren County has a great number of distinctive homes and buildings within the county with almost the entire town of Warrenton being listed on the National Register of Historic Places; and

Whereas, Warren county has endeavored to preserve the best of its heritage without losing sight of its place in the future growth of North Carolina; 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 1979-80 the sum of two thousand five hundred dollars (\$2,500) which shall be available to the Warren County Historical Society for the Purpose of research, planning, and restoration of the James Holt House, provided a like amount is raised by the Warren County Historical Society.

**Sec. 2.** Funds appropriated in Section 1 of this act shall be expended only in accordance with G.S. 143-31.2.

**Sec. 3.** Funds appropriated in this act are in addition to all other moneys appropriated to the division.

**Sec. 4.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 540

**CHAPTER 954****AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION TO COMPLETE DETAILS OF RESTORATION OF THE STATE CAPITOL.**

Whereas, the State Capitol, constructed between 1833 and 1840, is one of the nation's finest surviving examples of the Greek Revival Style of architecture and has been designated a National Historic Landmark; and

Whereas, the State Capitol housed all of State government from 1840 until the 1880's and the General Assembly through 1961; and

Whereas, it is appropriate that the State of North Carolina accept responsibility for putting and keeping its Capitol in a condition worthy of its historic and symbolic importance; and

Whereas, the restoration of the State Capitol is nearing completion; and

Whereas, the State Capitol Foundation, Inc., a nonprofit, tax-exempt organization, is helping the State by obtaining gifts of money with which to finance the repair of the 1840 furnishings of the legislative chambers, to

purchase additional furnishings and equipment, and to help carry out an effective educational program for the thousands of visitors to the Capitol; and

Whereas, the State Capitol Foundation, Inc., has obtained for the benefit of the State gifts and pledges of money and artifacts valued at seventy-five thousand dollars (\$75,000); and

Whereas, substantial contributions have been made to the State Capitol by many former and current legislators and other individuals and by organizations such as the Sir Walter Cabinet, the Junior League of Raleigh, the Hillsdale Fund, the Raleigh Junior Woman's Club, the Girl Scouts, and others; and

Whereas, most of these contributions to the Capitol, particularly including the one by the Sir Walter Cabinet, are for the purpose of providing valuable antique furnishings and equipment to be placed in areas of the State Capitol where their security, protection, and educational use are highly questionable, due to the lack of adequate staffing in the Capitol; and

Whereas, several elements of the restoration work in the State Capitol remain unfinished; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of Administration for the 1979-80 fiscal year the sum of fifty-five thousand dollars (\$55,000) and for the 1980-81 fiscal year the sum of twelve thousand dollars (\$12,000) to complete the restoration of the State Capitol and to install an automated audiovisual system in the Capitol for the purpose of showing educational programs to school children and other visitors.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 685

## CHAPTER 955

AN ACT TO AMEND THE PROVISIONS OF THE COMMISSION ON PREPAID HEALTH PLANS AND TO APPROPRIATE FUNDS FOR FURTHER STUDY BY THE COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapter 1291 of the 1977 Session Laws is amended by adding at the end of Section 5 the following language:

"There is appropriated from the General Fund to the Department of Administration for the Commission on Prepaid Health Plans the sum of sixty thousand dollars (\$60,000) for fiscal year 1979-80. These funds shall be used to carry out feasibility studies recommended by the Commission."

**Sec. 2.** Section 6 of Chapter 1291 of the 1977 Session Laws is amended by deleting the date, "February 1, 1980" and substituting the date, "September 30, 1980".

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 722

**CHAPTER 956****AN ACT TO CREATE A COMMUNITY COLLEGE AND TECHNICAL INSTITUTE PLANNING COMMISSION.***The General Assembly of North Carolina enacts:*

**Section 1.** There is created a Community College and Technical Institute Planning Commission.

**1. Organization of the Commission.**

(a) The Commission shall consist of 13 members; three members shall be appointed by the Speaker of the House, three members shall be appointed by the President of the Senate and seven members shall be appointed by the Governor. The members of the Commission shall be appointed within 30 days of ratification of this act and they shall serve until termination of this Commission.

(b) If a vacancy occurs in the membership of the Commission, it shall be filled by action of the officer who appointed the former member who is to be replaced, and the person then appointed shall serve for the remainder of the term of the member whom he succeeds.

(c) The Commission shall hold its first meeting by July 15, 1979, when the members of the Commission shall elect one of their members as chairman and one as vice-chairman. The chairman shall preside at all meetings of the Commission and in his absence the vice-chairman shall act as chairman.

**2. Compensation and reimbursement of members.**

(a) Legislative members of the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1 from funds available to the Commission.

(b) Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rates set out in G.S. 138-6 from funds available to the Commission.

(c) Other members of the Commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates set out in G.S. 138-5 from funds available to the Commission.

**3. Staff support for the Commission.**

The Department of Community Colleges shall provide administrative and secretarial services to the Commission. The Commission may hire additional staff in its discretion.

**4. Duties of the Commission.**

The Commission shall explore ways and recommend a plan for the orderly transfer of the governance and administration of the Department of Community Colleges from the State Board of Education to the State Board of Community Colleges and Technical Institutes. During its exploration the Commission shall examine, evaluate and make recommendations on the following matters:

(a) the impact of a separate board of governance for community colleges and technical institutes in Chapter 115D of the General Statutes;

(b) the current method of funding and other methods of funding community colleges and technical institutes (including course offerings); and

(c) the classification and salary scale of employees of community colleges and technical institutes.



**5. Report by Commission.**

The Commission shall report 20 days prior to the 1979 General Assembly (Second Session, 1980). The report of the Commission shall summarize the information obtained during the course of its inquiry, and set forth its findings and conclusions. The Commission shall terminate upon the filing of its report.

**6. Appropriations to the Commission.**

There is appropriated to the Community College and Technical Institute Planning Commission from the General Fund of the State twenty-five thousand dollars (\$25,000) for fiscal year 1979-80. These funds shall be used to carry out the duties set forth in this act.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 776

**CHAPTER 957****AN ACT TO APPROPRIATE FUNDS FOR THE ACQUISITION OF LAND IN THE CITY OF FAYETTEVILLE AND FOR DESIGN FEES FOR A STATE OFFICE BUILDING TO BE LOCATED THEREON.**

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of Administration, in addition to all other appropriations, the sum two hundred fifty thousand dollars (\$250,000) for the fiscal year 1979-80, to be placed in a reserve for the future construction costs of a new State office building to be located in the City of Fayetteville. No funds shall be committed from this reserve without the prior approval of the Advisory Budget Commission.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 808

**CHAPTER 958****AN ACT TO APPROPRIATE FUNDS ON BEHALF OF ELBANKS WHITE.**

Whereas, Elbanks White, a black resident of Wilkes County, North Carolina, was arrested on the 24th day of April, 1976, and charged with the offense of second degree murder of one Shirley Billings; and

Whereas, the first trial of Elbanks White for said offense on August 10, 1976, resulted in a mistrial, and his second trial for said offense on August 29, 1976, resulted in a mistrial; and

Whereas, a judgment was finally entered for murder in the second degree on November 17, 1976, following his third trial for said offense; and

Whereas, a certified copy of the judgment from the Supreme Court entered on July 5, 1977, reversed the order of the trial court which entered the judgment of conviction of murder in the second degree on the basis of insufficient evidence; and

Whereas, Elbanks White remained incarcerated from his arrest on April 24, 1976, until certification of the judgment from the Supreme Court in July, 1977; and

Whereas, Elbanks White was employed by American Drew, Inc., Chair Plant Division, prior to his arrest in April, 1976, and was earning approximately ninety-two dollars (\$92.00) per week; and

Whereas, Elbanks White returned to his employment at American Drew in July, 1977, following his release from custody, and has been regularly employed and has been earning approximately one hundred forty dollars and eighty cents (\$140.80) per week; and

Whereas, no statutory authorization presently exists for the unjust confinement of Elbanks White while awaiting the court's decision in said matter; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The North Carolina Courts Commission, if created by House Bill 1437, 1979 Session, is directed to study the issues recited in the preamble to this act and shall report to the 1979 General Assembly, Second Session 1980.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 845

## CHAPTER 959

AN ACT TO MAKE THE PITT TECHNICAL INSTITUTE A COMPREHENSIVE COMMUNITY COLLEGE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Pitt Technical Institute, an institutional member of the North Carolina Community College System, is hereby created a comprehensive community college, which institution shall be subject to all provisions of the General Statutes of North Carolina pertaining to community colleges. The State Board of Education and the Board of Trustees of this community college shall provide for students enrolling in the institution such programs of instruction in occupational and academic education and training as shall be approved by the State Board of Education. Passage of this bill shall not obligate the General Assembly for an additional appropriation.

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 895

## CHAPTER 960

AN ACT TO APPROPRIATE FUNDS FOR THE GASTON COUNTY ART AND HISTORY MUSEUM IN DALLAS, NORTH CAROLINA.

*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 1979-80 the sum of ten thousand dollars (\$10,000) to be made available by the department as a grant-in-aid to the Gaston County Art and History Museum in Dallas, North Carolina for the development of exhibits and interpretative programs. The funds herein appropriated shall be made available to the Gaston County Art and History Museum on a dollar-for-dollar matching basis.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 896

## CHAPTER 961

AN ACT TO APPROPRIATE PLANNING MONEY FOR THE NEW  
HAMPTON MARINER'S MUSEUM BUILDING AT BEAUFORT IN  
CARTERET COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Department of Agriculture the sum of eighty-five thousand dollars (\$85,000) for fiscal year 1979-80 as planning money for the New Hampton Mariner's Museum Building at Beaufort in Carteret County.

**Sec. 2.** There is appropriated from the General Fund to the Department of Agriculture the sum of fifteen thousand dollars (\$15,000) for fiscal year 1979-80 and fifteen thousand dollars (\$15,000) for fiscal year 1980-81 as operating money for the New Hampton Mariner's Museum Building at Beaufort in Carteret County to fund a curator's position.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 915

## CHAPTER 962

AN ACT TO APPROPRIATE FUNDS TO PROMOTE PRODUCTION OF  
THE OUTDOOR DRAMA "FROM THIS DAY FORWARD".

Whereas, the Waldenses of Italy were persecuted during the Middle Ages because of their religious convictions which were in conflict with the established church; and

Whereas, the Waldenses fled into the small valleys of the rugged Cottian Alps between Italy and France to escape persecution; and

Whereas, Charles Albert, King of Sardinia, granted religious freedom to the Waldenses on February 17, 1848, thereby suspending persecution and restraint; and

Whereas, the Waldenses outgrew the small valleys which they inhabited and cultivated; and

Whereas, in 1893, a group of Waldenses purchased 15,000 acres of land in the foothills of the Blue Ridge Mountains of North Carolina; and

Whereas, the Waldenses have been a significant part of our North Carolina history and its people; and

Whereas, the outdoor drama "From This Day Forward" which is produced by the Old Colony Players, tells the story of these settlers in Valdese, North Carolina, who sacrificed for principle and who struggled to overcome poverty; and

Whereas, the drama "From This Day Forward" is entering its tenth season, attracting tourists from other states and nations; 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 hereby appropriated from the General Fund to Old Colony Players, producers of the outdoor drama "From This Day Forward", the sum of five thousand dollars (\$5,000) for the fiscal year 1979-80 and five thousand dollars (\$5,000) for the fiscal year 1980-81. In addition, the Governor and Council of State, in the event additional State aid is reasonably necessary for the production of said drama, are authorized and empowered to allot a sum not exceeding five thousand dollars (\$5,000) a year from the Contingency and Emergency Fund to aid in the production of said drama, such allotment, however, to be made only upon evidence submitted to the Governor and Council of State by the producers of said outdoor drama that during the immediately preceding season of production, because of inclement weather or other circumstances of factors beyond the control of the producers, said outdoor drama was operated at a deficit.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 925

## CHAPTER 963

### AN ACT TO APPROPRIATE FUNDS TO THE UTILITIES COMMISSION PUBLIC STAFF.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Utilities Commission Public Staff for fiscal year 1979-80 the sum of ninety-six thousand ninety-nine dollars (\$96,099), and for fiscal year 1980-81, the sum of eighty-three thousand four hundred twenty-six dollars (\$83,426) in order to employ two engineers, one accountant, one secretary, and necessary office equipment.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 717

## CHAPTER 964

### AN ACT TO REVISE THE PLANT PROTECTION AND CONSERVATION LAWS.

Whereas, the many different species of native plants found within the borders of North Carolina add to the beauty, interest and cultural variety of the State and also add significantly to the quality of life of our citizens and many visitors; and

Whereas, significant changes in conservation practices, population pressures, recreational activities, public attitudes and botanical knowledge over the past three decades are not reflected in laws originally designed to help preserve the rare, beautiful, or botanically unique elements of our native plant heritage; and

Whereas, current native plant protection laws are inflexible in protecting certain plants no longer in need of protection, and inadequate in failing to provide for more realistic protection of those plants that require additional protection for survival; and

Whereas, the laws are not adequate to prevent the further dangerous reduction in numbers, and possible extinction of certain rare, ecologically restricted, unusual, or botanically unique plants; Now, therefore,



*The General Assembly of North Carolina enacts:*

**Section 1.** A new Article is added to Chapter 106 of the General Statutes to read:

“Article 20.

“Plant Protection and Conservation Act.

“§ 106-202.1. *Definitions.*—As used in this Article, unless the context requires otherwise:

(a) ‘Board’ means the North Carolina Plant Conservation Board as provided in this Article.

(b) ‘Commissioner’ means the Commissioner of Agriculture.

(c) ‘Conserve’ and ‘conservation’ mean to use, and the use of, all methods and procedures for the purposes of increasing the number of individuals of resident species, of plants up to adequate levels to assure their continuity in their ecosystems. These methods and procedures include all activities associated with scientific resource conservation such as research, census, law enforcement, habitat protection, acquisition and maintenance, propagation, and transplantation into unoccupied parts of historic range. With respect to endangered and threatened species, the terms mean to use, and the use of, methods and procedures to bring any endangered or threatened species to the point at which the measures provided for the species are no longer necessary.

(d) ‘Endangered species’ means any species or higher taxon of plant whose continued existence as a viable component of the State’s flora is determined to be in jeopardy by the Board; also, any species of plant determined to be an ‘endangered species’ pursuant to the Endangered Species Act.

(e) ‘Endangered Species Act’ means the Endangered Species Act of 1973, Public Law 93-205 (87 Stat. 884), as it may be subsequently amended.

(f) ‘Exotic species’ means a species or higher taxon of plant not native or naturalized in North Carolina but appearing in the Federal Endangered and Threatened Species list or in the appendices to the International Treaty on Endangered and Threatened Species.

(g) ‘Plant’ means any member of the plant kingdom, including seeds, roots and other parts or their propagules.

(h) ‘Protected plant’ means a species or higher taxon of plant adopted by the Board to protect, conserve, and/or enhance the plant species and includes those the Board has designated as endangered, threatened, or of special concern.

(i) ‘Resident plant or resident species’ means a native species or higher taxon of plant growing in North Carolina.

(j) ‘Scientific committee’ means the North Carolina Plant Conservation Scientific Committee.

(k) ‘Special Concern Species’ means any species of plant in North Carolina which requires monitoring but which may be collected and sold under regulations adopted under the provisions of this act.

(l) ‘Threatened species’ means any resident species of plant which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, or one that is designated as threatened by the Federal Fish and Wildlife Service.

“§ 106-202.2. *Declaration of policy.*—The General Assembly finds that the recreational needs of the people, the interests of science, and the economy of the State require that threatened and endangered species of plants and species of plants of special concern be protected and conserved, that their numbers should

be enhanced and that propagative techniques be developed for them; however, nothing in this Article shall be construed to limit the rights of a property owner, without his consent, in the management of his lands for agriculture, forestry, development or any other lawful purpose.

“§ 106-202.3. *Creation of Board; membership, terms, chairman, quorum, compensation.*—(a) The North Carolina Plant Conservation Board is created within the Department of Agriculture.

(b) The Board shall consist of seven members who are residents of North Carolina, one of whom represents each of the following:

- (1) The North Carolina Botanical Garden of The University of North Carolina at Chapel Hill;
- (2) the botanical, scientific community in North Carolina;
- (3) the Division of Forest Resources, Department of Natural Resources and Community Development;
- (4) a North Carolina citizens conservation organization;
- (5) the commercial plant production industry in North Carolina;
- (6) the Department of Agriculture;
- (7) the North Carolina public at large.

The Governor shall appoint the first four members enumerated above; the Commissioner shall appoint the remaining three members.

(c) Initial appointments to the Board shall be made by October 1, 1979. Of the terms of initial appointees, the representatives of the North Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the commercial plant production industry in North Carolina, and a North Carolina citizens conservation organization shall serve two-year terms; all other members shall serve four-year terms. All subsequent terms shall be for four-year terms.

(d) All members shall hold their offices until their successors are appointed and qualified. Any vacancy occurring in the membership of the Board prior to the expiration of the term shall be filled for the remainder of the unexpired term. The Commissioner may at any time remove any member from the Board for cause. Each appointment to fill a vacancy in the membership of the Board shall be of a person having the proper credentials for that vacancy and appointed by the proper appointing agency.

(e) The Board shall select its chairman from its own membership to serve for a term of two years. The chairman shall have a full vote. Any vacancy occurring in the chairmanship shall be filled by the Board for the remainder of the term. The Board may select other officers as it deems necessary.

(f) Any action of the Board shall require at least four concurring votes.

(g) Members of the Board who are not State employees shall receive per diem, subsistence and travel allowances authorized by G.S. 138-5; members who are State employees shall receive the subsistence and travel allowances authorized by G.S. 138-6; and members who are also members of the General Assembly shall receive subsistence and travel allowances authorized by G.S. 120-3.1.

“§ 106-202.4. *Powers and duties of the Board.*—The Board shall have the following powers and duties: (a) to adopt and publish by July 1, 1980, an endangered species list, a threatened species list and a list of species of special concern, as provided for in G.S. 106-202.5, identifying each entry by the common name and scientific name and cross-referencing by family, genus, and species number as found in the current edition of ‘The Manual of the Vascular

Flora of the Carolinas', or if not found in this edition, as identified by the American Society of Plant Taxonomists;

(b) to reconsider and revise the lists from time to time in response to public proposals and as the Board deems necessary;

(c) to conserve and to regulate the collection and shipment of those plant species or higher taxa that are of such similarity to endangered and threatened species that they cannot be easily or readily distinguished from an endangered or threatened species;

(d) to regulate within the State any exotic species, in the same manner as a resident species if the exotic species is on the Federal Endangered and Threatened Species list or it is listed in the Appendices to the International Treaty to Conserve Endangered and Threatened Species;

(e) to determine that certain plant species growing in North Carolina, whether or not they are on the endangered or threatened species list, are of special concern and to limit, regulate or forbid sale or collection of these plants;

(f) to conduct investigations to determine whether a plant should be on the protected plant lists and the requirements for survival of resident species of plants;

(g) to adopt regulations to protect, conserve and enhance resident and exotic species of plants on the lists, or to otherwise affect the intent of this Article;

(h) to develop, establish and coordinate conservation programs for endangered species and threatened species of plants, consistent with the policies of the Endangered Species Act, including the acquisition of rights to land or aquatic habitats;

(i) to enter into and administer cooperative agreements through the Commissioner of Agriculture, in concert with the North Carolina Botanical Garden and other agencies, with the U. S. Department of Interior or other federal, State or private organizations concerning endangered and threatened species of plants and their conservation and management;

(j) to cooperate or enter into formal agreements with any agency of any other state or of the federal government for the purpose of enforcing any of the provisions of this Article;

(k) through the Commissioner, to receive funds, donations, grants or other monies, issue grants, enter contracts, employ personnel and purchase supplies and materials necessary to fulfill its duties;

(l) to promulgate regulations under which the Department of Agriculture may issue permits to licensed nurserymen, commercial growers, scientific supply houses and botanical gardens for the sale or distribution of plants on the protected list provided that the plants are nursery propagated and grown horticulturally from seeds or by vegetative propagation of cuttings, meristems or other similar materials and that the plants bear the grower's permit number.

*"§ 106-202.5. Criteria and procedures for placing plants on protected plant lists.—(a) All native or resident plants which are on the current federal lists of endangered or threatened plants pursuant to the Endangered Species Act have the same status on the North Carolina Protected Plants lists.*

*(b) The Board, the Scientific Committee, or any resident of North Carolina may propose to the Department of Agriculture that a plant be added to or removed from a protected plant list.*

(c) If the Board, with the advice of the Scientific Committee, finds that there is any substance to the proposal, it shall publish notice of the proposal in a Department of Agriculture news release.

(d) The Board shall collect relevant scientific and economic data, concerning any substantial proposal, necessary to determine:

- (1) whether or not any other State or federal agency or private entity is taking steps to protect the plant under consideration;
- (2) the present or threatened destruction, modification or curtailment of its habitat;
- (3) overutilization for commercial, scientific, educational or recreational purposes;
- (4) critical depletion from disease or predation;
- (5) the inadequacy of existing regulatory mechanisms; or
- (6) other natural or man-made factors affecting its continued existence in North Carolina.

The Board, with the advice of the Scientific Committee, shall tentatively determine what action is warranted with regard to each proposal. Notice of the determination shall be given in accordance with the Administrative Procedures Act, G.S. 150A-1 et seq., and in a Department of Agriculture news release and by mail to all persons who have made an annual request to receive notification.

(e) The Board shall hold at least one public hearing on each substantive proposal, in accordance with the Administrative Procedures Act, G.S. 150A-1 et seq.

(f) If the Board determines that an emergency situation exists involving the continued existence of a plant species or higher taxon as a viable component of the State's wild flora it may add that species or taxon to the lists following emergency procedures outlined in the Administrative Procedures Act, G.S. 150A-1 et seq.

“§ 106-202.6. *Creation of committee; membership, terms, chairman, meetings, quorum, compensation.*—(a) The North Carolina Plant Conservation Scientific Committee is created within the Department of Agriculture.

(b) The Scientific Committee shall consist of the Directors of The University of North Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the North Carolina Museum of Natural History and the North Carolina Natural Heritage Program of the Department of Natural Resources and Community Development or their designees, a representative of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a representative of the Garden Club of North Carolina, Incorporated, the North Carolina Chapter of the Nature Conservancy or the North Carolina Wild Flower Preservation Society, Inc., appointed by the Commissioner. Members shall serve for three-year terms and may succeed themselves.

(c) The Board shall select a chairman of the Scientific Committee from the Scientific Committee's membership to serve for three years.

(d) The Scientific Committee may hold its meetings at the North Carolina Botanical Garden of The University of North Carolina at Chapel Hill.

(e) Any action of the Scientific Committee shall require at least four concurring votes.



(f) Members of the Scientific Committee who are not State employees may receive per diem, subsistence and travel allowances authorized by G.S. 138-5 if they so request; members who are State employees may receive the subsistence and travel allowances authorized by G.S. 138-6 if they so request; and members who are also members of the General Assembly may receive subsistence and travel allowances authorized by G.S. 120-3.1 if they so request.

“§ 106-202.7. *Powers and duties of the Scientific Committee.*—The Scientific Committee shall have the following powers and duties:

(a) to gather and provide information and data and advise the Board with respect to all aspects of the biology and ecology of endangered and threatened plant species;

(b) to develop and present to the Board management and conservation practices for preserving endangered or threatened plant species;

(c) to recommend habitat areas for acquisition to the extent that funds are available or expected;

(d) to investigate and make recommendations to the Board as to the status of endangered, threatened plant species, or species of special concern;

(e) to make recommendations to the Board concerning regulation of the collection and shipment of endangered or threatened plant species within North Carolina;

(f) to review and comment on botanical aspects of environmental impact statements prepared by North Carolina agencies or other agencies as appropriate; and

(g) to advise the Board on matters submitted to the Scientific Committee by the Board or the Commissioner which involve technical questions and the development of pertinent rules and regulations, and make any recommendations as deemed by the Scientific Committee to be worthy of the Board's consideration.

“§ 106-202.8. *Unlawful act, penalties, enforcement.*—(a) It is unlawful:

(1) to uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial use;

(2) to sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other promotional purpose any plant on a protected plant list, except as authorized according to the rules and regulations of the Board; including those promulgated pursuant to G.S. 106-202.4(1);

(3) to perform any act specifically prohibited by the rules and regulations of the Board promulgated pursuant to its authority under G.S. 106-202.4.

The illegal movement or distribution of each plant, pursuant to this subsection shall constitute a separate violation.

Each person convicted of violating the provisions of this act, shall be fined not less than one hundred dollars (\$100.00), upon the first conviction and not less than five hundred dollars (\$500.00) upon a subsequent conviction.

(b) The Commissioner or any employee of the Department of Agriculture designated by the Commissioner to enforce the provisions of this Article, may enter any place within the State at all reasonable times where plant materials are being grown, transported or offered for sale and require the presentation for inspection of all pertinent papers and records relative to the provisions of this Article, after giving notice in writing to the owner or custodian of the premises to be entered. If he refuses to consent to the entry, the Commissioner may apply to any district court judge and the judge may order, without notice, that the owner or custodian of the place permit the Commissioner to enter the place for the purposes herein stated and failure by any person to obey the order may be punished as for contempt.

(c) The Commissioner of Agriculture is authorized to apply to the superior court for, and the court shall have jurisdiction upon hearing and, for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of G.S. 106-202.8(a), regardless of whether there exists an adequate remedy at law."

**Sec. 2.** G.S. 14-128.1 and G.S. 14-129.1 are repealed.

**Sec. 3.** There is appropriated from the General Fund to the Department of Agriculture thirty-one thousand sixty-seven dollars (\$31,067) for the 1979-80 fiscal year and thirty thousand six hundred forty dollars (\$30,640) for the 1980-81 fiscal year, to carry out the provisions of this act.

**Sec. 4.** Section 1 of this act is effective upon ratification. Section 2 shall become effective July 1, 1980. Section 3 shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 730

## CHAPTER 965

### AN ACT TO AMEND CHAPTER 118 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE FIREMEN'S PENSION FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 118 of the General Statutes is amended by adding a new section in Article 3 following G.S. 118-24.1 to be designated as Section 118-24.2 and to read as follows:

"§ 118-24.2. *Additional retroactive membership.*—Any fireman who is now eligible and who has not previously elected to become a member may make application through the board of trustees heretofore created for membership in said fund on or before June 30, 1980; provided, that such person shall make a lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of six percent (6%) for each year of his retroactive payments. Upon making such lump sum payment, such person will be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible; provided, further, that any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for such prior service upon lump sum payment of five dollars (\$5.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of six percent (6%) for each year of his retroactive payments. Upon making such lump sum payments, the date of

membership would be the same as if he had made application for membership at the time he was first eligible.”

**Sec. 2.** There is appropriated from the General Fund to the Office of State Auditor, in addition to all other appropriations, the sum of one hundred thousand dollars (\$100,000) for the fiscal year 1979-80, to be placed in the North Carolina Firemen's Pension Fund to fund the additional retroactive memberships authorized by Section 1 of this act, and also to be used for the same purposes as may other monies in the fund.

**Sec. 3.** Nothing in this act shall be construed as modifying or changing any provisions of Article 3 of Chapter 118 of the General Statutes except as expressly provided.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 862

## CHAPTER 966

## AN ACT TO FUND NAVIGATION AND BEACH RESTORATION PROJECTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of three hundred fifty thousand dollars (\$350,000) in fiscal year 1979-80 and three hundred fifty thousand dollars (\$350,000) in fiscal year 1980-81 as a Reserve for Navigation and Beach Restoration Projects.

**Sec. 2.** In the event unanticipated General Fund revenues are realized during the 1979-81 biennium as a result of statutes enacted by the 1979 General Assembly, up to two million eight hundred thousand dollars (\$2,800,000) of such unanticipated revenues is hereby appropriated for the fiscal year or years in which the revenues accumulate to the Department of Natural Resources and Community Development for statewide beach restoration, and with the approval of the Director of the Budget and the Advisory Budget Commission, the Department may use these funds to meet the matching requirements of a federal grant or grants for statewide beach restoration.

**Sec. 3.** No funds appropriated in this act or any other State funds shall be expended for beach restoration projects or for grants for beach restoration, for any beaches where, in the opinion of the Department, reasonably adequate public access to the State owned portion of the ocean beach is not available.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 922

## CHAPTER 967

AN ACT TO AMEND CHAPTER 50 OF THE GENERAL STATUTES TO REQUIRE CHILD CUSTODY AWARD ORDERS TO CONTAIN FINDINGS OF FACT TO SUPPORT SUCH ORDERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 50-13.2(a) is hereby amended by adding a new sentence immediately following the word "child." and immediately preceding the word "Provided" on line 4 of that subsection to read as follows:

"An order awarding custody must contain findings of fact which support the determination by the judge of the best interest of the child."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 936

## CHAPTER 968

AN ACT TO PROVIDE FOR THE STUDY OF BLACK HISTORY IN NORTH CAROLINA.

Whereas, the Division of Archives and History, Department of Cultural Resources, has undertaken a number of recent projects relating to black history including a major museum exhibition on the black presence in North Carolina, a survey of significant black historic sites in the State, and a special effort to commemorate significant black leaders and places through the highway historical marker program; and

Whereas, the above-mentioned projects are part of an ongoing commitment of the Division of Archives and History to foster the study of black history in North Carolina; 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 fiscal year 1979-80 and the sum of fifteen thousand dollars (\$15,000) for the fiscal year 1980-81 to be used to coordinate the study of black history in North Carolina, to stage a major symposium on black history, to provide for the purchase of black-related artifacts for the Museum of History, to survey the State archives for black-related documents, to complete a survey of black historic sites in North Carolina, and to publish works on black history.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



## S. B. 945

## CHAPTER 969

## AN ACT TO AMEND CHAPTER 849 OF THE 1979 SESSION LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 24-10(a), as the same appears in Chapter 849 of the 1979 Session Laws, is amended by inserting in the first sentence after the phrase "may pay to the lender" and before the phrase "fees or discounts", the following language "in connection with the making of a loan".

**Sec. 2.** This act shall become effective upon the ratification of Senate Bill 709 as Chapter 849 of the 1979 Session Laws.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 146

## CHAPTER 970

## AN ACT TO REQUIRE A DUPLICATE LICENSE WHEN A LICENSEE'S ADDRESS CHANGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-7.1 is hereby rewritten to read as follows:

"§ 20-7.1. *Notification of change of address.*—Whenever the holder of a license issued under the provision of G.S. 20-7 has a change in the address as shown on such license, he or she shall apply for a duplicate license within 60 days after such address has been changed."

**Sec. 2.** This act shall become effective on October 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 381

## CHAPTER 971

## AN ACT FOR THE DEFENSE OF CERTAIN PUBLIC SCHOOL EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-146.1 is added to the General Statutes as follows:

"§ 115-146.1. *Scope of duty of teachers to include some medical care.*—It is within the scope of duty of teachers, including substitute teachers, teachers' 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 savings 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."

**Sec. 2.** A new Article is added to Chapter 143 of the General Statutes to read as follows:

"ARTICLE 31B.

“Defense of Public School Employees.

“§ 143-300.7. *Definition of public school employee.*—For the purpose of this Article, a public school employee is a person whose major responsibility is to teach or directly supervise teaching and who is employed in either a full-time or part-time capacity, including, but not limited to, the superintendent, assistant or associate superintendent, principal, assistant principal, classroom teacher, substitute teacher, supervisor, teacher aide, student teacher, or school nurse.

“§ 143-300.8. *Defense of public school employees.*—Except as provided in G.S. 143-300.9, the State shall provide defense counsel for the employee against whom a claim is made or civil action is commenced for personal injury on account of an act done or omission made in the course of the employee’s duties under G.S. 115-146.1; provided that, no later than 30 days after the employee is notified of a claim or 10 days after the employee is served with complaint of the injured party, the employee gives written notice of the claim or action to the Attorney General which notice shall include:

- (1) the name and address of the claimant and his attorney;
- (2) a concise statement of the basis of the claim;
- (3) the name and address of any other employees involved; and

(4) a copy of any correspondence received by the employee and legal documents served on the employee pertaining to the claim or civil action.

“§ 143-300.9. *Refusal of defense.*—The Attorney General may refuse to defend an employee for any of the reasons listed in G.S. 143-300.4(a).

“§ 143-300.10. *Payment of judgments and settlement of claims.*—(a) Any final judgment awarded against an employee in an action which meets the requirements of G.S. 143-300.8, or any amount payable under a settlement of such an action, shall be paid from the appropriation for the payment of State Tort Claims, except that no payment shall be made from that appropriation for any judgment for punitive damages. Nothing in this section shall be deemed to waive the sovereign immunity of the State with respect to a claim covered under this section or authorize the payment of any judgment or settlement against a public school employee in excess of the limit provided in the Tort Claims Act.

(b) The Attorney General may settle any claim to which this Article applies which he finds valid. In any case in which the Attorney General has stated in writing that private counsel ought to be provided because of a conflict with the interests of the State, any settlement shall be approved by the private counsel and the Attorney General.

(c) The coverage afforded an employee under this Article is excess coverage over any commercial insurance liability that the employee may have.

“§ 143-300.11. *Employee’s obligation for attorney fees.*—If any employee has been defended by the Attorney General, or if the State has provided private counsel for an employee, and judgment rendered on the claim establishes that the act or omission complained of did not meet the requirements of G.S. 115-146.1, the judgment against the employee may provide for payment to the State of its costs including a reasonable attorney fee.

“§ 143-300.12. *Protection is additional.*—The protection to employees provided in this Article is in addition to any other protection provided in the General Statutes.”

**Sec. 3.** Section 2 of this act shall become effective July 1, 1979 and applies to all civil actions commenced on or after that date, and to all claims based upon conduct occurring on or after that date.

**Sec. 4.** Section 1 of this act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 698

## CHAPTER 972

AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES  
RELATING TO RETIREMENT AND MEDICAL AND CONTRIBUTION  
PLANS FOR EMPLOYEES OF THE GENERAL ASSEMBLY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-1(10) is amended by deleting, in line 6, the words "or officer," and by inserting in line 7, following the word "employee" the following sentence: "Notwithstanding any other provision of law, 'employee' shall include all employees of the General Assembly except participants in the Legislative Intern Program and pages."

**Sec. 2.** G.S. 135-3(1) is amended by adding a new sentence at the end to read as follows:

"On or after July 1, 1979, upon election, appointment or employment, a Legislative Employee shall automatically become a member of the Teachers' and State Employees' Retirement System."

**Sec. 3.** G.S. 135-4(e) is amended by adding a new paragraph at the end of the subsection to read as follows:

"On or after July 1, 1979, a member who has obtained sixty (60) months of aggregate service, or five (5) years of membership service, as an employee of the North Carolina General Assembly, except Legislators, participants in the Legislative Intern Program and pages, may make a lump sum payment together with interest, and an administrative fee for such service, to the Teachers' and State Employees' Retirement System of an amount equal to what he would have contributed had he been a member on his first day of employment."

**Sec. 4.** This first paragraph of G.S. 135-5(1) is amended by deleting ";" from the end of the subparagraph numbered (3) substituting ", or", and adding a new subparagraph to read as follows:

"(4) The compensations on which contributions were made by the member during the highest 12-month period of the prior 24-month period ending on the last day of the month on which his death occurs."

**Sec. 5.** The first sentence of G.S. 135-33 is rewritten to read as follows:

"The Board of Trustees of the Retirement System shall formulate, establish and administer for teachers and State employees, including all employees of the General Assembly except participants in the Legislative Intern Program and pages, a program of hospital and medical care benefits to the extent that funds for such benefits are specifically appropriated by the General Assembly."

**Sec. 6.** The first sentence of G.S. 135-34 is rewritten to read as follows:

"The Board of Trustees of the Retirement System shall formulate, establish and administer for teachers and State employees with one or more years of service, including all employees of the General Assembly except participants in the Legislative Intern Program and pages, a program of disability salary

continuation benefits to the extent that funds for such benefits are specifically appropriated by the General Assembly.”

**Sec. 7.** G.S. 135-36 is amended by adding, on line 5, after the word “employees” the words “and all employees of the General Assembly except participants in the Legislative Intern Program and pages,”.

**Sec. 8.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 753

## CHAPTER 973

### AN ACT TO AMEND THE DUTIES AND MEMBERSHIP COMPOSITION OF THE CONSUMER AND ADVOCACY ADVISORY COMMITTEE FOR THE BLIND.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-163(a) is amended by adding the following at the end thereof:

“This committee shall make a continuing study of the entire range of problems and needs of the blind and visually impaired population of this State and make specific recommendations to the Secretary of Human Resources as to how these may be solved or alleviated through legislative action. The committee shall examine national trends and programs of other states, as well as programs and priorities in North Carolina. Because of the cost of treating persons who lose their vision, the committee’s role shall also include studying and making recommendations to the Secretary of Human Resources concerning methods of preventing blindness and restoring vision.”

**Sec. 2.** G.S. 143B-164(a) is rewritten to read:

“(a) The Consumer and Advocacy Advisory Committee for the Blind of the Department of Human Resources shall consist of the following members:

- (1) one member of the North Carolina Senate to be appointed by the Lieutenant Governor;
- (2) one member of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;
- (3) President and Vice-President of the National Federation of the Blind of North Carolina;
- (4) President and Vice-President of the North Carolina Council of the Blind;
- (5) President and Vice-President of the North Carolina Association of Workers for the Blind;
- (6) President and Vice-President of the North Carolina Chapter of the American Association of Workers for the Blind;
- (7) Chairman of the State Council of the North Carolina Lions and Executive Director of the North Carolina Lions Association for the Blind, Inc.;
- (8) Chairman of the Concession Stand Committee of the Division of Services for the Blind of the Department of Human Resources; and
- (9) Executive Director of the North Carolina Society for the Prevention of Blindness, Inc.

With respect to members appointed from the General Assembly, these appointments shall be made in the odd-numbered years, and the appointments



shall be made for two-year terms beginning on the first day of July and continuing through the 30th day of June two years thereafter; provided, such appointments shall be made within two weeks after ratification of this act, and the first members which may be so appointed prior to July 1 of the year of ratification shall serve through the 30th day of June of the second year thereafter. If any committee member appointed from the General Assembly ceases to be a member of the General Assembly, for whatever reason, his position on the committee shall be deemed vacant. In the event that either committee position which is designated herein to be filled by a member of the General Assembly becomes vacant during a term, for whatever reason, a successor to fill that position shall be appointed for the remainder of the unexpired term by the person who made the original appointment or his successor. Provided members appointed by the Lieutenant Governor and the Speaker of the House shall not serve more than two complete consecutive terms.

With respect to the remaining committee members, each officeholder shall serve on the committee only so long as he holds the named position in the specified organization. Upon completion of his term, failure to secure reelection or appointment, or resignation, the individual shall be deemed to have resigned from the committee and his successor in office shall immediately become a member of the committee. Further, if any of the above-named organizations dissolve or if any of the above-stated positions no longer exist, then the successor organization or position shall be deemed to be substituted in the place of the former one and the office holder in the new organization or of the new position shall become a member of the committee."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1034

## CHAPTER 974

### AN ACT TO AMEND THE DEATH BENEFIT PLAN PROVIDED BY THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 128-27(l) is amended to read:

"(l) *Death Benefit Plan.*—There is hereby created a Group Life Insurance Plan (hereinafter called the 'Plan') which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

(1) the compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or

(2) the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his death occurs, or

(3) if the member had applied for and was entitled to receive a disability retirement allowance under the System and such disability retirement allowance had not been discontinued or revoked within 366 days of his last date of actual service, the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his last day of actual service occurred; subject to a maximum of twenty thousand dollars (\$20,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of this Plan, a member shall be deemed to be in service at the date of his death if his last day of actual service occurred not more than 90 days before the date of his death or if his last day of actual service occurred not more than 366 days before the date of his death if such member during said one-year period had applied for and was entitled to receive a disability retirement allowance under the System, provided said disability retirement allowance had not been discontinued or revoked during said one-year period.

The death benefit provided in this subsection shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

- (1) after June 30, 1969 and after he has attained age 70; or
- (2) after December 31, 1969 and after he has attained age 69; or
- (3) after December 31, 1970 and after he has attained age 68; or
- (4) after December 31, 1971 and after he has attained age 67; or
- (5) after December 31, 1972 and after he has attained age 66; or
- (6) after December 31, 1973 and after he has attained age 65; or
- (7) after December 31, 1978 and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations

adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

(1) For the purpose of determining eligibility only, in this subsection 'calendar year' shall mean any period of 12 consecutive months. For all other purposes in this subsection 'calendar year' shall mean the 12 months beginning January 1 and ending December 31.

(2) Last day of actual service shall be:

a. when employment has been terminated, the last day the member actually worked.

b. when employment has not been terminated, the date on which an absent member's sick and annual leave expire.

(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 128-26(g).

(4) A member on leave of absence from his position as a local governmental employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit, if applicable. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a local governmental employee during the 12-month period immediately prior to the month in which death occurred, not to exceed twenty thousand dollars (\$20,000).

The provisions of the Retirement System pertaining to Administration, G.S. 128-28, and Management of fund, G.S. 128-29, are hereby made applicable to the Plan."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1035

## CHAPTER 975

### AN ACT TO AMEND THE DEATH BENEFIT PLAN PROVIDED BY THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-5(l) is amended to read:

"(l) *Death Benefit Plan.*—There is hereby created a Group Life Insurance Plan (hereinafter called the 'Plan') which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

(1) the compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or

(2) the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his death occurs, or

(3) if the member had applied for and was entitled to receive a disability retirement allowance under the System and such disability retirement allowance had not been discontinued or revoked within 366 days of his last date of actual service, the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his last day of actual service occurred; subject to a maximum of twenty thousand dollars (\$20,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purposes of this Plan, a member shall be deemed to be in service at the date of his death if his last day of actual service occurred not more than 90 days before the date of his death or if his last day of actual service occurred not more than 366 days before the date of his death if such member during said one-year period had applied for and was entitled to receive a disability retirement allowance under the System, provided said disability retirement allowance had not been discontinued or revoked during said one-year period.

The death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

(1) after December 31, 1968 and after he has attained age 70; or

(2) after December 31, 1969 and after he has attained age 69; or

(3) after December 31, 1970 and after he has attained age 68; or

(4) after December 31, 1971 and after he has attained age 67; or

(5) after December 31, 1972 and after he has attained age 66; or

(6) after December 31, 1973 and after he has attained age 65; or

(7) after December 31, 1978 and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods



for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

(1) For the purpose of determining eligibility only, in this subsection 'calendar year' shall mean any period of 12 consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this subsection 'calendar year' shall mean the 12 months beginning January 1 and ending December 31.

(2) Last day of actual service shall be:

a. when employment has been terminated, the last day the member actually worked.

b. when employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).

(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).

(4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to exceed twenty thousand dollars (\$20,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and Management of funds, G.S. 135-7, are hereby made applicable to the Plan."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1040

## CHAPTER 976

AN ACT TO ADD A MEMBER OF THE HOUSE OF REPRESENTATIVES, A MEMBER OF THE SENATE, AND A RETIRED LAW ENFORCEMENT OFFICER TO THE MEMBERSHIP OF THE BOARD OF COMMISSIONERS OF THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-166(b) is rewritten to read:

"(b) For the purpose of determining the recipients of benefits under this article and the amounts thereof to be disbursed and for formulating and making such rules and regulations as may be essential for the equitable and impartial distribution of such benefits to and among the persons entitled to such benefits, there is hereby created a board to be known as 'The Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund'. The membership of the Board of Commissioners shall consist of 10 members, as follows:

(1) the State Treasurer, who shall be chairman ex officio;

- (2) the State Auditor, who shall be a member ex officio;
- (3) the State Insurance Commissioner, who shall be a member ex officio;
- (4) five members to be appointed by the Governor and to serve at his will, one of whom shall be a sheriff, one a police officer, one a law enforcement officer employed by the State, one a retired law enforcement officer in receipt of an allowance from the Retirement Fund, and one representing the public at large;
- (5) two members, one a member of the House of Representatives to be appointed by the Speaker of the House and one a member of the Senate to be appointed by the President of the Senate, neither of whom shall be an active or retired law enforcement officer, to serve terms beginning July 1, 1979 for the duration of their current terms of office with their successors thereafter appointed for two-year terms to run concurrently with the organization of the General Assembly."

**Sec. 2.** G.S. 143-166(c) is repealed.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1141

## CHAPTER 977

### AN ACT TO ADD THREE OPTICIANS TO THE PROFESSIONAL ADVISORY COMMITTEE OF THE DEPARTMENT OF HUMAN RESOURCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first two paragraphs of G.S. 143B-162 are rewritten to read:

"The Professional Advisory Committee of the Department of Human Resources shall consist of nine members appointed by the Governor, three of whom shall be licensed physicians nominated by the North Carolina Medical Society whose practice is limited to ophthalmology, three optometrists nominated by the North Carolina State Optometric Society, and three opticians nominated by the North Carolina Opticians Association.

Those nine members shall serve three year terms staggered such that the terms of three members shall expire each year. A member of the Committee shall continue to serve until his successor is appointed and qualifies. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term."

**Sec. 2.** The schedule for appointments to the Committee described in Section 1 of this act is as follows: The ophthalmologists and optometrists serving on the Committee on the date this act is ratified shall continue to serve until their respective terms expire. Initial appointments of the three opticians shall be made no later than July 2, 1979, shall become effective on that date, and shall be for one, two, and three year terms, respectively. At the end of the respective terms of office of those nine members, the appointment of their successors shall be for terms of three years.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1252

## CHAPTER 978

AN ACT TO EXEMPT TORT CLAIMS ACT DAMAGES FROM THE LIEN  
CREATED FOR MEDICAL CARE BY STATE INSTITUTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-126.1 is hereby amended by adding a new subsection thereto to read as follows:

“(g) Notwithstanding the foregoing provisions, no such lien shall be enforceable against any funds paid by the State to a patient after judgment or settlement of a claim for damages arising out of the negligent injury of such patient at any of the State institutions listed in G.S. 143-117 during the life of such patient. Upon the death of the patient, any remaining proceeds of a judgment or settlement under this subsection in the hands of the deceased patient shall become a general asset of the estate and subject to any lien of the State.”

**Sec. 2.** This act shall become effective upon ratification and shall apply to claims which have not been paid by the State on the effective date.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1311

## CHAPTER 979

AN ACT RELATING TO INSURANCE COMPANIES AND PROVIDING  
FOR THE REPORTING OF CERTAIN PRODUCTS LIABILITY CLAIMS  
AND OTHER INFORMATION TO THE COMMISSIONER OF  
INSURANCE, AND AUTHORIZING THE LEGISLATIVE RESEARCH  
COMMISSION TO STUDY PRODUCTS LIABILITY LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 2 of the General Statutes Chapter 58 is amended by adding a new section to read:

“§ 58-21.2. *Reporting of products liability claims, premiums, and other information.*—(a) Every insurance company providing products liability insurance or excess insurance above self-insurance to one or more manufacturers, sellers, or distributors in this State shall file with the Commissioner not later than the first day of June in each year, a report containing the following information for the one-year period ending December 31st of the previous year; provided, however, that information for the period preceding June 30, 1979, need not be reported:

- (1) the total amount of earned premiums received during the year from insureds, resident or located in North Carolina, that are attributable to products liability insurance;
- (2) the total number of policies of insureds, resident or located in North Carolina, for which the insurance company provided products liability insurance;
- (3) the total number of insureds, resident or located in North Carolina, whose products liability insurance coverage the insurance company canceled or refused to renew and the reasons therefor;
- (4) the total number of products liability claims filed during the one-year period, broken down by the type of claims;

- (5) the total amount of reserves for the claims in subdivision (4) of this subsection that remained outstanding at the end of the one-year period;
- (6) the total amount paid in settlement or discharge of the claims in subdivision (4) of this subsection for each type of claims;
- (7) the total amount of outstanding reserves for claims filed in years prior to the one-year period; and
- (8) the total amount of reserves for incurred but not reported losses.

The report shall be in the format established by the Commissioner.

(b) The information contained in the reports required by this section is to be used for internal statistical purposes only."

**Sec. 2.** The Legislative Research Commission is authorized to study the products liability laws of this State, examine the effects of any 1979 General Assembly changes in the laws, and study the recommendations of the Task Force on Product Liability of the United States Department of Commerce and the availability of product liability insurance in North Carolina.

**Sec. 3.** The Commission may report the results of its study to the 1981 General Assembly.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1397

## CHAPTER 980

### AN ACT TO PROVIDE FOR USE OF CERTIFIED COPIES OF THE DIVISION OF MOTOR VEHICLES RECORDS TO PROVE OWNERSHIP OF AUTOMOBILE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 8-37 is rewritten to read as follows:

"§ 8-37. *Certificate of Commissioner of Motor Vehicles as to ownership of automobile.*—In any civil or criminal action in which the ownership of a motor vehicle is relevant, evidence as to the letters and numbers appearing upon the registration plate attached to such vehicle or of the motor vehicle identification number, together with certified copies of records furnished pursuant to G.S. 20-42 by the Commissioner of Motor Vehicles showing the name of the owner of the vehicle to which such registration plate or vehicle identification number is assigned, or a certified copy of the certificate of title for such motor vehicle on file with the Commissioner of Motor Vehicles, is prima facie evidence of the ownership of such motor vehicle."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 56

## CHAPTER 981

## AN ACT TO CONTROL THE DISPOSAL OF TOXIC SUBSTANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 113A of the General Statutes as it now appears in the 1978 Replacement Volume 3C is amended by adding a new Article 13 entitled "Toxic Substances Task Force and Incident Response Procedures", as follows:

"§ 113A-197. *Toxic Substances Task Force.*—There is created within the Executive Department a State Task Force on Toxic Substances, consisting of one person designated by each of the following:

The Secretary of Administration

The Commissioner of Agriculture

The Secretary of Crime Control and Public Safety

The Secretary of Human Resources

The Secretary of Natural Resources and Community Development

Additional permanent or temporary members may be added to the Task Force by Executive Order of the Governor. The designee of the Secretary of Crime Control and Public Safety (hereinafter 'the secretary') shall serve as Chairman of the Task Force.

"§ 113A-198. *Incident response procedures and coordination.*—(a) The Department of Crime Control and Public Safety shall coordinate the initial response of State agencies to incidents involving toxic or hazardous substances.

(b) Following the initial response to any incident the Secretary, in consultation with the State Task Force on Toxic Substances, shall designate one or more lead agencies to be responsible for subsequent phases of the response to the incident. Pending an opportunity to consult with the Task Force, the Secretary may make interim lead-agency designations. In designating lead agencies the Secretary shall be governed by existing law, but where existing law does not clearly identify responsibility or exclusive responsibility for an incident, the Secretary shall make such designations as in his discretion he deems best.

(c) In addition to its functions under subsection (b) of this section, the State Task Force:

- (1) may recommend that the Governor by Executive Order create one or more local or regional task forces on incident response, which may include private individuals and local government personnel as well as State employees;
- (2) may study and recommend modifications of incident response procedures;
- (3) may study and make recommendations concerning local government involvement in incident response;
- (4) in consultation with the Department of Transportation may study and make recommendations concerning movement within the state of toxic or hazardous substances;
- (5) in consultation with the Department of Human Resources may study and make recommendations concerning disposal of and storage sites for toxic and hazardous substances;

- (6) may study and make recommendations concerning additions, deletions or substitutions of substances in the list of toxic substances contained in G.S. 14-284.2;
- (7) upon the request of any of its members, or of the Governor, may study and make recommendations concerning the coordination of any toxic or hazardous substance function administered by that member's department with related functions not administered by that department.

(d) If any recommendations developed by the State Task Force require legislation, the State Task Force shall promptly communicate those recommendations to the General Assembly.

(e) The Secretary may request that the Governor adopt and publish an Executive Order concerning the response to any incident, including the designation of a lead agency or lead agencies."

**Sec. 2.** General Statutes Chapter 14 is amended by adding a new section to read as follows:

"§ 14-284.2. *Dumping of toxic substances.*—(a) It shall be unlawful to deposit, place, dump, discharge, spill, release, burn, incinerate, or otherwise dispose of any toxic substances as defined in this section or radioactive material as defined in G.S. 104E-5 into the atmosphere, in the waters, or on land, except where such disposal is conducted pursuant to federal or State law, regulation, or permit. Any person who willfully violates the provisions of this section shall be guilty of a felony, punishable upon conviction by a fine of not more than one hundred thousand dollars (\$100,000) per day of violation, or by imprisonment, or by both, in the discretion of the court.

(b) Within the meaning of this section, toxic substances are defined as the following heavy metals and halogenated hydrocarbons:

- (1) heavy metals: mercury, plutonium, selenium, thallium and uranium;
- (2) halogenated hydrocarbons: polychlorinated biphenyls, kepone.

(c) Within the meaning of this section, the phrase 'law, regulation or permit' includes controls over equipment or machinery that emits substances into the atmosphere, in waters, or on land (such as federal or State controls over motor vehicle emissions) and controls over sources of substances that are publicly consumed (such as drinking water standards), as well as controls over substances directly released into the atmosphere, in waters, or on land (such as pesticide controls and water pollution controls.)

(d) Within the meaning of this section the term 'person' includes any individual, firm, partnership, limited partnership, corporation or association."

**Sec. 3.** G.S. 143-215.77(4) is hereby amended by adding at the end of that paragraph (whether or not that paragraph is otherwise amended by the 1979 General Assembly) the following sentence:

"The word 'discharge' shall also include any discharge upon land, whether or not in proximity to waters, which is intentional, knowing or willful."

**Sec. 4.** G.S. 143-215.77(6), as it is written in Section 4 of Chapter 535 of the 1979 Session Laws, is amended by rewriting the first sentence of said paragraph (6), up to the proviso, to read as follows:

"(6) 'Hazardous substance' shall mean any substance, other than oil, designated by regulation of the Commission upon a finding that the discharge of the substance in any minimum prescribed quantity into or upon the waters of

the State or upon lands in the State presents an imminent and substantial danger to public health or welfare, or to fish, shellfish, wildlife or vegetation.”

**Sec. 5.** G.S. 143-215.77 is hereby amended by deleting the definition of “land” in said section and by renumbering succeeding subdivisions accordingly.

**Sec. 6.** Task Force functions, hearings and reports. (a) The Task Force is directed to monitor the implementation of this act and study the need for further legislation concerning:

(1) disposal of and storage sites for toxic and hazardous substances, including waste materials, and toxic and hazardous waste management generally;

(2) local government and private sector involvement in the location, development and management of storage sites, and the role of State government in regulating and assisting in these matters;

(3) the movement of toxic or hazardous substances within the State;

(4) improved coordination and organization of State agency programs concerning toxic and hazardous substances;

(5) related matters brought to its attention by its members.

(b) The Task Force may conduct such hearings and hold meetings at such times and places as it deems appropriate.

(c) The Task Force shall make an interim report and recommendations to the 1979 General Assembly, Second Session 1980, and a final report and recommendations to the 1981 General Assembly.

**Sec. 7.** Appropriations. There is hereby appropriated from the General Fund to the Toxic and Hazardous Substances Study Commission the sum of one hundred thousand dollars (\$100,000) for the fiscal year 1979-1980.

**Sec. 8.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 192

## CHAPTER 982

### AN ACT TO APPROPRIATE FUNDS TO THE IREDELL COUNTY COUNCIL ON AGING AS THE STATE'S CONTRIBUTION TO AN AREA SENIOR CITIZENS' CENTER IN STATESVILLE.

Whereas, the State of North Carolina has a commitment to its senior citizens to support programs, activities and facilities which will contribute to the quality of life of those citizens; and

Whereas, the Iredell County Council on Aging is seeking to provide an Area Senior Citizens' Center in the City of Statesville to serve older persons in Statesville, Mooresville, rural Iredell County and parts of Alexander, Davie, and Yadkin Counties; and

Whereas, local citizens have already contributed \$125,000, and the federal government has committed \$92,920 for the purchase and renovation of suitable facilities for the Area Senior Citizens' Center; and

Whereas, an additional sum is needed to install elevators, furnishings, and other equipment and facilities suitable for use by the elderly; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Iredell County Council on Aging, for the fiscal year 1979-80, the sum of fifty thousand

dollars (\$50,000) to be used by the Council in the purchase, construction, renovation, and equipping of an Area Senior Citizens' Center in Statesville.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 219

## CHAPTER 983

### AN ACT TO ADOPT CERTAIN PRINCIPLES RELATING TO PROGRAMS FOR THE AGING.

Whereas, as of 1979, there are over 800,000 persons 60 years old or older in North Carolina, and this segment of our population constitutes over fourteen percent (14%) of our total population and is increasing at a rate three times faster than the State's population as a whole; and

Whereas, the group 75 years old and older is the fastest growing segment of our population; and

Whereas, sixty-three percent (63%) of these older citizens have an annual income of less than three thousand dollars (\$3,000) and as the costs of health care, housing and other necessities steadily rise they suffer the most from inflation because of fixed incomes and longer life spans; and

Whereas, services to older adults are fragmented and many older people who need help do not know where to find them; and

Whereas, older adults are one of our State's untapped resources and these individuals who have contributed so much to building our State are relegated to isolation with retirement and are victimized by economic and social forces beyond their control; Now, therefore;

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3, Chapter 143B of the General Statutes, is hereby amended by adding a new Part following Part 14 to be designated Part 14A to read as follows:

#### "Part 14A.

#### "Policy Act for the Aging.

"§ 143B-181.3. *Statement of principles.*—To utilize effectively the resources of our State, to provide a better quality of life for our senior citizens, and to assure older adults the right of choosing where and how they want to live, the following principles are hereby endorsed:

- (1) Older people should be able to live as normal a life as possible.
- (2) Older adults should have a choice of life styles which will allow them to remain contributing members of society for as long as possible.
- (3) Preventive and primary health care are necessary to keep older adults active and contributing members of society.
- (4) Appropriate training in gerontology and geriatrics should be developed for individuals serving older adults.
- (5) Transportation to meet daily needs and to make accessible a broad range of services should be provided so that older persons may realize their full potential.
- (6) Services for older adults should be coordinated so that all their needs can be served efficiently and effectively.
- (7) Information on all services for older citizens and advocacy for these services should be available in each county.



(8) Increased employment opportunities for older adults should be made available.

(9) Options in housing should be made available.

(10) Planning for programs for older citizens should always be done in consultation with them.

(11) The State should aid older people to help themselves and should encourage families in caring for their older members.

“§ 143B-181.4. *Responsibility for policy.*—Responsibility for developing policy to carry out the purpose of this act is vested in the Secretary of the Department of Human Resources as provided in G.S. 143B-181.1 who may assign responsibility to the Assistant Secretary for Aging. The Assistant Secretary for Aging shall, at the request of the secretary, be the bridge between the federal and local level and shall review policies that affect the well being of older people with the goal of providing a balance in State programs to meet the social welfare and health needs of the total population. Responsibilities may include: (a) serving as chief advocate for older adults; (b) developing the State plan which will aid in the coordination of all programs for older people; (c) providing information and research to identify gaps in existing services; (d) promoting the development and expansion of services; (e) evaluation of programs; (f) bringing together the public and private sectors to provide services for older people.”

**Sec. 2.** Severability. If any provision of this act or the application thereof is 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. 3.** No appropriations are required. This program and 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 8th day of June, 1979.

## H. B. 224

## CHAPTER 984

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT FOR THE PURCHASE AND OPERATION OF A FOREST FIRE CONTROL PLOWING UNIT FOR THE MOUNT HOLLY DISTRICT OF THE FOREST SERVICE.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Department of Natural and Economic Resources, in addition to all other appropriations, the sum of ninety-four thousand four hundred sixty-two dollars (\$94,462) for the fiscal year beginning on July 1, 1979, and the sum of thirteen thousand three hundred twenty-two dollars (\$13,322) for the fiscal year beginning on July 1, 1980. These sums shall be expended, as enumerated in Section 2, for the purchase, maintenance, operation and expenses of a forest fire

control plowing unit for the Mount Holly District (Cabarrus, Catawba, Cleveland, Gaston, Iredell, and Lincoln Counties) of the Forest Service.

**Sec. 2.** The sums herein appropriated shall be expended according to the following schedule:

		<u>79-80</u>	<u>80-81</u>
1211	Salary:		
	1 FFEO at \$8,664	\$8,664	\$8,664
1811	Social Security Contributions	531	554
1821	Retirement Contributions	790	790
1830	Hospital Insurance	294	294
2100	Household and Clothing Supplies	600	200
2400	Repair Supplies	100	100
2500	Motor Vehicle Operation	1,800	2,000
2600	Office Materials	100	100
3110	Travel	300	300
3210	Telephone	50	50
3250	Postage	20	20
4760	Workmen's Compensation	200	200
5300	Medical Supplies	93	50
5400	Motor Vehicles:		
	(1) Truck-Tractor-Diesel Tandem Hauling Unit	34,000	
5500	Equipment:		
	(1) Light Medium Tractor (John Deere 550) with Blade	39,000	
	(1) Fire Plows	3,000	
	(2) Mobile Radios	2,200	
	(2) Portable Radios	1,800	
	Safety Equipment	120	
	Tools	800	
	Total Requirements	\$94,462	\$13,322
	State Appropriation	\$94,462	\$13,322

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 275

## CHAPTER 985

AN ACT TO RAISE THE PAY OF GRAND AND CERTAIN PETIT JURORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first sentence of G.S. 7A-312 is deleted and the following language inserted in lieu thereof:

"A juror in the General Court of Justice including a petit juror, or a coroner's juror, but excluding a grand juror, or a juror in a special proceeding shall receive eight dollars (\$8.00) per day, except that if any person serves as a juror for more than five days in any 24-month period, the juror shall receive thirty dollars (\$30.00) per day for each day of service in excess of five days. A grand juror shall receive twelve dollars (\$12.00) per day."

**Sec. 2.** There is appropriated from the General Fund to the Administrative Office of the Courts the sum of two hundred seven thousand dollars (\$207,000) for each of the fiscal years 1979-80 and 1980-81 in order to implement this act.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 618

## CHAPTER 986

AN ACT TO PROVIDE SPORTS MEDICINE AND EMERGENCY  
PARAMEDICAL SERVICES, AND EMERGENCY LIFE SAVING SKILLS  
TO STUDENTS IN THE PUBLIC SCHOOLS.

Whereas, most North Carolina schools provide interscholastic athletic activities for students in the high schools; and

Whereas, the majority of these schools do not have paramedical or medical personnel responsible for preventive measures against death or serious injury to students participating in school activities; and

Whereas, deaths and serious injuries do occur to students participating in school sports activities as well as in other school activities; and

Whereas, injuries have been significantly reduced through the part-time assignment of a teacher or other qualified employee to exercise preventive measures against injury and to provide sports medicine and emergency paramedical services for injuries that do occur; and

Whereas, Resolution 73 of the 1977 Session Laws recommends first aid and life saving instructional services be made available to public school students; and

Whereas, the State Board of Education provides for in-service training for teachers or other qualified employees to be responsible for such sports medicine and emergency paramedical services; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 115 of the General Statutes is amended by adding a new Section 115-142.4 to read as follows:

"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 paramedic 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."

**Sec. 2.** There is hereby appropriated from the General Fund to the State Board of Education:

(a) for fiscal year 1979-80 the sum of fifty thousand dollars (\$50,000) to be allocated to local education agencies at a rate not to exceed five hundred dollars (\$500.00) per high school as supplemental funds to provide sports medicine and paramedical emergency life saving services as approved by the State Board of Education and ten thousand dollars (\$10,000) to provide in-service educational training for the development of sports medicine and emergency paramedical skills for public school personnel as provided for in this act; and

(b) for fiscal year 1980-81 the sum of seventy-five thousand dollars (\$75,000) to provide allocations to local education agencies at a rate not to exceed five hundred dollars (\$500.00) per high school as supplemental funds to provide sports medicine and paramedical emergency life saving services as approved by the State Board of Education and twenty thousand dollars (\$20,000) to provide in-service and continued educational programs for the development of sports medicine and emergency paramedical skills for public school personnel.

**Sec. 3.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 708

## CHAPTER 987

### AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE CONTINUED RESTORATION AND REHABILITATION OF STONEWALL IN NASH COUNTY.

Whereas, Stonewall in the City of Rocky Mount in Nash County was built about 1830 for Bennett Bunn as the seat of his Little Falls Plantation; and

Whereas, Stonewall is the finest surviving federal style structure in Nash County and one of the finest interpretations of the federal style in North Carolina; and

Whereas, the size and sophistication of Stonewall are of such high quality that very few of the great plantation houses of the State can surpass its elegance; 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 through the letting of a construction contract for the exterior restoration, which said work is presently underway; and

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 value; 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 1979-80 fiscal year the sum of fifteen thousand dollars (\$15,000) for the purpose of continuing the restoration and interior rehabilitation of Stonewall provided an amount of fifteen thousand dollars (\$15,000) is raised by the Nash County



Historical Association, 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 on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 828

## CHAPTER 988

AN ACT TO APPROPRIATE FUNDS FOR THE 200TH ANNIVERSARY  
COMMEMORATION OF THE BATTLE OF KING'S MOUNTAIN.

Whereas, the October 7, 1780, Battle of King's Mountain between British forces and southern appalachian frontiersmen was hailed by Thomas Jefferson as "the glorious . . . turn of the tide . . ." in the American Revolution; and

Whereas, the two-hundredth anniversary of this important event in our regional and national history will be marked by a two-week celebration hailing the hardy mountain men who won such a decisive victory against the British forces; and

Whereas, the two-week long Overmountain Victory March along the now famous Overmountain Victory Trail will end with commemorative events on October 7, 1980, where representatives from Virginia, Tennessee, South Carolina, and Georgia will join with North Carolinians in celebrating the exact two-hundredth anniversary of the Battle of King's Mountain; 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 fiscal year 1979-80 the sum of twenty thousand dollars (\$20,000), of which eighteen thousand five hundred dollars (\$18,500) is to be used by the King's Mountain Celebration Steering Committee to plan and stage an appropriate commemoration of the two-hundredth anniversary of the Battle of King's Mountain. The department shall make available to the Town of Columbus 125th Anniversary Celebration Commission for the 1979-80 fiscal year the sum of one thousand five hundred dollars (\$1,500) for use in the restoration, publication, and exhibition projects in Columbus for their 125th anniversary celebration.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 829

## CHAPTER 989

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF  
NATURAL RESOURCES AND COMMUNITY DEVELOPMENT,  
DIVISION OF FOREST RESOURCES, TO FUND THE POSITION OF  
ASSISTANT FOREST RANGER IN MARTIN COUNTY.

*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, Division of Forest Resources, in addition to all other appropriations, the sum of twelve thousand three hundred sixty-nine dollars (\$12,369) for the 1979-80 fiscal year and eight thousand one hundred seventy-three dollars (\$8,173) for the 1980-81

fiscal year. These funds are to be used to pay the annual salary, retirement and other benefits, office equipment and supplies, travel and other incidental expenses of an assistant forest ranger for Martin County.

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 847

## CHAPTER 990

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA THEATRE ARTS SECTION FOR THE PURPOSE OF DEVELOPMENT AND STRENGTHENING OF THE SOUTHERN APPALACHIAN HISTORICAL ASSOCIATION'S HISTORIC AND CULTURAL ACTIVITIES, PROGRAMS, AND FACILITIES.

Whereas, The Southern Appalachian Historical Association was founded as an educational, historical, and cultural nonprofit corporation, 501, C(3), in 1952; and

Whereas, The Southern Appalachian Historical Association has been in continuous operation since 1952; and

Whereas, The Southern Appalachian Historical Association has produced the outdoor drama *Horn in the West* since 1952; and

Whereas, the outdoor drama *Horn in the West* has been seen by over 1,250,000 people since 1952; and

Whereas, the outdoor drama *Horn in the West* has created employment for over 3,000 people since 1952; and

Whereas, the outdoor drama *Horn in the West* has made major historical and cultural contributions to the State and nation; and

Whereas, the economic benefits to the community and State have been significant; and

Whereas, The Southern Appalachian Historical Association has maintained other services and programs of value to the community and State; and

Whereas, The Southern Appalachian Historical Association is committed to making its programs and facilities available to all the people at an affordable price; and

Whereas, The Southern Appalachian Historical Association is committed to making its programs and facilities accessible to all people; and

Whereas, in order to be more economically and culturally viable, The Southern Appalachian Historical Association needs increased financial support; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to The Southern Appalachian Historical Association out of the General Fund of the State the sum of one hundred thousand dollars (\$100,000) for the fiscal year July 1, 1979, through June 30, 1980, and the sum of twenty-five thousand dollars (\$25,000) for the fiscal year July 1, 1980, through June 30, 1981, to be used for the further development of facilities and programs of The Southern Appalachian Historical Association.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 863

**CHAPTER 991**

AN ACT TO AMEND G.S. 7A-171.1 TO GIVE SENIORITY CREDITS IN THE MAGISTRATE'S SALARY SCHEDULE FOR A COLLEGE OR LAW SCHOOL EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-171.1 is amended by addition of the following subdivision at the end thereof:

“(3) Notwithstanding any other provision of this section, a beginning full-time magistrate with a two-year Associate in Applied Science degree in criminal justice or paralegal training from a North Carolina community college or technical institute or the equivalent degree from a private educational institution in North Carolina, may be initially employed at the annual salary provided in the table above for a magistrate with ‘3 or more but less than 5’ years of service; a beginning full-time magistrate with a four-year degree from an accredited senior institution of higher education may be initially employed at the annual salary provided in the table above for a magistrate with ‘5 or more but less than 7’ years of service; a beginning full-time magistrate who holds a law degree from an accredited law school may be employed at the annual salary provided in the table for a magistrate with ‘7 or more but less than 9’ years of service; and a beginning full-time magistrate who is licensed to practice law in North Carolina may be initially employed at the annual salary provided in the table for a magistrate with ‘9 or more’ years of service. Seniority increments for a magistrate with a two or four-year degree or a law degree described herein accrue thereafter at two-year intervals, as provided in the table.

Magistrates with a two or four-year degree or a law degree described herein who became magistrates before the effective date of this act are entitled to an increase of three, five and seven years, respectively, in their seniority, for pay purposes only. Full-time magistrates licensed to practice law in North Carolina who became magistrates before the effective date of this act are entitled to the pay of a magistrate with 9 or more years of service, and part-time magistrates holding a law degree or a license to practice law as described above who became magistrates before the effective date of this act are entitled to a proportionate adjustment in their pay. Pay increases authorized by this subdivision are not retroactive.”

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 907

## CHAPTER 992

## AN ACT TO CREATE THE SOCIAL SERVICES STUDY COMMISSION.

Whereas, the General Assembly does not have available an up-to-date, in-depth study of the Social Services programs, and the needs of the State; and

Whereas, the Division of Social Services of the Department of Human Resources has made considerable progress in the development of the Social Services program in North Carolina, and now administers a wide range of financial assistance and service programs in the State; and

Whereas, the State cannot render to its citizens the kind of Social Services program needed or provide for citizens' needs without an in-depth study of the present services provided, the impact of the Welfare Reform proposal, and the current unmet needs of the citizens of the State; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby created the Social Services Study Commission. (Hereinafter "Study Commission")

**Sec. 2.** The purposes of this Study Commission are:

(1) to gather and study Federal and State Statutes and Regulations governing and relating to Social Services and Public Assistance in North Carolina;

(2) to define State and county responsibilities in Social Services and Public Assistance Programs as they relate to:

a. administration,

b. financing,

c. relationships between State and counties;

(3) to review trends of changes that have taken place in the administration and funding of Social Service and Public Assistance programs in North Carolina in the past eight years as to:

a. impact on county departments,

b. impact on State agency,

c. impact on recipients,

d. relationship changes that have taken place between State and counties;

(4) to record the influences and/or effects of public policies and programs on families receiving services funded with State and federal monies; and

(5) to review the structure of human service delivery and make recommendations which would lead to a coordinated human service delivery system with its focus primarily on the family as a unit. Emphasis would be placed on strengthening and enriching the family unit, thereby, insofar as possible, preventing further breakdown.

**Sec. 3.** On or before May 1, 1980, the Study Commission shall file with the Governor, members of the General Assembly, and officials of agencies affected, a preliminary written report summarizing the information obtained in the course of its inquiry. The report shall set forth the commission's findings, conclusions, and recommendations concerning such administrative action and legislation as the Study Commission deems the public interest to require. If legislation is recommended, the Study Commission shall prepare and submit with its report appropriate bills. The Study Commission shall file a final report with the Governor, General Assembly, and officials of Agencies affected no later than January 1, 1981.

**Sec. 4.** The Study Commission shall consist of 12 members as follows: four members appointed by the Governor to include representation from county



social services, private social agency, county commissioners and consumers as recipient of Social Services; four members appointed by the Speaker of the House of Representatives, from that body, four members appointed by the President of the Senate from that body.

**Sec. 5.** If a vacancy occurs in the membership of the Study Commission, it shall be filled by action of the person that appointed the former member who is to be replaced, and the person then appointed shall serve for the remainder of the term of the member whom he or she succeeds.

**Sec. 6.** The members of the Study Commission shall be appointed by July 1, 1979, and shall serve until the termination of the Study Commission. The Study Commission at its first meeting shall elect a chairperson from its membership.

**Sec. 7.** The Study Commission may meet in the State Legislative Building upon the approval of the Legislative Services Commission.

**Sec. 8.** Upon the request of the Commission, every State or local department or agency shall provide the Commission with any information in its possession that the Commission deems pertinent to its inquiry.

**Sec. 9.** Legislator members of the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1.

**Sec. 10.** Members of the Commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5.

**Sec. 11.** Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rates set out in G.S. 138-6.

**Sec. 12.** There is appropriated from the General Fund to the Social Services Study Commission for fiscal year 1979-80 the sum of eight thousand dollars (\$8,000), and for fiscal year 1980-81 the sum of six thousand dollars (\$6,000) to carry out the purposes of this act. The Legislative Disbursing Officer shall be responsible for disbursing the funds. Any unused funds shall revert to the General Fund.

**Sec. 13.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 911

## CHAPTER 993

### AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID TO THE OLD COURTHOUSE THEATRE, INCORPORATED, IN CABARRUS COUNTY.

Whereas, the Old Courthouse Theatre, Incorporated, is a private nonprofit corporation created to provide a quality community theatre in Cabarrus County; and

Whereas, the century-old courthouse in Concord has been listed as an historic site on the National Register; and

Whereas, Cabarrus County has leased the Old Courthouse to Historic Cabarrus, which rents to Old Courthouse Theatre the second floor including the former courtroom, to be used for theatre performances; and

Whereas, the Old Courthouse Theatre presents three plays each season, and is providing artistic values not only to the people of Cabarrus County but also to persons from the surrounding region; and

Whereas, through the sale of season tickets, individual contributions, and volunteer services, the Old Courthouse Theatre has renovated the former courtroom, with raised seats, basic theatrical lighting, and a temporary platform stage, and has converted adjacent areas into dressing rooms, offices, and other theatre-connected service facilities; and

Whereas, the revenues of the Old Courthouse Theatre are sufficient to cover operating expenses, but are not adequate to construct a permanent state and proper lighting; 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 1979-80 the sum of five thousand dollars (\$5,000) to be made available by the department as a grant-in-aid to the Old Courthouse Theatre, Incorporated, of Cabarrus County for the purpose of constructing a permanent stage and proper theatrical lighting in the former courtroom in the old courthouse at Concord, North Carolina.

The money herein appropriated shall be made available to the Old Courthouse Theatre on a dollar-for-dollar matching basis, for making capital improvements to the theatre facilities.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 974

## CHAPTER 994

### AN ACT TO APPROPRIATE FUNDS TO THE STATE BOARD OF EDUCATION TO PROVIDE HEALTH EDUCATION COORDINATORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any other appropriations there is appropriated from the General Fund to the State Board of Education for fiscal year 1979-80 the sum of two hundred thousand dollars (\$200,000), and for fiscal year 1980-81, the sum of two hundred thousand dollars (\$200,000), in order to provide Health Education Coordinators in eight school units and in order to provide leadership in teacher training, curriculum development, and coordination of community resources in health education. In addition to any other appropriations, there is appropriated from the General Fund to the State Board of Education the sum of twenty-five thousand dollars (\$25,000) for fiscal year 1979-80, and twenty-five thousand dollars (\$25,000) for fiscal year 1980-81, for the Edwin Gill Theater Productions.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 992

## CHAPTER 995

## AN ACT TO APPROPRIATE FUNDS FOR THE EXTERIOR RESTORATION OF THE OLD DAVIDSON COUNTY COURTHOUSE.

Whereas, the old Davidson County Courthouse is one of North Carolina's grandest antebellum courthouses; and

Whereas, the heroic Classical Revival style of this monumental building makes it one of the more important examples of the style in North Carolina and the South as a whole; and

Whereas, in 1858, shortly after it was constructed, the Davidson County Courthouse was labelled "the finest in the State . . ." and it was further stated in the same Greensboro Patriot article that "in point of magnificence there is nothing in the State to compare, except the Capitol at Raleigh"; and

Whereas, since the new courthouse was constructed in 1959, the upper floor of the old courthouse has been leased by the county to the Davidson County Historical Society for use as a historical museum for the education and enjoyment of all citizens; and

Whereas, the interior of the courthouse has been restored and rehabilitated for the historical museum as well as a number of county offices; and

Whereas, the exterior of the old Davidson County Courthouse is now in need of restoration, for which purpose approximately sixty thousand dollars (\$60,000) has been raised in 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, for the 1979-80 fiscal year the sum of five thousand dollars (\$5,000) for the purpose of restoring the exterior of the old Davidson County Courthouse, provided that a like amount of five thousand dollars (\$5,000) is raised by the County of Davidson, Body Corporate and Politic.

**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 shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 999

## CHAPTER 996

## AN ACT TO CREATE THE NORTH CAROLINA ARTHRITIS PROGRAM AND COMMITTEE.

Whereas, the U. S. Public Health Service has indicated that 500,000 persons in North Carolina suffer from arthritis; and

Whereas, the annual cost of arthritis in North Carolina from lost wages and medical bills approaches three hundred twenty-five million dollars (\$325,000,000); and

Whereas, although a cure for arthritis is not yet known, many of the effects of this disease can be controlled through public and professional education, early detection, adequate treatment, and lifetime monitoring to those persons found with this disease; and

Whereas, there is a critical shortage of properly trained health professionals and allied health professionals in North Carolina for arthritis prevention, treatment, care and rehabilitation programs; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 143B of the General Statutes of North Carolina is hereby amended by adding to Article 3 a new Part 16 to read as follows:

“Part 16. North Carolina Arthritis Program Committee.

“§ 143B-184. *North Carolina Arthritis Program Committee, creation, composition.*—(a) There is created the North Carolina Arthritis Program Committee. The committee shall consist of 12 members to be appointed by the Secretary of Human Resources as follows:

- (1) one person nominated by the President of the N. C. Medical Society,
- (2) one person nominated by the Dean of the Bowman Gray School of Medicine,
- (3) one person nominated by the Dean of the Duke University School of Medicine,
- (4) one person nominated by the Dean of the East Carolina University School of Medicine,
- (5) one person nominated by the Dean of The University of North Carolina School of Medicine,
- (6) two persons nominated by the North Carolina National Health Agency Committee,
- (7) one person who suffers from arthritis,
- (8) one person who suffers from arthritis, or the brother, sister, parent, child, or spouse of a person who suffers from arthritis,
- (9) one person representing the profession of nursing,
- (10) one person representing the profession of occupational therapy,
- (11) one person representing the profession of physical therapy.

(b) The secretary shall make the appointments provided in subdivisions (a)(1) through (a)(6) from a list of not to exceed five persons submitted by each nominating agency or individual.

(c) The secretary shall designate one member as chairman. Each member shall serve a four-year term. The initial appointments of members shall be as follows: the secretary shall appoint the appointees designated in subdivisions (a)(1) through (a)(4) for initial terms of two years; the appointees designated in subdivisions (a)(5) through (a)(7) for initial terms of three years; and the appointees designated in subdivisions (a)(8) through (a)(11) for initial terms of four years. At the end of the respective terms of office of the initial members of the committee, the appointment of their successors shall be for terms of four years and until their successors are appointed and qualified. A vacancy occurring before the expiration of a term shall be filled in the same manner as provided for in the original appointment and the appointee shall serve the unexpired term.

(d) The committee shall meet semiannually and at such other times as called by the chairman of the committee.

(e) The Secretary shall have the power to remove any member from the committee for misfeasance, malfeasance or nonfeasance in accordance with G.S. 143B-13.



(f) The members of the committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(g) All clerical and other services required by the committee shall be supplied by the Secretary of Human Resources within budget limitations.

“§ 143B-185. *Duties of Committee.*—The committee shall consider the entire problem of arthritis, including research, education and services furnished arthritis victims. The committee shall have the power and the duty to recommend to the Secretary of Human Resources a long-range arthritis plan, policy guidance, and public accountability of the plan. The committee shall report annually to the Governor its findings and recommendations, and shall advise the Governor about the Arthritis Program authorized by G.S. 130-187.1.”

**Sec. 2.** Chapter 130 of the General Statutes is amended by adding a new Article 18A to read as follows:

“Article 18A.

“Arthritis Program.

“§ 130-187.1. *Establishment of Arthritis Program.*—There is hereby established a North Carolina Arthritis Program which shall be administered by the Secretary of Human Resources. The purposes of the comprehensive Arthritis Program shall be: (1) to improve professional education for physicians and allied health professionals, including nurses, physical and occupational therapists, and social workers; (2) to conduct programs of public education and information; (3) to provide detection and treatment programs and services for the at-risk population of North Carolina; (4) to utilize the services available at the State medical schools; existing arthritis rehabilitation centers; existing local arthritis clinics and agencies; (5) to develop an arthritis outreach clinical system; (6) to develop and train personnel at clinical facilities for diagnostic work-up, laboratory analysis, and consultations with primary physicians regarding patient management; (7) arthritis diseases and; (8) to develop the epidemiology studies to determine the frequency and distribution of the disease.”

**Sec. 3.** There is appropriated from the General Fund of the State to the Division of Health Services, Department of Human Resources the sum of two hundred thousand dollars (\$200,000) for fiscal year 1979-1980 and the sum of two hundred thousand dollars (\$200,000) for fiscal year 1980-1981 for the North Carolina Arthritis Program and for operation of the North Carolina Arthritis Program Committee, and shall be in addition to all funds appropriated to the Department of Human Resources for any program.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1066

**CHAPTER 997****AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION  
TO STUDY ALTERNATIVE WORK.**

Whereas, current State employees would benefit from alternative work schedules through better utilization of working hours, reduced tardiness, absenteeism, and fatigue, and improved morale; and

Whereas, North Carolina citizens who cannot work full-time schedules are an untapped, valuable human resource; and

Whereas, many labor economists predict that alternative work schedules will have a desirable impact on unemployment, underemployment, and labor market participation rates of women, the handicapped, and senior citizens; and

Whereas, improved productivity is viewed as a by-product of alternative work schedules; and

Whereas, alternative work schedules allow greater flexibility in shifting personnel to meet fluctuating work loads; and

Whereas, alternative work schedules create a greater ability to recruit more mature and reliable employees whose specialized skills may be unavailable for full-time positions; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Legislative Research Commission is authorized to study alternative work schedules for State employees and make appropriate recommendations. The recommendations may include proposals for additional benefits for permanent part-time State employees, and increase in the number of permanent part-time State employees in certain classifications, examination of overlapping State personnel positions, and alternative work schedules such as job sharing, a compressed work week, and flex time. "Permanent part-time employment" means a work schedule of at least two days per week or at least fifty percent (50%) and not more than seventy-five percent (75%) of an agency's full-time work schedule. "Job sharing" means the division of the work schedule of a full-time position into two work schedules for two individuals. A "compressed work week" means a four-day work week of forty hours. "Flex time" means a staggered work schedule based on the concentration of work or the supervisor's decision.

**Sec. 2.** The Legislative Research Commission may report its findings and recommendations to the 1981 General Assembly.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1070

## CHAPTER 998

## AN ACT TO APPROPRIATE FUNDS TO CONTINUE NORTH CAROLINA'S INVOLVEMENT IN RESEARCH AT THE SITE OF THE USS MONITOR.

Whereas, in the summer of 1973 the site of the USS Monitor was located near Cape Hatteras off the coast of North Carolina in one of the most sophisticated underwater search operations undertaken to that time; and

Whereas, since the earliest attempts to locate the Monitor until the present time North Carolina has played a prominent role in all major research undertaken at the site and all other activities to protect the Monitor for the future enjoyment of North Carolinians and all Americans including the nomination of the site to become the nation's first Marine Sanctuary in 1974; and

Whereas, North Carolina currently plays a prominent role in the management and development of the site of the Monitor under the terms of an agreement with the federal government; and

Whereas, as a part of this management role North Carolina must develop a preservation laboratory capable of analyzing and preserving artifacts which will be brought from the Monitor site during the summer of 1979; 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 each of the fiscal years 1979-80 and 1980-81, the sum of thirty thousand four hundred dollars (\$30,400) for the purpose of continuing the State's involvement in research at the site of the USS Monitor.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1094

## CHAPTER 999

## AN ACT TO APPROPRIATE FUNDS FOR STEVEN'S CENTER FOR THE PERFORMING ARTS.

Whereas, the Steven's Center for the Performing Arts will serve as a home-stage for touring North Carolina opera, theater and dance companies in northwest North Carolina; and

Whereas, the center will be the cornerstone of the downtown Winston-Salem "super block"; and

Whereas, the center will attract artists and audiences from all over the country to Winston-Salem, thereby making it a national center for the performing arts and greatly increasing North Carolina's tourist industry; and

Whereas, funds are available to supplement the operating expense funds of the center; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Steven's Center for the Performing Arts in Winston-Salem seventeen thousand five hundred dollars (\$17,500) for the fiscal year 1979-80 and seventeen thousand

five hundred dollars (\$17,500) for the fiscal year 1980-81 to provide funds to supplement the development of the Steven's Center for the Performing Arts.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1095 CHAPTER 1000

### AN ACT TO APPROPRIATE FUNDS FOR THE NATURE SCIENCE CENTER OF FORSYTH COUNTY, INC.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Nature Science Center of Forsyth County, Inc., the sum of five thousand dollars (\$5,000) for the fiscal year 1979-80 to provide supplemental funds for development of the Nature Science Center of Forsyth County, Inc.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1113 CHAPTER 1001

### AN ACT TO APPROPRIATE FUNDS FOR THE OPERATION OF WANCHESE HARBOR.

Whereas, the promotion and development of the commercial fishing industry is important to the economic development of the Coastal area of the State and the State as a whole; and

Whereas, the State has made the determination that one of the key elements in the development of a sound commercial fishing industry is to insure the adequate capability to process seafood catches; and

Whereas, the Wanchese Harbor Seafood Industrial Park project is nearing the completion of construction; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the Department of Commerce the sum of twenty-five thousand dollars (\$25,000) for fiscal year 1979-80, from the General Fund as a nonreverting reserve to partially underwrite the initial operational development and promotional costs of the Wanchese Harbor Seafood Industrial Park.

**Sec. 2.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 1116

**CHAPTER 1002**

**AN ACT TO RAISE THE REIMBURSEMENT FOR THE USE OF A STATE EMPLOYEE'S PRIVATE AUTOMOBILE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 138-6(a)(1) as the same appears in the 1978 Interim Supplement to the General Statutes is hereby amended by deleting "seventeen cents (\$.17)" and inserting in lieu thereof "nineteen cents (\$.19)".

**Sec. 2.** The special payment of two hundred dollars (\$200.00) to be transferred from the General Fund Reserve for Special Compensation and from the Highway Fund Reserve for Special Compensation for the purpose of awarding that payment in the month of November, 1979, to each employee of record as of November 1, 1979, who has been continuously employed or under contract since November 1, 1978, provided for in Senate Bill 124 of the 1979 Session of the General Assembly (the Budget Appropriation Bill), shall be liberally construed to the end that otherwise qualifying part-time permanent employees and permanent employees who were on authorized leave for a portion of the period between November 1, 1978, and November 1, 1979, shall receive pro rata shares of that special payment.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1122

**CHAPTER 1003**

**AN ACT TO APPROPRIATE FUNDS FOR PRELIMINARY STEPS TO ESTABLISH A MOUNTAIN EXPERIENCE CENTER.**

Whereas, the mountains of North Carolina are a major natural and economic resource of the State and nation, and attract great numbers of visitors each year from both within and without the State; and

Whereas, much of the mountain land is in private ownership, but a considerable amount is owned by various agencies of the United States and of the State of North Carolina, including the National Park Service, the United States Forest Service, the Tennessee Valley Authority, the North Carolina Parks and Parkway Development Commission; and

Whereas, there has long been great need among federal and State land management agencies to have a joint facility in Western North Carolina to greet the visiting public and to provide a unified means of informing visitors of available facilities and attractions and their status of usage; and to coordinate with this service information as to privately owned tourist facilities; and

Whereas, there is a need for a comprehensive educational center to inform visitors as to the history and culture of the mountains, native water and water-based life, soils, forests and plants, wildlife, weather, and similar matters, so as to develop a better appreciation of Western North Carolina's culture, environment, economy, and ecology, and to demonstrate means of enjoying and managing these resources without depleting or destroying them; and

Whereas, in the period from May to October, 1982, the project "Energy Expo '82" is scheduled to be held in Knoxville, Tennessee, and is expected to attract 13 million or more visitors to the mountains, many of whom can be expected to visit the Great Smoky Mountains National Park and other areas in

Western North Carolina along Interstate Highways 40 and 26, along the Blue Ridge Parkway, and along smaller routes as well; and

Whereas, the United States Government has tentative plans for substantial development of a visitor and educational center in the Western North Carolina area, and it is important that State and local governments and private persons and organizations participate to make the center of maximum value to all concerned; and

Whereas, the development of such a center can occur only if proper planning precedes actual construction; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Department of Administration the sum of one hundred twenty-five thousand dollars (\$125,000) for fiscal year 1979-80 as a reserve to be made available as needed to be used to fund studies, planning, and preliminary work as required to establish, in cooperation with the federal government and private persons and organizations, a Mountain Experience Center in Western North Carolina. The Department of Administration shall not release the funds appropriated under this act until a written agreement is signed by the appropriate federal agency or agencies which provides that federal funds in the amount of five hundred thousand dollars (\$500,000) are available and have been committed to this project; provided, if federal funds are pledged in a lesser amount, the Department of Administration is authorized to release an amount equal to twenty-five percent (25%) of the federal funds pledged by the written agreement. Funds remaining in the reserve at the end of fiscal year 1979-80 shall not revert but shall be retained by the Department of Administration until federal funds are appropriated and made available for the development of the Mountain Experience Center.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1131

## CHAPTER 1004

### AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID FOR THE RESTORATION OF THE MOUNT PLEASANT COLLEGIATE INSTITUTE BUILDING IN CABARRUS COUNTY.

Whereas, the Eastern Cabarrus Historical Society was incorporated in 1973 for the purpose of preserving certain historic buildings, documents, records, and artifacts; and

Whereas, the Mount Pleasant Collegiate Institute Building is a historic three-story building erected in 1852, contains thirty-three rooms, and is particularly adaptable for use as a Museum and Cultural Art Center; and

Whereas, the Mount Pleasant Collegiate Institute Building is located at Mount Pleasant, North Carolina, is readily accessible to the populations of Cabarrus, Rowan, Union, Stanly, and Mecklenburg Counties, is eight miles from Reed's Gold Mine, and is approximately 18 miles from the developing Railroad Site at Spencer, North Carolina; and

Whereas, the Eastern Cabarrus Historical Society has purchased the Mount Pleasant Collegiate Institute Building, has raised more than seventy-five thousand dollars (\$75,000) for its rehabilitation, and has received volunteer

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labor and services valued at more than ten thousand dollars (\$10,000); all of which has resulted in extensive interior renovation of the building, and the opening of four rooms for museum purposes; and

Whereas, there is a critical need for roof repair, a heating system, painting, and landscaping; 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, for fiscal year 1979-80 the sum of ten thousand dollars (\$10,000) to be made available by the department as a grant-in-aid to the Eastern Cabarrus Historical Society, Incorporated, for repair and rehabilitation of the Mount Pleasant Collegiate Institute Building, including landscaping of its grounds.

The money herein appropriated shall be made available to the Eastern Cabarrus Historical Society, Incorporated, on a dollar-for-dollar matching basis, for making capital improvements at the Mount Pleasant Collegiate Institute Building.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1179

## CHAPTER 1005

AN ACT TO PROVIDE FOR THE LICENSING OF PSYCHOLOGISTS IN STATE GOVERNMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-270.4(a) as it appears in the 1977 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina is hereby rewritten to read as follows:

“§ 90-270.4(a). Nothing in this Article shall be construed as limiting the activities, services, and use of official title on the part of any person in the regular employ of a federal, county or municipal government, or other political subdivision or agency thereof, or of the State Department of Public Instruction, or of a duly accredited or chartered educational institution, insofar as such activities and services are a part of the duties and responsibilities of his position. Such duties and responsibilities may include, but are not restricted to, teaching, writing, conducting research, the giving of public speeches or lectures, the giving of legal testimony, consulting with publishers, serving on boards, commissions, and review committees of public and nonprofit private agencies, with or without remuneration so long as such activities do not involve the practice of psychology as defined in this Article.

Nothing in this Article shall be construed as limiting the activities, services, and use of official titles on the 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, providing that such person has served in this capacity for a continuous period of five years prior to July 1, 1979. All such State employees, other than employees of the Department of Public Instruction who are exempt from licensing under this act, whose activities involve the practice of psychology and who are not licensed, or who have not practiced for 5 continuous years in a position involving the practice of

psychology, are allowed to continue in such activities which involve the practice of psychology in their employment until December 31, 1984, the purpose of this provision being to allow those who do engage in activities involving the practice of psychology to meet the qualifications of licensing for the practice of psychology as defined in this Article. In addition to the requirements for licensing contained in Article 18A, an employee of a State agency or department who has served in a position involving the practice of psychology for five consecutive years by December 31, 1984, and who has graduate training in psychology and experience as the Board finds to be the equivalent of a master's degree in psychology, shall be permitted to take the examination for licensing as a psychological associate. Provided, however, that any agency or department of the State of North Carolina which employs psychologists may petition the State Personnel Commission for exemption from the requirements of this act, which exemption shall be granted upon a showing that there is an insufficient number of licensed psychologists available to fill all authorized psychologists' positions in such agency or department."

**Sec. 2.** The second sentence of G.S. 90-270.6 (1977 Cumulative Supplement) is deleted and the following sentences substituted in lieu thereof:

"At all times three members shall be licensed practicing psychologists and two members shall be licensed psychological examiners. In the event that the composition of the Board on the effective date of this act does not conform to that prescribed in the preceding sentence, such composition shall be corrected thereafter by appropriate appointments as terms expire and as vacancies occur on the Board."

**Sec. 3.** G.S. 90-270.16 is amended by adding a new subsection (c) as follows:

"(c) No practicing psychologist or psychological examiner shall employ any psychologist who does not possess a valid license issued under this Article or who has not been temporarily licensed under the provisions of G.S. 90-270.5."

**Sec. 4.** G.S. 90-270.15 is amended by adding a new subdivision of subsection (a) as follows:

"(6) Has employed a psychologist who has no valid license issued under this Article, nor a temporary license as provided by G.S. 90-270.5."

**Sec. 5.** This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1224

## CHAPTER 1006

### 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



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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 1979-80, to be made available by the department as a grant-in-aid to the North Carolina Shakespeare Festival, Incorporated.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1239      CHAPTER 1007

AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA APPLE FESTIVAL, INC., IN HENDERSON COUNTY.

Whereas, the North Carolina Apple Festival is one of the largest and most beautiful events held in the South each August in Henderson County; and

Whereas, the festival had its beginning in 1947, as a means of promoting the sale of apples and the local economy in Henderson 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 Apple Festival, Inc., 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 Apple Festival, Inc., the sum of five thousand dollars (\$5,000) for fiscal year 1979-1980, and five thousand dollars (\$5,000) for fiscal year 1980-81, to put on the Apple Festival in Henderson County.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1271

**CHAPTER 1008**

AN ACT TO AMEND G.S. 163-211 TO INCREASE THE PER DIEM AND MILEAGE COMPENSATION PROVIDED PRESIDENTIAL ELECTORS MEETING IN THE CITY OF RALEIGH.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-211 is hereby amended on line 4 by deleting the words and figures "ten dollars (\$10.00)" and inserting in lieu thereof the words and figures "forty-four dollars (\$44.00)" and on lines 4 and 5 by deleting the words and figures "five cents (5¢)" and inserting in lieu thereof the words and figures "seventeen cents (17¢)".

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## S. B. 873

**CHAPTER 1009**

AN ACT TO CLARIFY G.S. 105-212 RELATING TO EXEMPTIONS FROM INTANGIBLES TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-212, as it appears in the 1977 Supplement to the General Statutes, is amended in line 6, after the word "profit," and before the words ", nor to" by inserting the following: ", nor to any funds, evidences of debt, or securities held irrevocably in a charitable remainder trust meeting the requirements of Section 664 of the Internal Revenue Code of 1954 as amended or in a pooled income fund meeting the requirements of Section 642(c)(5) of the Internal Revenue Code of 1954 as amended."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 280

**CHAPTER 1010**

AN ACT TO PROVIDE FOR THE MORE EXPEDITIOUS PUBLICATION OF THE COLONIAL RECORDS OF NORTH CAROLINA (SECOND SERIES).

Whereas, North Carolina is the oldest English-speaking colony in North America; and

Whereas, this State was founded upon the laws, customs, and principles of England; and

Whereas, prior to 1776, London, England stood in a similar relationship to the government of North Carolina as Washington, D. C. does today; and

Whereas, the collection and publication of the records relating to the history of the North Carolina colony are essential to an understanding of the development of this State; and

Whereas, the great Revolutionary leaders of North Carolina such as Cornelius Harnett, James Iredell, Samuel Johnston, Richard Caswell, William Hooper, and others were thoroughly grounded in the principles of the English common law; and

Whereas, this State has been systematically gathering its colonial records since 1961 and publishing them in a widely acclaimed series since 1963; and

Whereas, the Colonial Records Branch of the Division of Archives and History, Department of Cultural Resources, was awarded the highest national Award of Merit of the American Association for State and Local History for its excellence as an archival and publications project; 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 sixteen thousand dollars (\$16,000) for the fiscal year beginning July 1, 1979, and the sum of sixteen thousand dollars (\$16,000) for the fiscal year beginning July 1, 1980, to provide for the more expeditious publication of the Colonial Records of North Carolina (Second Series).

**Sec. 2.** Amend G.S. 121-6 by adding a new subsection (c) immediately following existing subsection (b) as follows:

"It shall be the duty and responsibility for the Department of Cultural Resources to edit and publish a second or new series of the most significant records of colonial North Carolina. From records which have been compiled in the North Carolina State Archives concerning the colonial period of North Carolina, a selection of the most significant documents shall be made therefrom by skilled and competent editor. The editor shall edit, according to acceptable scholarly standards, the selected materials which shall be published in documentary volumes not to exceed approximately 700 pages each in length until a full and representative published colonial records of North Carolina shall have been achieved. The number of copies of each volume to be so printed shall be determined by the Department of Cultural Resources, and such determination shall be based on the number of copies the department can reasonably expect to sell in a period of 10 years from the date of publication."

**Sec. 3.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 291

## CHAPTER 1011

### AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE FOR THE CONSTRUCTION OF AN AGRICULTURAL FACILITY NEAR ELIZABETH CITY.

Whereas, the Albemarle Livestock Show and Sale, Incorporated, is a nonprofit community service organization serving the counties of Camden, Currituck, Gates, Pasquotank, and Perquimans; and

Whereas, the purpose of the Albemarle Livestock Show and Sale, Inc., is to develop and promote livestock and general agricultural production and marketing and to assist in the development of agri-business in the Albemarle area by sponsoring livestock shows and sales, training schools, youth demonstration events, and similar events for adult training, and to promote a regional farmer's market; and

Whereas, the five counties served by the organization produces annually some thirty-seven million dollars (\$37,000,000) worth of corn and soybeans, one hundred ten million dollars (\$110,000,000) worth of vegetables, and fourteen percent (14%) of the North Carolina pork supply, leads the State in the production of Irish potatoes, and produces major quantities of peanuts, wheat and sorghum; and

Whereas, the Albemarle Livestock Show and Sale, Inc., owns a 5.1-acre tract of land adjacent to the Museum of the Albemarle near Elizabeth City, but the association's functioning is hampered by the lack of suitable housing for its activities; 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 1979-80 fiscal year, to be made available to Albemarle Livestock Show and Sale, Inc., to construct a facility to be used for an agricultural development and training center and as a farmer's market. None of the funds appropriated in this act shall be made available unless they are matched with an equal amount by the Albemarle Livestock Show and Sale, Inc. None of the funds appropriated in this act may be used for operating the facility.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 349

## CHAPTER 1012

AN ACT TO APPROPRIATE FUNDS TO THE INSTITUTE FOR THE TREATMENT AND EDUCATION FOR AUTISTIC AND RELATED COMMUNICATIONS HANDICAPPED CHILDREN (TEACCH).

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the University of North Carolina School of Medicine for the fiscal year 1979-80 the sum of sixty thousand dollars (\$60,000) for program support of the Institute for the Treatment and Education for Autistic and Related Communications Handicapped Children.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 372

## CHAPTER 1013

AN ACT TO PROVIDE FUNDING FOR NEWBORN SCREENING FOR CONGENITAL HYPOTHYROIDISM.

Whereas, congenital hypothyroidism is a common preventable cause of mental retardation; and

Whereas, the incidence in North Carolina is one in every 5,000 - 6,000 births which will result in 15 - 20 infants born with this condition each year; and

Whereas, screening methods are now available to detect hypothyroidism in the newborn; and

Whereas, early detection (one-two months of age) of congenital hypothyroidism will prevent severe mental retardation through simple and inexpensive treatment; and

Whereas, newborn screening, diagnosis, and treatment of hypothyroidism would save an institutional care expense of seven hundred fifty thousand dollars (\$750,000) per case prevented; Now, therefore,

*The General Assembly of North Carolina enacts:*



## CHAPTER 1013      Session Laws—1979

**Section 1.** There is hereby appropriated from the General Fund of the State, in addition to all other funds to the Division of Health Services in the Department of Human Resources, the sum of one hundred thousand dollars (\$100,000) in fiscal year 1979-80 and one hundred thousand dollars (\$100,000) in fiscal year 1980-81 to establish statewide newborn screening services for congenital hypothyroidism.

**Sec. 2.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. B. 391

### CHAPTER 1014

#### 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 dollars (\$5,000) for fiscal year 1979-1980, and five thousand dollars (\$5,000) for fiscal year 1980-81, to put on the Rhododendron Festival in Mitchell County.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. B. 393

### CHAPTER 1015

#### AN ACT TO APPROPRIATE FUNDS FOR THE PRODUCTION OF THE DRAMA ENTITLED "STRIKE AT THE WIND," IN ROBESON COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The sum of twenty thousand dollars (\$20,000) is appropriated from the General Fund to the Department of Cultural Resources for the 1979-80 fiscal year for the performance in Robeson County of the drama entitled "Strike at the Wind."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 394

## CHAPTER 1016

## AN ACT TO ESTABLISH A MULTI-PURPOSE SERVICE CENTER TO PROVIDE ASSISTANCE TO DISPLACED HOMEMAKERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-393 is amended by adding a new subsection (3) to read as follows:

“(3) to establish programs for the assistance of displaced homemakers as set forth in Part 10B of this Article.”

and by changing the period at the end of subsection (2) of G.S. 143B-393 to a semicolon and inserting the word “and” after the semicolon.

**Sec. 2.** A new Part 10B is added to Article 9 of Chapter 143B of the General Statutes to read as follows:

“Part 10B.

“Displaced Homemakers.

“§ 143B-394.4. *Definitions.*—As used in this Part, unless the context otherwise requires:

(1) ‘Center’ means any multi-purpose service facility for displaced homemakers established pursuant to this Part;

(2) ‘Council’ means the Council on the Status of Women;

(3) ‘Department’ means the Department of Administration;

(4) ‘Displaced homemaker’ means an individual who:

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

“§ 143B-394.5. *Establishment of center, location.*—The Council shall establish or contract for the establishment of a pilot center for displaced homemakers. In determining where to locate the center, the Council shall consider, with respect to each proposed location, the probable number of displaced homemakers in the area and the availability of resources for training and education.

“§ 143B-394.6. *Staff for center.*—To the maximum extent feasible, the staff of the center, including technical, administrative, and advisory positions, shall be filled by displaced homemakers. Where necessary, potential staff members shall be provided with on-the-job training.

“§ 143B-394.7. *Funding.*—The Council shall explore all possible sources of funding and in-kind contributions from federal, local and private sources in establishing the center. The Council is authorized to accept any funding or other contributions such as building space, equipment, or services of training personnel.

“§ 143B-394.8. *Services to be provided.*—(a) The center shall be designed to provide displaced homemakers with such necessary counseling, training, services, skills, and education as would enable them to secure gainful employment, and as would be necessary for their health, safety, and well-being.

(b) The center shall provide:

- (1) job counseling programs specifically designed for displaced homemakers entering the job market, taking into consideration their previous absence from the job market, and their lack of recent paid work experience, and taking into account and building upon the skills and experience possessed by the displaced homemaker;
- (2) job training and job placement services to train and place displaced homemakers for and into available jobs in the public and private sectors;
- (3) health education and counseling services with respect to general principles of preventive health care, including but not limited to family health care, nutrition education, and the selection of physicians and health care services;
- (4) financial management services with information and assistance on all aspects of financial management including but not limited to insurance, taxes, estate and probate matters, mortgages, and loans; and
- (5) educational services, including information services concerning available secondary and post-secondary education programs beneficial to displaced homemakers seeking employment; and information services with respect to all employment in the public or private sectors, education, health, public assistance, and unemployment assistance programs.

“§ 143B-394.9. *Rules and regulations, evaluation.*—(a) The Department shall, upon recommendations by the Council, promulgate rules and regulations concerning the eligibility of persons for the services of the center and governing the granting of any stipends to be provided.

(b) The Council shall require the director and staff of the center to evaluate the effectiveness of the job training, placement, and service components of the center. The evaluation shall include the number of persons trained, the number of persons placed in employment, follow-up data on such persons, the number of persons served by the various service programs, and the cost effectiveness of each component of the center.”

**Sec. 3.** Nothing herein shall be construed to obligate the General Assembly to make appropriations to implement the provisions of this act.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 818

## CHAPTER 1017

### AN ACT TO PROVIDE FOR DRUG PRODUCT SELECTION BY PHARMACISTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-76 is repealed. Part 1A is added to Article 4 of Chapter 90 of the General Statutes, as follows:

“Part 1A.

“Drug Product Selection.

“§ 90-76.1. *Definitions.*—As used in this Part:

(1) ‘established name’ has the meaning given in Section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 352(e)(3);

(2) 'equivalent drug product' means a drug product which has the same established name, active ingredient, strength, quantity, and dosage form, and which is therapeutically equivalent to the drug product identified in the prescription;

(3) 'good manufacturing practice' has the meaning given it in Part 211 of Chapter 1 of Title 21 of the Code of Federal Regulations;

(4) 'manufacturer' means the actual manufacturer of the finished dosage form of the drug;

(5) 'prescriber' means anyone authorized to prescribe drugs pursuant to the laws of this State.

"§ 90-76.2. *Selection by pharmacists permissible; prescriber may permit or prohibit selection; price limit on selected drugs.*—(a) A pharmacist dispensing a prescription for a drug product prescribed by its brand name may select any equivalent drug product which meets the following standards:

- (1) the manufacturer's name and the distributor's name, if different from the manufacturer's name, shall appear on the label of the stock package;
- (2) it shall be manufactured in accordance with current good manufacturing practices;
- (3) effective January 1, 1982, all oral solid dosage forms shall have a logo, or other identification mark, or the product name to identify the manufacturer or distributor;
- (4) the manufacturer shall have adequate provisions for drug recall; and
- (5) the manufacturer shall have adequate provisions for return of outdated drugs, through his distributor or otherwise.

(b) The pharmacist shall not select an equivalent drug product if the prescriber instructs otherwise by one of the following methods:

- (1) A prescription form shall be preprinted or stamped with two signature lines at the bottom of the form which read:

Product Selection Permitted

Dispense as Written'

On this form, the prescriber shall communicate his instructions to the pharmacist by signing the appropriate line.

- (2) In the event the preprinted or stamped prescription form specified in (b)(1) is not readily available, the prescriber may handwrite 'Dispense as Written' or words or abbreviations of the same meaning on a prescription form.
- (3) When ordering a prescription orally, the prescriber shall specify either that the prescribed drug product be dispensed as written or that product selection is permitted. The pharmacist shall note the instructions on the file copy of the prescription and retain the prescription form for the period prescribed by law.

(c) The pharmacist shall not select an equivalent drug product unless its price to the purchaser is less than the price of the prescribed drug product.

"§ 90-76.3. *Prescription label.*—The prescription label of every drug product dispensed shall contain the brand name of any drug product dispensed, or in the absence of a brand name, the established name.

"§ 90-76.4. *Prescription record.*—The pharmacy file copy of every prescription shall include the brand or trade name, if any, or the established name and the manufacturer of the drug product dispensed.



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“§ 90-76.5. *Prescriber and pharmacist liability not extended.*—The selection of an equivalent drug product pursuant to this Part shall impose no greater liability upon the pharmacist for selecting the dispensed drug product or upon the prescriber of the same than would be incurred by either for dispensing the drug product specified in the prescription.

“§ 90-76.6. *Violation a misdemeanor.*—Violation of this Part is a misdemeanor and shall be punishable by a fine or imprisonment, or both, at the discretion of the court.”

**Sec. 2.** This act shall become effective January 1, 1980, and shall apply only to prescriptions written or ordered orally after January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. B. 1005

### CHAPTER 1018

AN ACT TO AMEND G.S. 15A-701(a)(2) AND G.S. 15A-701(a1)(2) TO REALIGN TIME LIMITS IN MISDEMEANOR CASES APPEALED TO SUPERIOR COURT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15A-701(a)(2) is rewritten to read as follows:

“(2) Within 90 days from the first regularly scheduled criminal session of superior court held after the defendant has given notice of appeal in a misdemeanor case for a trial de novo in the superior court;”.

**Sec. 2.** G.S. 15A-701(a1)(2) is rewritten to read as follows:

“(2) Within 120 days from the first regularly scheduled criminal session of superior court held after the defendant has given notice of appeal in a misdemeanor case for a trial de novo in the superior court;”.

**Sec. 2 A.** G.S. 15A-701(a1)(3) is hereby amended in the first lines thereof by adding the words and punctuation “, or a finding of no probable cause pursuant to G.S. 15A-612” after the phrase “other than under G.S. 15A-703”.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. B. 1310

### CHAPTER 1019

AN ACT TO CREATE THE LEGISLATIVE STUDY COMMISSION ON THE ALTERNATIVES OF WATER MANAGEMENT.

Whereas, clean and plentiful amounts of water are vital for the health and welfare of the citizens of North Carolina; and

Whereas, an adequate supply of water is essential for the economic and industrial growth of North Carolina; and

Whereas, future requirements of North Carolina for potable water are estimated to double by the year 2000; and

Whereas, local governments are facing increasing difficulties in meeting the escalating cost of water facilities, necessary to ensure an adequate supply of clean water to their residents; and

Whereas, a proliferation of small water supply systems cannot effectively join forces to produce an ample and clean water supply; and

Whereas, local and State governments and their taxpayers can realize great monetary savings through a coordinated plan of water management; and

Whereas, the costs inherent in planning for and implementing systems to assure future industrial and economic development water needs will require consideration of alternative funding techniques including responsible use of long-term bonded indebtedness; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is created a Legislative Study Commission on Alternatives for Water Management.

**Sec. 2.** Duties of the Commission. The Commission shall study the State's present organization for planning and management of water resources and the present and future trend of North Carolina in regard to water use and management. The Commission shall study the feasibility of creating a State water authority to furnish water throughout the State. The Commission shall study other alternatives for water management. The Commission shall also study the need for legislation and regulations concerning local and regional water supplies including sources of water organization and administration of water systems.

**Sec. 3.** Organization of the Commission. (a) The Commission shall consist of 12 members to be appointed as follows: six by the President of the Senate, of which a minimum of three must be knowledgeable in the area of Water Resource Management; and six by the Speaker of the House, of which a minimum of three must be knowledgeable in the area of Water Resource Management. The members of the Commission shall be appointed within 30 days of ratification of this act and shall serve until termination of the Commission.

(b) If a vacancy occurs in the membership of the Commission, it shall be filled by action of the officer who appointed the member who is to be replaced, and the person then shall serve for the remainder of the term of the member whom he succeeds.

(c) The Commission shall elect from its membership a chairman.

**Sec. 4.** Staff support for the Commission. In executing its duties, the Commission is authorized to hire such professional assistance and secretarial support as it deems necessary. Commission members are authorized to receive subsistence and mileage at the statutory rates in lieu of compensation.

**Sec. 5.** Appropriations to the Commission. There is appropriated to the General Assembly for the Commission from the General Fund the sum of fifty thousand dollars (\$50,000) for fiscal year 1979-1980. These funds shall be used in the performance of the duties set forth in this act.

**Sec. 6.** The Commission shall file a report with the General Assembly not later than March 1, 1980 and shall terminate upon the filing of the report.

**Sec. 7.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1331                      **CHAPTER 1020**

**AN ACT TO AUTHORIZE ESTABLISHMENT AND FUNDING OF A  
TECHNICAL INSTITUTE IN BRUNSWICK COUNTY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The State Board of Education is hereby authorized to establish a technical institute in the County of Brunswick, which institution shall be established, organized, and operated as an institutional member of the North Carolina Community College System and shall be subject to all provisions of the General Statutes of North Carolina pertaining to technical institutes.

**Sec. 2.** There is hereby appropriated from the General Fund to the State Board of Education to provide appropriations for the annual operating expenses, and for instructional and administrative equipment for the said technical institute the sum of ninety-six thousand seven hundred ninety-eight dollars (\$96,798) for fiscal year 1979-80. It is understood that the allocation and expenditures of these funds shall be made in conformity with funding procedures, formulas and other regulations of the State Board of Education.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1350                      **CHAPTER 1021**

**AN ACT TO CREATE A SAVINGS AND LOAN STUDY COMMISSION.**

*The General Assembly of North Carolina enacts:*

**Section 1.** There is created the Commission to Study the Savings and Loan Statutes contained in Chapters 54 and 54A of the North Carolina General Statutes. The Commission shall consist of 16 members as follows: The President of the Senate shall appoint four members, one of whom is a member of the Senate and one of whom is an officer of a stock savings and loan association. The Speaker of the House of Representatives shall appoint four members, one of whom is a member of the House of Representatives and one of whom is an officer of a mutual savings and loan association. The Secretary of Commerce shall be, ex officio, a member with full voting rights (or, the Secretary may designate the Administrator of the Savings and Loan Division to serve in his stead). The Governor shall appoint seven members. Any vacancy shall be filled by the appointing authority who appointed the person causing the vacancy.

**Sec. 2.** The Commission shall meet initially at the call of the Secretary of Commerce and shall elect from its membership a chairman and vice-chairman. The Commission shall study the statutes governing the savings and loan industry in North Carolina and shall prepare recommended revisions, additions and other modifications deemed necessary to produce the clearest and simplest statutory text that will effectuate the recommendations of the Commission.

**Sec. 3.** The Commission shall submit a written report to the Governor and the General Assembly not later than 30 days prior to the convening of the 1980 adjourned session of the 1979 General Assembly. That report shall be the final report of the Commission.

**Sec. 4.** The Commission may employ necessary professional and clerical assistance, and may hold its meetings in the State Legislative Building.

**Sec. 5.** 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. 6.** There is appropriated from the General Fund to the Department of Administration, for the 1979-80 fiscal year, in addition to all other funds appropriated, the sum of twenty-five thousand dollars (\$25,000) to pay the expenses of the Commission. When the Commission submits its final report to the Governor to be transmitted to the 1980 adjourned session of the General Assembly, any part of this appropriation not then expended or committed for Commission expenses shall revert to the General Assembly at that time.

**Sec. 7.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1365

## CHAPTER 1022

AN ACT TO APPROPRIATE TO THE DEPARTMENT OF STATE TREASURER FUNDS TO BE USED FOR THE PURPOSE OF STUDYING THE RATIO OF APPRAISED PROPERTY VALUES TO TRUE PROPERTY VALUES.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of State Treasurer, in addition to all other appropriations, the sum of one hundred fifty thousand dollars (\$150,000) for fiscal year 1979-80 which shall be used by the Local Government Commission for the sole purpose of making or contracting to have made a study of the ratio of appraised value of real and personal property to its true value in each county and publishing the results of the study, as required by G.S. 105-289(h).

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1402

## CHAPTER 1023

AN ACT TO MAKE SPECIAL APPROPRIATIONS TO PROVIDE MAJOR EQUIPMENT FOR THE STATE TRUCK DRIVER TRAINING SCHOOL.

Whereas, the rapid growth of the North Carolina motor transport industry in the years immediately following World War II created a great demand for employees well trained in the skills necessary for safely driving tractor-trailers and large trucks, vans and similar motor transport vehicles using the public streets and highways; and

Whereas, the State Truck Driver Training School was established in the year 1949 at North Carolina State College, (now North Carolina State University at Raleigh) under cosponsorship of the then North Carolina State College and the North Carolina Motor Carriers Association; and, the said State Truck Driver Training School has for 30 years experienced outstanding success



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and far famed recognition for the excellence of its six-week's program of concentrated training; and

Whereas, in 1974, as a part of the process of reorganizing public higher education services, negotiations between North Carolina State University and the State Board of Education, Department of Community Colleges, led to an agreement whereby the State Truck Driver Training School was transferred for general administration to the State Board of Education, Department of Community Colleges, by which authority the school is assigned to an institution of the Community College System for particular, local administration of its day-to-day operations; and

Whereas, the continued operation and existence of the State Truck Driver Training School urgently requires that the State provide special funding for certain items of essential major equipment; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any and all other appropriations made to the State Board of Education, Department of Community Colleges, there is hereby appropriated from the General Fund of the State of North Carolina to the State Board of Education, Department of Community Colleges, the sum of one hundred fifty thousand dollars (\$150,000) for fiscal year 1979-80 to purchase three tractor-trailers for use in teaching in the State Truck Driver Training School.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1407      CHAPTER 1024

### AN ACT TO APPROPRIATE FUNDS FOR THE WAXHAW'S HISTORICAL FESTIVAL AND DRAMA ASSOCIATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Waxhaw's Historical Festival and Drama Association the sum of five thousand dollars (\$5,000) for the fiscal year 1979-80.

**Sec. 2.** The funds herein appropriated shall be made available on a dollar-for-dollar matching basis for the construction of a permanent amphitheater.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1416

## CHAPTER 1025

## AN ACT TO APPROPRIATE FUNDS FOR THE DEVELOPMENT AND IMPROVEMENT OF THE SNOW CAMP DRAMA SOCIETY'S HISTORIC AND CULTURAL ACTIVITIES, PROGRAMS AND FACILITIES.

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

Whereas, the Snow Camp Drama Society has produced the outdoor drama, The Sword of Peace, in Alamance County every year since 1974; and

Whereas, the outdoor drama, The Sword of Peace, has been seen by an estimated 39,000 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 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 economic and cultural benefits of all the activities of the Snow Camp Drama Society have been significant; and

Whereas, the Drama Society's facility housing The Sword of Peace will be more economically viable by being more accessible and comfortable; 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 ten thousand dollars (\$10,000) for the fiscal year 1979-80 to the Department of Cultural Resources, North Carolina Arts Section, for the purpose of further developing and improving the amphitheatre facility of The Sword of Peace produced by the Snow Camp Drama Society.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1423

## CHAPTER 1026

## AN ACT REQUIRING THE DEPARTMENT OF AGRICULTURE TO ESTABLISH AN ANIMAL FEED ADVISORY SERVICE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Department of Agriculture shall establish, as a pilot program, a Feed Advisory Service for the analysis of animal feeds in order to provide a feeding management service to all animal producers in North Carolina. A fee of five dollars (\$5.00) shall accompany each feed sample sent to the Department for testing.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

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### H. B. 1463      CHAPTER 1027

#### AN ACT TO AMEND CHAPTER 55A TO ALLOW INDEMNIFICATION OF DIRECTORS EXCEPT FOR BAD FAITH OR WILLFUL MISCONDUCT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55A-15(a)(8) is amended to read as follows:

“(8) Subject to any restrictions in the charter, to provide by bylaw, agreement, vote of board of directors or members, or otherwise, for indemnification of any director or officer or former director or officer of the corporation or any person who may have served at its request as a director or officer of another corporation, whether for profit or not for profit, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to have acted in bad faith or to have been liable or guilty by reason of willful misconduct in the performance of duty.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. B. 418      CHAPTER 1028

#### AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF MENTAL HEALTH AND MENTAL RETARDATION SERVICES, DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSE OF RAISING THE MONTHLY SUBSIDY FOR RESIDENTIAL CARE FOR MENTALLY RETARDED AND MULTI-HANDICAPPED CHILDREN.

Whereas, the costs for providing residential services to mentally retarded and multi-handicapped children have continued to rise; and

Whereas, the private nonprofit centers who provide these services at the community level have lost substantial funds from other sources; and

Whereas, the provision of these services at the community level provide relief for the State institutions wherein this care would otherwise need to be provided; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Division of Mental Health and Mental Retardation Services, Department of Human Resources for fiscal year 1979-80, the sum of three hundred thousand dollars (\$300,000) and for fiscal year 1980-81, the sum of three hundred thousand dollars (\$300,000) to help maintain current services in Specialized Community Residential Centers by raising the monthly subsidy to six hundred seventy-five dollars (\$675.00) in 1979-1981, for 140 children. Provided, however, such appropriations shall not be used to fund salary increases of such Residential Centers beyond the existing increase in minimum wage levels or guidelines of increase in salaries adopted by the federal government; provided further, the Residential Centers may set such salary increases at the higher of the two above mentioned salary limitations.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 433 CHAPTER 1029

AN ACT TO AMEND SECTIONS 51 AND 52 OF CHAPTER 1219 OF THE SESSION LAWS OF 1977, SECOND SESSION 1978 TO PROVIDE THE CONTINUATION OF THE STUDY OF RETIREMENT BENEFITS IN ADDITION TO SALARIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 51 of Chapter 1219 of the Session Laws of 1977, Second Session in 1978 is rewritten to read as follows:

"A special study commission is established to examine the situation of retirees returning to work in government jobs and drawing both retirement benefits and salaries (or consultant income). The membership of the commission shall be: three Senators appointed by the President of the Senate, three Representatives appointed by the Speaker of the House, the two legislative members of the Board of Trustees of the Teachers' and State Employees' Retirement System, the Director of the Teachers' and State Employees' Retirement System, the State Treasurer, the State Auditor, and the Director of State Personnel (12 members). The first meeting of the commission shall be called by the legislative members of the Teachers' and State Employees' Retirement System, and the chairman of the commission shall be elected by the membership. Members of the commission shall be reimbursed for commission-related expenses under G.S. 138-6 and G.S. 120-3.1. The commission shall report to the 1980 adjourned session of the 1979 General Assembly. Within the limit of funds available in the appropriations in Section 52 of this act, the commission shall have the authority to employ part-time clerical staff and to contract for professional consultants from the Institute of Government of The University of North Carolina at Chapel Hill or from other sources."

**Sec. 2.** All monies remaining from the amount appropriated by Section 52 of Chapter 1219 of the Session laws of 1977, Second Session 1978 shall not revert but shall be available in the next fiscal year. This amount is to be administered by the Legislative Services Office for the reasonable expenses of the commission created by Section 51 of Chapter 1219 of the Session Laws of 1977, Second Session 1978.

**Sec. 3.** In the event that the 1979 General Assembly should enact a Commission or Committee to make a formula comparison study between the several retirement plans in the State court system and the other State retirement systems, one contributing member each from the Uniform Judicial, Solicitorial and Superior Court Clerk Retirement Systems to be appointed by the Chief Justice of the Supreme Court shall sit as voting members of the commission or committee.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 461

**CHAPTER 1030**

AN ACT TO APPROPRIATE FUNDS FOR THE OPERATION OF THE LEGISLATIVE RESEARCH COMMISSION'S ADMINISTRATIVE RULES REVIEW COMMITTEE AND TO EXTEND ITS LIFE FOR A TWO-YEAR PERIOD.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Legislative Research Commission for its review procedure for administrative rules the sum of sixty-five thousand dollars (\$65,000) for the 1979-1980 fiscal year and the sum of sixty-five thousand dollars (\$65,000) for the 1980-1981 fiscal year.

**Sec. 2.** Section 10 of Chapter 915 of the 1977 Session Laws is rewritten to read as follows:

"Sec. 10. This section and Sections 5 and 7 of this act shall become effective on October 1, 1977. The remaining sections of this act shall become effective on October 1, 1977, and shall expire on June 30, 1981."

**Sec. 3.** G.S. 120-30.21 of Section 1 of Chapter 915 of the 1977 Session Laws (First Session, 1977) is amended in the third sentence by inserting after the phrase "on October 1, 1977," and before the words "the cochairmen" the following: "and biennially thereafter,".

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 465

**CHAPTER 1031**

AN ACT TO PROVIDE FUNDS FOR MEDICAL ASSESSMENT OF CHILDREN SUSPECTED TO BE ABUSED OR NEGLECTED.

Whereas, the problem of child abuse and neglect is widespread throughout the population of North Carolina; and

Whereas, many of the injuries and health impairments suffered by children are often overlooked or attributed to causes other than abuse or neglect; and

Whereas, systematic medical assessment of children under investigation for suspected abuse or neglect is necessary for the determination of health status; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Division of Health Services, Department of Human Resources the sum of twenty-five thousand dollars (\$25,000) for fiscal year 1979-80 and the sum of twenty-five thousand dollars (\$25,000) for the fiscal year 1980-81 for the purpose of performing medical assessments of children suspected of being abused or neglected.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 467

**CHAPTER 1032****AN ACT TO APPROPRIATE FUNDS FOR THE REED GOLD MINE STATE HISTORIC SITE.**

Whereas, Reed Gold Mine located in Cabarrus County is the site of the first authenticated gold find in the United States; and

Whereas, the Reed Gold Mine State Historic Site in Cabarrus County is owned by the State of North Carolina and is maintained and operated by the Department of Cultural Resources, the Division of Archives and History; and

Whereas, there is a great need at the historic site for (a) additional personnel for maintenance and guide service (b) improved educational programs, and (c) the completion of the stamp mill for use as an educational facility by visitors, especially for school children to see how ore is crushed to remove the gold; Now, therefore,

*The General Assembly of North Carolian enacts:*

**Section 1.** There is appropriated from the General Fund to the State Department of Cultural Resources, Division of Archives and History for the 1979-1980 fiscal year the sum of twenty-four thousand one hundred fifty dollars (\$24,150) for the completion of the stamp mill and putting it into working order.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 529

**CHAPTER 1033****AN ACT TO APPROPRIATE FUNDS FOR THE CLEVELAND COUNTY HISTORICAL MUSEUM.**

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Cleveland County Historical Museum for fiscal year 1979-80, the sum of two thousand five hundred dollars (\$2,500) as a grant-in-aid to be used for storage and exhibition purposes. The money herein appropriated shall be made available to the Cleveland County Historical Museum on a dollar-for-dollar matching basis.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 532

**CHAPTER 1034****AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR THE PROVISION OF ESSENTIAL INPATIENT HOSPITAL CARE AND RELATED SERVICES TO MIGRANT FARMWORKERS AND THEIR DEPENDENTS WHILE IN NORTH CAROLINA.**

Whereas, the migrant farmworkers make a significant contribution to the agricultural economy of North Carolina; and

Whereas, the population of migrant farmworkers has increased significantly in the past three years; and

## CHAPTER 1034      Session Laws—1979

Whereas, the hospitals in counties with migrant farmworkers absorb losses on caring for migrants, eventually raising hospital costs for North Carolina citizens; and

Whereas, migrants do not earn enough to buy private health insurance; and

Whereas, federal funds for migrant health care in North Carolina do not cover inpatient hospitalization; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Division of Health Services, Department of Human Resources for fiscal year 1979-80 and fiscal year 1980-81 the sum of ten thousand dollars (\$10,000) each year to pay for inpatient hospitalization costs and fees of surgeons and physicians rendering inpatient services to migrant farmworkers and their dependents while in North Carolina.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 535                      CHAPTER 1035

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION AND REHABILITATION OF THE GROVE (BLOUNT HOUSE) IN TARBORO FOR USE AS AN ART GALLERY AND ARTS EDUCATIONAL CENTER.

Whereas, The Grove was constructed in Tarboro in 1808 by General Thomas Blount and is a fine example of North Carolina federal architecture; and

Whereas, General Thomas Blount served in the Revolutionary War, was a member of the North Carolina Senate, and served North Carolina in the United States House of Representatives for 11 years; and

Whereas, Hobson Pittman, a native of Tarboro, achieved national acclaim as one of the foremost American impressionist artists; and

Whereas, the estate of the late Hobson Pittman has donated to the Town of Tarboro approximately \$325,000 worth of Pittman's artwork, furniture, and personal memorabilia on the condition that the town provide a suitable gallery for such artwork; and

Whereas, Tarboro is the only community within the State that has been fortunate enough to be able to obtain Pittman's artwork, which is being actively sought by several organizations outside the State; and

Whereas, it is appropriate that an appropriate gallery should be established in order to fulfill the Pittman bequest and to procure these valuable art treasures for all North Carolinians; and

Whereas, the Town of Tarboro plans to preserve and adaptively reuse The Grove (Blount House) as a gallery for Pittman's artwork, and has obtained planning grants for the project from the National Trust for Historic Preservation and from the Heritage Conservation and Recreation Service, and has contracted with an architect to prepare the necessary plans and specifications; 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 1979-80 fiscal year the sum of fifteen thousand dollars (\$15,000) which will be available to the Town of Tarboro for the purpose of rehabilitation, to include a phased program of (1) research, (2) planning, and (3) rehabilitation of The Grove, provided an amount of fifteen thousand dollars (\$15,000) is raised by the Town of Tarboro. 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 July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 609

## CHAPTER 1036

### AN ACT TO APPROPRIATE FUNDS FOR THE EPILEPSY AND NEUROLOGICAL DISORDERS PROGRAM.

Whereas, a stigma based on superstitions, misconceptions, and unwarranted fear has long been associated with epilepsy and has caused great suffering to people who have the condition, often depriving them of equal opportunities for employment, education, medical care and community participation; and

Whereas, it is estimated there are 54,500 people with epilepsy in North Carolina, with a higher prevalence in the lower socioeconomic groups; and

Whereas, the Epilepsy Project survey of 1976-77 showed 66 percent of the cases of epilepsy or seizure disorders were from families whose incomes were below eight thousand dollars (\$8,000) annually; and

Whereas, there exists an urgent need for educational programs for persons with epilepsy and their families, local agency personnel and public school personnel; and

Whereas, the aforementioned persons with epilepsy and other neurological disorders are in need of clinical and laboratory services; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of Human Resources, Division of Health Services, in addition to all other funds appropriated, the sum of forty thousand dollars (\$40,000) for fiscal year 1979-80 and the sum of forty thousand dollars (\$40,000) for fiscal year 1980-81 for the Epilepsy and Neurological Disorders Program. The appropriation is for the use of the Department of Human Resources in:

(1) providing health education for school systems and other groups, for providers of medical services, for people with epilepsy, and for their families through the utilization of a public health educator;

(2) supplementing support of four monthly public epilepsy and neurological disorders clinics and to establish two more such clinics; one in the eastern part and one in the western part of the State; and

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 130                      **CHAPTER 1037**

AN ACT TO APPROPRIATE TO THE PUBLIC OFFICERS AND EMPLOYEES LIABILITY INSURANCE COMMISSION FUNDS FOR ITS NECESSARY OPERATING EXPENSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Appropriation. There is hereby appropriated to the Public Enforcement Officers' and Employees' Liability Insurance Commission from the General Fund the sum of twenty thousand dollars (\$20,000) for the fiscal year 1979-1980 and a like sum for the fiscal year 1980-1981.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 350                      **CHAPTER 1038**

AN ACT TO MAKE AN APPROPRIATION FOR THE DISPUTE SETTLEMENT CENTER.

*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 1979-80 the sum of seven thousand one hundred dollars (\$7,100) to fund the operating expenses of the Dispute Settlement Center, Inc., a nonprofit corporation.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 409                      **CHAPTER 1039**

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROBLEM OF PUBLIC SCHOOL DROPOUTS IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Legislative Research Commission is authorized to study (i) what are the causes of the high dropout rate in North Carolina in grades 8 to 12; (ii) why so many North Carolina high school graduates fail to continue their education beyond the high school level; (iii) what should and can be done to encourage students to remain in high school until they graduate; and (iv) what special factors, if any, have caused the dropout rate to be especially high in the western mountain counties comprising the Eighth Educational District, and what special solutions, if any, exist. The Commission may submit a report to the 1981 Session of the General Assembly.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 417

## CHAPTER 1040

AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF MENTAL HEALTH AND MENTAL RETARDATION SERVICES OF THE DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSE OF INCREASING ADULT DEVELOPMENTAL ACTIVITY PROGRAMS' MONTHLY SUBSIDY.

Whereas, approximately 2,800 clients are currently supported, in part, by State funds in Adult Developmental Activity Programs; and

Whereas, the subsidy for these programs has remained the same since 1978 and costs continue to rise; and

Whereas, these programs are necessary for the development of individual abilities and the maintenance of those receiving services in the community; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Division of Mental Health and Mental Retardation Services, Department of Human Resources for fiscal year 1979-80 the sum of two hundred thousand dollars (\$200,000) and for fiscal year 1980-81 the sum of two hundred thousand dollars (\$200,000) to provide for an increase in the monthly subsidy to one hundred forty-six dollars (\$146.00) per month for Adult Developmental Activities Programs for all clients who receive such subsidy.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 459

## CHAPTER 1041

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT FOR A PARK RANGER FOR BOONE'S CAVE STATE PARK.

*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 twenty thousand six hundred seventy-six dollars (\$20,676) for the 1979-80 fiscal year and sixteen thousand eighty-six dollars (\$16,086) for the 1980-81 fiscal year to provide funds for a park ranger and his operating expenses at Boone's Cave State Park. These funds shall be in addition to all other funds appropriated to the Department of Natural Resources and Community Development for the 1979-81 biennium.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 521                      **CHAPTER 1042**

AN ACT TO APPROPRIATE FUNDS TO PROVIDE FOR TWO  
ADDITIONAL PREHEARING ATTORNEYS AND ONE ADDITIONAL  
STENOGRAPHER FOR THE COURT OF APPEALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any other appropriation which has been made in the Budget Appropriations Act there is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of fifty-nine thousand three hundred forty-eight dollars (\$59,348) for fiscal year 1979-80, and the additional sum of fifty-seven thousand seven hundred ninety-five dollars (\$57,795) for the fiscal year 1980-81, to provide for two prehearing attorneys and one stenographer for the Court of Appeals.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 524                      **CHAPTER 1043**

AN ACT TO APPROPRIATE FUNDS FOR SMALL WATERSHED  
PROJECTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of Natural Resources and Community Development the sums of one hundred thousand dollars (\$100,000) in fiscal year 1979-80, and fifty thousand dollars (\$50,000) in fiscal year 1980-81, for the purpose of establishing a Reserve for Small Watershed Projects.

**Sec. 2.** Of the funds appropriated in Section 4 of Chapter 731 of the 1979 Session Laws to the Department of Natural Resources and Community Development as a Reserve for Civil Works and Small Watershed Projects, two hundred thousand dollars (\$200,000) of the appropriation for fiscal year 1979-80, and two hundred thousand dollars (\$200,000) of the appropriation for fiscal year 1980-81 is designated for use exclusively for small watershed projects.

**Sec. 3.** Notwithstanding the provisions of G.S. 139-54, no funds appropriated herein or in Chapter 731 of the 1979 Session Laws shall be used for State participation in the costs of land rights acquisition for small watershed projects.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 550

**CHAPTER 1044****AN ACT TO AMEND G.S. CHAPTER 108, ARTICLE 4A, CONCERNING PROTECTIVE SERVICES FOR DISABLED ADULTS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-104(d) is amended by adding the words "or autism" after the word "epilepsy" in line three.

**Sec. 2.** G.S. 108-104(i) is amended by adding the word "psychological" after the word "psychiatric" in line two.

**Sec. 3.** G.S. 108-104(l) is amended by adding the words "or mental health" after the word "health" on line three.

**Sec. 4.** G.S. 108-104(m) is amended by deleting the word "and" and inserting in lieu thereof the word "or" after the word "mental" in line three, and by adding a new last sentence to read as follows:

"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's hospitals for the mentally ill (Broughton Hospital, Dix Hospital, Cherry Hospital, and Umstead Hospital) or centers for the mentally retarded (Western Carolina Center, Murdoch Center, Caswell Center, and O'Berry 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 G.S. Chapter 33, G.S. Chapter 35, or guardian as defined in G.S. 122-36(n), and he needs medical treatment."

**Sec. 5.** G.S. 108-106.2(c) is amended by striking the next to last sentence thereof, inserting in its place the following:

"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 G.S. 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 G.S. Chapter 35, Article 1A, or G.S. 33-7, as appropriate."

**Sec. 6.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 576

**CHAPTER 1045****AN ACT TO APPROPRIATE FUNDS FOR THE FURTHER DEVELOPMENT OF FORT DEFIANCE IN CALDWELL COUNTY.**

Whereas, William Lenoir came as a young man to the Yadkin Valley of North Carolina in 1775, became an officer in the American Revolution, served as a leader in State government for many years, and was president of the Board of Trustees of The University of North Carolina; and

Whereas, Fort Defiance, the home of General Lenoir in Caldwell County, has been acquired by Fort Defiance, Incorporated; and

Whereas, this nonprofit corporation, with the assistance of the State, federal, county and municipal governments, private foundations, and citizens of the area, has undertaken the acquisition and restoration of this historic place for the use, education, and enjoyment of North Carolinians; and



Whereas, the main house has been completely restored, furnished with original Lenoir family items, and opened to the public at ceremonies on September 23, 1978; and

Whereas, additional funds are required to complete the archaeological research on the smokehouse, dairy, kitchen, and formal garden sites; to acquire additional land; and to complete the restoration of the smokehouse and dairy which are important original dependencies of Fort Defiance; 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 1979-80 fiscal year the sum of ten thousand dollars (\$10,000) for the purpose of completing the archaeological research on the smokehouse, dairy, kitchen, and formal garden sites and to acquire additional land, provided an amount of ten thousand dollars (\$10,000) is raised by Fort Defiance, Incorporated.

**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 shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 582

## CHAPTER 1046

### AN ACT TO CREATE STATUTORY AUTHORITY FOR GRANTS FOR WATER RESOURCES DEVELOPMENT PROJECTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 143 is amended by adding a new Part 8 to Article 21 to read as follows:

“Part 8.

“Grants for Water Resources Development Projects.

“§ 143-215.70. *Secretary of Natural Resources and Community Development authorized to accept applications.*—The Secretary of the Department of Natural Resources and Community Development is authorized to accept applications for grants for nonfederal costs relating to water resources development projects from units of local government sponsoring such projects, except that this shall not include small watershed projects reviewed by the State Soil and Water Conservation Commission pursuant to G.S. 139-55.

“§ 143-215.71. *Purposes for which grants may be requested.*—Applications for grants may be made for the nonfederal share of water resources development projects for the following purposes in amounts not to exceed the percentage of the nonfederal costs indicated:

(1) general navigation projects that are sponsored by local governments - eighty percent (80%);

(2) recreational navigation projects - twenty-five percent (25%);

(3) construction costs for water management (drainage) purposes, including utility and road relocations not funded by the State Department of Transportation - sixty-six and two-thirds percent (66 2/3%);

(4) stream restoration - sixty-six and two-thirds percent (66 2/3%);

(5) protection of privately owned beaches where public access is allowed and provided for - seventy-five percent (75%);

(6) land acquisition and facility development for recreation sites operated by local governments at impoundments owned by the United States - fifty percent (50%).

"§ 143-215.72. *Review of applications.*—(a) The secretary shall receive and review applications for the grants specified in this Part and approve, approve in part, or disapprove such applications.

(b) In reviewing each application, the secretary shall consider:

- (1) the economic, social, and environmental benefits to be provided by the project;
- (2) regional benefits of projects to an area greater than the area under the jurisdiction of the local sponsoring entity;
- (3) the financial resources of the local sponsoring entity;
- (4) the environmental impact of the project;
- (5) any direct benefit to State-owned lands and properties.

"§ 143-215.73. *Recommendation and Disbursal of Grants.*—After review of grant applications, the secretary shall forward those approved or approved in part to the Advisory Budget Commission, which shall review the recommendations and approve or disapprove the transfer of funds from the department's reserve fund into accounts for specific projects. After approval by the Advisory Budget Commission, project funds shall be disbursed and monitored by the Department of Natural Resources and Community Development."

**Sec. 2.** G.S. 139-54(5), as it appears in the 1978 Interim Supplement to the General Statutes, is amended by rewriting the second line to read:

"purposes, including utility and road relocations not funded by the State Department of Transportation - sixty-six and two-thirds percent (66 2/3%);".

**Sec. 3.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 606

## CHAPTER 1047

### AN ACT TO MAKE AN APPROPRIATION FOR PLANNING OF THE APPALACHIAN CULTURAL HERITAGE COMPLEX.

Whereas, the economic viability of crafts people in the Blue Ridge Mountain area has long been severely hampered by the lack of access to educational and training opportunities and the inability to effectively market their wares to the general public; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to Caldwell Community College and Technical Institute for fiscal year 1979-80 the sum of ten thousand dollars (\$10,000) for planning and preliminary work on an Appalachian Cultural Heritage Complex.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 622

**CHAPTER 1048**

**AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE NEW BERN ACADEMY HISTORICAL COMMISSION TO RESTORE THE INTERIOR OF THE NEW BERN ACADEMY, NEW BERN.**

Whereas, the cultural heritage of the New Bern area of North Carolina has made an immeasurable contribution to all the citizens of the State; and

Whereas, New Bern has played an important role in the history of North Carolina from the earliest days of settlement; and

Whereas, it is desirable to preserve and perpetuate the history and cultural heritage of New Bern; and

Whereas, New Bern Academy was authorized by the Assembly of 1764 and construction completed by 1766; the original structure burned in 1795, and the present building was constructed ca 1806; and

Whereas, the 1975 General Assembly passed a bill creating the New Bern Academy Historical Commission to acquire and dispose of title to and interests in the historic property and to repair, restore, and otherwise improve and maintain such property; and

Whereas, the New Bern Academy Historical Commission has successfully carried out the complete and accurate exterior restoration of the New Bern Academy; and

Whereas, an appropriation is needed to carry out and complete the interior restoration of the New Bern Academy; 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 1979-80 fiscal year the sum of twenty-five thousand dollars (\$25,000), which will be available to the New Bern Academy Historical Commission for the interior restoration of the New Bern Academy, provided an amount of twenty-five thousand dollars (\$25,000) is raised by the New Bern Academy Historical Commission; and for 1980-81 fiscal year the sum of twenty-five thousand dollars (\$25,000), which will be available to the New Bern Academy Historical Commission for the interior restoration of the New Bern Academy, provided an amount of twenty-five thousand dollars (\$25,000) is raised by the New Bern Academy Historical Commission. 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 on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 802

**CHAPTER 1049****AN ACT TO APPROPRIATE FUNDS FOR MARINE FISHERIES ACTIVITIES.***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 fifteen thousand dollars (\$415,000) for fiscal year 1979-80 and the sum of three hundred thousand dollars (\$300,000) for fiscal year 1980-81 to establish a reserve for operations of the Marine Fisheries Division. The funds shall be used to increase the Department's shell planting program, to establish a shellfish rehabilitation and replanting program, and to supplement current operations of the Marine Fisheries Division. These funds are in addition to all other funds appropriated to the Department.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 957

**CHAPTER 1050****AN ACT TO RAISE THE PER DIEM ALLOWANCE OF STATE EMPLOYEES FOR IN-STATE TRAVEL.***The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 138-6(a)(3) is amended by deleting the phrase "twenty-seven dollars (\$27.00)" and substituting in lieu thereof the phrase "thirty-one dollars (\$31.00)".

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1003

**CHAPTER 1051****AN ACT TO APPROPRIATE FUNDS FOR THE IMPROVEMENT OF THE CUMBERLAND COUNTY FARMER'S PRODUCE AND CRAFTS MARKET, INC.***The General Assembly of North Carolina enacts:*

Whereas, the Cumberland County Farmer's Produce and Craft Market has been a successful retail outlet and a boon to consumers since its opening; and

Whereas, in order to continue its work, the Farmer's Produce and Crafts Market needs additional funds to improve facilities; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated to the Cumberland County Farmer's Produce and Craft Market, Inc., from the General Fund, the sum of twenty-nine thousand dollars (\$29,000) for the 1979-80 fiscal year for the purpose of improving its facilities.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 1019                      **CHAPTER 1052**

**AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE TO EMPLOY AN AGRICULTURAL ENERGY COORDINATOR.**

Whereas, energy is a vital component in all stages of agricultural production; and

Whereas, shortages or curtailments of any of the various forms of energy used by agriculture at critical times could disrupt an entire production cycle; and

Whereas, energy supplies are subject to a multitude of federal and State laws, regulations, and administrative policies; and

Whereas, the individual farmer is unable to determine, in times of shortages or curtailments, what his rights are under existing law and what alternative energy sources may be available; and

Whereas, there is presently a lack of agricultural input into energy policies, regulations, and laws; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any other appropriations, there is appropriated from the General Fund to the Department of Agriculture the sum of thirty-eight thousand three hundred forty-four dollars (\$38,344) for fiscal year 1979-80, and thirty-seven thousand three hundred fifty-five dollars (\$37,355) for fiscal year 1980-81, for an Agricultural Energy Coordinator, and for such equipment, supplies and clerical help as may be deemed necessary for such position.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1146                      **CHAPTER 1053**

**AN ACT TO MAKE CLEAR THAT, REGARDLESS OF THE NUMBER OF CLAIMANTS, ONE HUNDRED THOUSAND DOLLARS (\$100,000) IS THE TOTAL AMOUNT PAYABLE FOR INJURY OR DAMAGE TO ANY ONE PERSON.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-291, as amended by Chapter 529 of the 1977 Session Laws, is hereby amended by inserting in the last sentence thereof, between the figures "\$100,000)" and the word "on", the phrase "cumulatively to all claimants".

**Sec. 2.** Article 31A of Chapter 143 of the General Statutes as it now appears in 1978 Replacement Volume 3C is amended by adding a new G.S. 143-300.7 as follows:

"§ 143-300.7. *Defense of medical contractors.*—Notwithstanding any other provisions of this Article, any person or professional association who at the request of the Department of Correction provides medical and dental services to inmates in the custody of the Department of Correction and who is sued pursuant to the Federal Civil Rights Act of 1871 may be defended by the Attorney General and shall be protected from liability for violations of civil rights in accordance with the provisions of this Article."

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1181

## CHAPTER 1054

### AN ACT TO CREATE A TRIAD PARK COMMISSION AND TO APPROPRIATE FUNDS FOR ITS OPERATION.

Whereas, the 1977 General Assembly of North Carolina created the State Parks Study Commission to report on parks and recreational areas of the State; and

Whereas, the State Parks Study Commission recognized the problems related to the Triad area, to wit: urban sprawl, lack of protection of watersheds, lack of recreational areas, and lack of greenways to serve as growth buffer zones and for aesthetic values; and

Whereas, the State Parks Study Commission recommended that the General Assembly create a Triad Park Commission made up of members of local governments of the Triad area and directed the Department of Natural Resources and Community Development to work with the Triad Park Commission, on a consultation basis, to give technical assistance and to help obtain federal funds to match local funds and State appropriations for the work of the Triad Park Commission; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Triad Park Commission is created, to consist of 15 members to be selected as follows: The Forsyth County Board of Commissioners and the Guilford County Board of Commissioners shall each appoint two members; the City Council of each of the principal cities in the Triad area—Greensboro, High Point, Kernersville, and Winston-Salem—shall each appoint two members; the Lieutenant Governor shall appoint one member-at-large, the Speaker of the House shall appoint one member-at-large; and the Governor shall appoint one member-at-large. The Governor shall designate one member to serve as chairman. All appointments shall be made in time for the Commission to begin its work not later than August 1, 1979.

The Commission may elect from its membership other officers which it deems appropriate, and may adopt rules of procedure governing its meetings. The Commission may utilize the expertise of appropriate local agencies in performing its duties, and the Department of Natural Resources and Community Development may assist the Commission in its work.

**Sec. 2.** The Commission shall:

(1) recommend to the Department of Natural Resources and Community Development the types and locations of any State parks, recreation areas, open spaces, and greenways to be established in the Triad area so as to minimize the problems caused by urban sprawl, lack of watershed protection, inadequate recreational areas and greenways, and similar conditions resulting from increased population and development in the area; and shall make an initial report to the Department by December 15, 1979;

(2) hold public hearings and conduct such other activities as the Commission deems necessary to carry out its duties under this act;

(3) subject to the availability of operating funds, employ such staff assistance as the Commission deems necessary.

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**Sec. 3.** Subject to the availability of funds, members of the Commission who are also State employees shall be paid the allowances authorized by G.S. 138-6; members of the Commission who are also members of the General Assembly shall be paid subsistence and travel allowances authorized by G.S. 120-3.1; all other members of the Commission shall be paid the per diem and allowances authorized by G.S. 138-5.

**Sec. 4.** The Triad Park Commission shall terminate on September 1, 1985.

**Sec. 5.** For the purposes of Article 3 of Chapter 159 of the General Statutes, the Triad Park Commission is a public authority.

**Sec. 6.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1183                      CHAPTER 1055

### AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA AGENCY FOR PUBLIC TELECOMMUNICATIONS FOR ITS OPERATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any other funds, there is appropriated to the Department of Administration from the General Fund the sum of two hundred thousand dollars (\$200,000) for fiscal year 1979-80 and the sum of two hundred thousand dollars (\$200,000) for fiscal year 1980-81 for the operations of the North Carolina Agency for Public Telecommunications.

**Sec. 2.** Notwithstanding any provisions of law to the contrary, any funds appropriated in Chapter 1281 of the 1977 Session Laws for the purpose of designing, planning, and implementing a Statewide public FM radio network that are unexpended as of June 30, 1979, shall revert to the General Fund.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1197                      CHAPTER 1056

### AN ACT TO PROVIDE PAYMENT FOR INJURIES SUSTAINED BY PERSONS AT THE UNIVERSITY OF NORTH CAROLINA ON PROPERTY OF THE UNIVERSITY OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of Justice the sum of thirty thousand dollars (\$30,000) for the fiscal year 1979-1980 for the purpose of settling a claim by Anne Marie Rompalske, a student injured at The University of North Carolina on the property of The University of North Carolina at Chapel Hill, on February 4, 1976. The claim may be paid out of the settlement fund appropriated by this act notwithstanding any provision of law to the contrary; provided, however, that no claim shall be paid unless a release is executed whereby all further claims against the State in behalf of Anne Marie Rompalske are relinquished.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1220

## CHAPTER 1057

AN ACT TO AMEND G.S. 135-14 AND TO APPROPRIATE FUNDS TO EXTEND PENSIONS TO CERTAIN TEACHERS AND STATE EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first sentence of G.S. 135-14 is rewritten to read:

“Any person who was a teacher or employee of North Carolina, as defined in G.S. 135-1, for a total of 20 or more years, whose separation from service as a teacher or employee prior to April 1, 1956, was not due to any dishonorable cause, and who had an attained age of 65 prior to July 1, 1960, or by reason of physical disability was unable to work on that date, shall upon application be paid a benefit of one hundred fifty dollars (\$150.00) per month.”

**Sec. 2.** G.S. 135-14 is further amended by rewriting the last sentence of the first paragraph to read:

“This section shall apply only to a former teacher or employee who was a resident of North Carolina on July 1, 1960, or the date of application for benefit pursuant to this section.”

**Sec. 3.** There is appropriated from the General Fund for the fiscal year 1979-80 the sum of one thousand eight hundred dollars (\$1,800) to the Teachers' and State Employees' Retirement System, Department of State Treasurer, to provide for the funding of this act.

**Sec. 4.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1259

## CHAPTER 1058

AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS TO TRANSFER MEMBERSHIP FROM THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any employer, as the term is defined in G.S. 128-21(11), participating in the North Carolina Local Governmental Employees' Retirement System may, until June 30, 1981, allow law enforcement officers, as the term is defined in G.S. 143-166(m), employed by such employer who are members of the North Carolina Local Governmental Employees' Retirement System to transfer membership from said Retirement System and become members of the Law Enforcement Officers' Benefit and Retirement Fund; Provided, that any employer allowing law enforcement officers to transfer shall pay a lump sum amount to the Law Enforcement Officers' Benefit and Retirement Fund equal to the difference between the full cost, as defined in Section 5 of this act, and the officers' and employer contributions transferred by virtue of Section 2 of this act.

**Sec. 2.** Upon written request of a law enforcement officer who meets the requirements of Section 1, filed with the Board of Trustees of the Local



Governmental Employees' Retirement System stating that he desires to transfer his membership in the Local Governmental Employees' Retirement System and become a member of the Law Enforcement Officers' Benefit and Retirement, and upon the lump sum payment by the employer of the full cost, as defined in Section 5, the Local Governmental Employees' Retirement System is hereby authorized, empowered, and directed to transfer to the Law Enforcement Officers' Benefit and Retirement Fund:

(1) All of the officer's accumulated contributions that were made on compensation received as a law enforcement officer, together with the accumulated regular interest thereon, standing to the credit of such employee in the Local Governmental Employees' Retirement System; and

(2) An amount equal to the normal and accrued liability payments that were made because of service rendered as a law enforcement officer which have been made to the Local Governmental Employees' Retirement System by reason of such service to the employer calculated as the result of multiplying the normal and accrued liability percentage in effect at the time of the transfer times the compensation paid for service rendered as a law enforcement officer.

Upon such transfer being made, the officer shall immediately become a member of the Law Enforcement Officers' Benefit and Retirement Fund and the service transferred shall no longer be creditable in the Local Governmental Employees' Retirement System.

**Sec. 3.** The Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund is hereby authorized, empowered, and directed to receive any funds transferred as provided in this act as follows:

(1) Upon receipt of a transferring officer's contributions, such contributions shall be deposited in the officer's regular contributions account; and

(2) Upon receipt of the amount equal to the normal and accrued liability payments that were made by the employer because of service rendered as a law enforcement officer from the Local Governmental Employees' Retirement System and the additional amount required to fund the full cost of benefits as determined in Section 5 of this act, such funds shall be deposited in the Accumulation Account.

**Sec. 4.** The creditable service of an officer who transfers to the Law Enforcement Officers' Benefit and Retirement Fund shall be the service that was creditable as a law enforcement officer in the Local Governmental Employees' Retirement System.

**Sec. 5.** The term "full cost" as used in this act shall be calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities and shall take into account such transferred service credits providing for a retirement allowance at the earliest age at which such member could retire on an unreduced retirement allowance as determined by the Board of Commissioners upon advice of the consulting actuary.

**Sec. 6.** The Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund is authorized and empowered to make and promulgate suitable rules and regulations to carry out the provisions of this act.

**Sec. 7.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1268

## CHAPTER 1059

AN ACT TO ALLOW LOCAL GOVERNMENTS PARTICIPATING IN THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO GRANT CREDITABLE PRIOR SERVICE FOR OUT-OF-STATE SERVICE TO EMPLOYEES WHO ARE MEMBERS OF THAT RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 128-26(a), as the same appears in the 1977 Cumulative Supplement to the 1974 Replacement Volume 3B of the General Statutes, is hereby amended by rewriting the second paragraph thereof to read as follows:

"A participating employer may allow prior service credit to any of its employees on account of: their earlier service to the aforesaid employer; or, their earlier service to any other employer as the term employer is defined in G.S. 128-21(11); or, their earlier service to any state, territory, or other governmental subdivision of the United States other than this State."

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1307

## CHAPTER 1060

AN ACT TO APPROPRIATE FUNDS TO ESTABLISH RESERVE FUNDS TO IMPLEMENT THE REVISED JUVENILE CODE.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund three hundred thousand dollars (\$300,000) for the fiscal year 1979-80 and the same amount in fiscal year 1980-81 to establish reserve funds to implement the revised juvenile code. Of this amount, in each year, one hundred thousand dollars (\$100,000) shall be used to establish a reserve fund in the Administrative Office of the Courts and two hundred thousand dollars (\$200,000) shall be used to establish a reserve fund in the Department of Human Resources. The funds in these reserves shall be allocated upon the recommendation of the respective departments, and the approval of the Governor and the Advisory Budget Commission.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1312

## CHAPTER 1061

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF INSURANCE FOR EQUIPMENT AND REPAIRS NEEDED BY THE FIRE AND RESCUE TRAINING DIVISION.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any and all other appropriations, there is hereby appropriated from the General Fund to the Department of Insurance for fiscal year 1979-80 the sum of twenty-five thousand dollars (\$25,000) to provide for the purchase of equipment and the making of repairs to equipment needed by the Fire and Rescue Training Division of the Department of Insurance.

## CHAPTER 1061      Session Laws—1979

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. B. 1359                      CHAPTER 1062

#### AN ACT TO DIRECT A STUDY OF THE COASTAL AREA OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** The North Carolina Marine Science Council is directed to study the issues of erosion of the coast line, building of structures along or near the beaches, and current or past federal, State, and local programs dealing with these issues, and current or past federal, State, and local policy for assistance in navigation maintenance and beach erosion control. The study shall include consideration of the best means for remedying the problems raised by these issues and also shall address the public's access to the beaches of the State.

**Sec. 2.** The Council shall recommend to the General Assembly a policy on beach erosion and the feasibility of further development of the beaches, and financing of any proposed programs.

**Sec. 3.** All agencies of State and local government shall assist the Council in its study by providing information as requested.

**Sec. 4.** The Council shall make an interim report to the 1980 General Assembly and a final report to the 1981 General Assembly.

**Sec. 5.** The Council may meet in the Legislative Building with the approval of the Legislative Services Commission for the purposes specified in this act.

**Sec. 6.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. B. 1392                      CHAPTER 1063

#### AN ACT TO PROVIDE AN ADDITIONAL INCREASE IN ALLOWANCE TO RETIREES AND BENEFICIARIES OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be the policy and intent of the General Assembly to provide for an additional increase, beyond any increase payable by virtue of G.S. 128-27(k), to retirees and beneficiaries in the Local Governmental Employees' Retirement System, comparable to any across-the-board increase provided for retirees and beneficiaries in the Teachers' and State Employees' Retirement System.

**Sec. 2.** G.S. 128-27 is amended by adding a new subsection (u) to read as follows:

"(u) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1978, which shall become payable on July 1, 1979, as otherwise provided in G.S. 128-27(k), shall be five percent (5%) for the year beginning July 1, 1979. Provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1428

### CHAPTER 1064

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE TO EXPAND AND TO REPLACE PORTIONS OF THE IRRIGATION FACILITIES AT THE OXFORD TOBACCO RESEARCH STATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Department of Agriculture the sum of forty-two thousand dollars (\$42,000) for the 1979-80 fiscal year to expand and replace portions of the irrigation facilities at the Oxford Tobacco Research Station.

**Sec. 2.** This act is effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1468

### CHAPTER 1065

AN ACT TO AMEND G.S. 14-399 TO REDUCE THE PUNISHMENT FOR LITTERING TO A FINE OF FIFTY DOLLARS (\$50.00) FOR FIRST OFFENDERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-399 is amended by rewriting subsection (d) thereof to read:

“(d) A violation of this section is a misdemeanor punishable by a fine of fifty dollars (\$50.00) for the first offense. Any second or subsequent offense is punishable by a fine of not more than two hundred dollars (\$200.00).”

**Sec. 2.** This act is effective October 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1469

### CHAPTER 1066

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA RURAL ELECTRIFICATION AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the North Carolina Rural Electrification Authority for fiscal year 1979-80 the sum of forty-five thousand two hundred twenty-two dollars (\$45,222), and for fiscal year 1980-81 the sum of forty-three thousand one hundred forty dollars (\$43,140) in order to employ one engineer and one secretary, and necessary office equipment.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



H. B. 1472

**CHAPTER 1067**

AN ACT TO SPECIFY FOR THE PROCESS OF SELECTION OF  
LEGISLATIVE INTERNS AND TO APPROPRIATE MONEY TO  
EXPAND THE NUMBER OF INTERNS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 120-57 is rewritten to read as follows:

“§ 120-57. *Legislative Intern Program Council to promulgate a plan for the use of legislative interns.*—The Legislative Intern Program Council is hereby empowered and is directed to promulgate for each session of the General Assembly a plan providing for the selection, tenure, duties and compensation of legislative interns. Interns shall be selected from institutions of higher education (four-year colleges and universities) within North Carolina, including but not limited to all units of the university system. The selection shall be based upon guidelines set forth by the Legislative Intern Program Council; these guidelines shall permit the proper consideration of each applicant.”

**Sec. 2.** There is appropriated from the General Fund to the budget of the General Assembly an additional ten thousand eight hundred dollars (\$10,800) for the fiscal years of the 1980-81 fiscal year for the purpose of increasing the number of legislative interns for the 1981 Session of the General Assembly from 10 to 16. Selection of these interns is pursuant to G.S. 120-57.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1481

**CHAPTER 1068**

AN ACT TO DIRECT THE NORTH CAROLINA COURTS COMMISSION  
TO STUDY THE FEASIBILITY OF ALLOWING SETTLEMENTS TO  
INDIVIDUALS FOR ERRONEOUS IMPRISONMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The North Carolina Courts Commission shall study the feasibility of the implementation of a program of reimbursements for persons who have served terms of imprisonment upon convictions which have subsequently been legally shown to be erroneous and whose innocence is established by the evidence.

**Sec. 2.** The Commission shall report its findings and recommendations to the 1979 General Assembly, Second Session 1980.

**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1484

**CHAPTER 1069**

AN ACT TO APPROPRIATE FUNDS TO THE STATE BOARD OF EDUCATION TO PROVIDE TEACHERS WITH IN-SERVICE TRAINING ON THE FREE ENTERPRISE SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to any other funds appropriated by law, there is appropriated to the State Board of Education, Department of Public Instruction, from the General Fund the sum of fifty thousand dollars (\$50,000) for the 1979-80 fiscal year and fifty thousand dollars (\$50,000) for the 1980-81 fiscal year. These funds shall be used to provide teachers with in-service training in the areas of the American economic system, free enterprise concepts, and government and law topics so that students at all levels will be introduced to basic understanding in regard to governmental, business, political and judicial operations. These funds shall be placed in a reserve fund. None of the funds appropriated for fiscal year 1979-80 shall be expended unless they are matched in the same year with an equal amount raised by private industry. None of the funds appropriated for fiscal year 1980-81 shall be expended unless they are matched in the same year with an equal amount raised by private industry.

**Sec. 1.1.** Classes in basic academic courses in grades 7 through 9 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.

**Sec. 1.2.** There is appropriated from the General Fund to the Department of Public Education, in addition to all other funds appropriated, the sum of twenty-five thousand dollars (\$25,000) for fiscal year 1979-80 and twenty-five thousand dollars (\$25,000) for fiscal year 1980-81, for the support of the Edwin Gill Theater project.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1504

**CHAPTER 1070**

AN ACT TO ALLOW PREVIOUSLY APPROPRIATED FUNDS FOR THE STATE GOVERNMENT CENTER TO BE USED FOR LAND ACQUISITION IN WAKE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any unexpended and uncommitted funds appropriated prior to January 1, 1979, for land acquisition in the State Government Center as defined by G.S. 146-22.1(3) may be used by the Department of Administration for the acquisition of any lands located within Wake County.

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1508                      **CHAPTER 1071**

AN ACT TO ESTABLISH IN AVERY COUNTY A DEPARTMENT OF AGRICULTURE PLANT INSPECTION STATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is appropriated from the General Fund to the Department of Agriculture the sum of ten thousand dollars (\$10,000) for the 1979-80 fiscal year for the purpose of planning a plant inspection station to be constructed in Avery County, the sum of eighty-three thousand nine hundred ninety-six dollars (\$83,996) for the 1980-81 fiscal year for the purpose of purchasing a site and constructing in Avery County a metal building for a Department of Agriculture plant inspection station, and the sum of eighteen thousand seven hundred twenty-eight dollars (\$18,728) for the 1980-81 fiscal year for the purpose of providing for the plant inspection station a mechanic and attending expenses.

**Sec. 2.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. B. 216                      **CHAPTER 1072**

AN ACT TO INCREASE THE NUMBER OF JUDICIAL OFFICIALS THROUGHOUT THE STATE AND TO MAKE AN APPROPRIATION THEREFOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-41, as the same appears in the 1978 Interim Supplement to the General Statutes, is amended:

(a) by deleting on the second line the numbers "30 (33)" and substituting in lieu thereof the number "33"; and

(b) in the table, so that the total number of full-time assistant district attorneys for the indicated judicial districts reads as follows:

"Judicial District	Number of Full-Time Assistant District Attorneys
1	4
3	8
5	7
6	4
7	5
9	4
11	5
16	6
22	6
23	3
18	13
25	7
26	19
28	5
29	4."

The provisions of this subsection relating to the number of assistant district attorneys in Judicial District 26 shall be deemed to add two district attorneys in addition to the two to be added to Judicial District 26 by Senate Bill 124, when and if ratified.

**Sec. 2.** G.S. 7A-133, as the same appears in the 1978 Interim Supplement to the General Statutes is amended, in the table, so that the quotas of magistrates for the indicated counties read as follows:

"County	Magistrates
	Minimum-Maximum
Brunswick	- 7
Buncombe	6 - 13
Burke	4 - 7
Cabarrus	5 - 9
Gaston	11 - 20
Granville	3 - 6
New Hanover	6 - 10
Onslow	8 - 11
Rockingham	4 - 9
Rowan	5 - 10
Scotland	2 - 4
Wayne	5 - 8."

**Sec. 3.** G.S. 7A-133, as appears in the 1978 Interim Supplement to the General Statutes, is amended, in the table, so that the quotas for district court judges read as follows:

"District	Judges
1	3
3	6
4	5
5	4
13	4
27B	3
29	4.

The additional district court judges authorized by this section for District 1 shall be appointed by the Governor to 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.

The additional district court judges authorized by this section for Districts 3, 4, 5, 13, 27B and 29 shall be appointed by the Governor to serve until the first Monday in December, 1980. The appointees' successors shall be chosen in the general election of November, 1980, to serve a four-year term beginning the first Monday in December, 1980."

**Sec. 4.** Senate Bill 124, when and if ratified, is amended by adding a new section immediately preceding the section establishing that bill's effective date to be numbered appropriately and to read as follows:

"The additional district court judge authorized by this act for District 14 shall be appointed by the Governor to serve until the first Monday in December, 1982. The appointee's successor shall be chosen in the general election of November, 1982, to serve a four-year term beginning the first Monday in December, 1982.



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The additional district court judge authorized by this act for District 26 shall be appointed by the Governor to serve until the first Monday in December, 1980. The appointee's successor shall be chosen in the general election of November, 1980, to serve a four-year term beginning the first Monday in December, 1980."

**Sec. 5.** New deputy clerk of court positions are created and allocated to the clerks of the Superior Court in the numbers and to the counties as follows:

"Alexander	1	Lee	1
Anson	1	Lenoir	1
Bertie	1	Lincoln	1
Bladen	1	McDowell	1
Brunswick	2	Mecklenburg	2
Buncombe	2	Mitchell	1
Burke	1	Montgomery	1
Cabarrus	2	Moore	1
Caldwell	1	New Hanover	2
Carteret	2	Onslow	1
Catawba	1	Orange	1
Cherokee	1	Pamlico	2
Chowan	1	Pasquotank	1
Cleveland	1	Pender	1
Columbus	1	Pitt	3
Craven	2	Randolph	1
Currituck	1	Richmond	1
Duplin	1	Robeson	2
Durham	2	Rockingham	1
Edgecombe	1	Rowan	1
Franklin	2	Rutherford	1
Gaston	3	Sampson	1
Granville	2	Stanly	1
Guilford	2	Stokes	1
Halifax	2	Swain	1
Harnett	1	Wake	3
Henderson	1	Washington	1
Hoke	1	Wayne	2
Iredell	1	Wilkes	1
Jackson	1	Wilson	2
Johnston	1	Yadkin	1."

**Sec. 6.** New secretarial positions are created and allocated to the district attorneys in the districts and in the number as follows:

District	Secretaries
12	1
15A	1
17	1
24	1
26	2
27A	1
28	1
29	1.

**Sec. 7.** New secretarial/reporter positions are created and allocated to the chief district court judges in the districts and in the number as follows:

District	Secretary/Reporters
13	1
14	1
19A	1.

**Sec. 8.** A new investigatorial assistant position is created and allocated to the District Attorney of Judicial District 19B.

**Sec. 9.** There is appropriated from the General Fund to the Judicial Department for the new positions created by this act the sum of one million eight hundred thirty-two thousand four hundred forty-nine dollars (\$1,832,449) for the 1979-1980 fiscal year and the sum of one million eight hundred thirty-three thousand eight hundred seventy dollars (\$1,833,870) for the 1980-1981 fiscal year.

**Sec. 10.** Subchapter VII of Chapter 7A of the General Statutes is amended by adding a new Article 29A to read as follows:

“Article 29A.

“Trial Court Administrator.

“§ 7A-355. *Trial court administrators.*—The following judicial districts shall have trial court administrators: 10th, 22nd, and 28th and such other judicial districts as may be designated by the Administrative Office of the Courts.

“§ 7A-356. *Duties.*—The duties of the trial court administrator shall be to assist the judges of the judicial districts in managing the civil docket, to improve jury utilization and to perform such duties as may be assigned by the senior resident superior court judge or by other judges designated by the senior resident superior court judge.”

**Sec. 11.** The North Carolina Courts Commission as created by the 1979 Session of the North Carolina General Assembly is directed to study the qualifications, duties, compensation and effectiveness of the office of trial court administrator as described in North Carolina General Statutes 7A-355 and report the results of such study to the 1981 Session of the North Carolina General Assembly on or before February 1, 1981.

**Sec. 12.** This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1013

## CHAPTER 1073

### AN ACT TO REQUIRE DISCLOSURE OF EXPENSES AND CONTRIBUTIONS IN REFERENDUM CAMPAIGNS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-278.6(1) is amended by adding the following new language at the end: “The term means the State Board of Elections with respect to all statewide referenda.”

**Sec. 2.** G.S. 163-278.6(8) is amended by rewriting the last sentence to read: “The term ‘election’ shall not include any local or statewide referendum.”

**Sec. 3.** G.S. 163-278.6 is amended by adding new subdivisions to read:

“(18a) The term ‘referendum’ means any question, issue, or act referred to a vote of the people of the entire State by the General Assembly and includes

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constitutional amendments and State bond issues. The term 'referendum' does not include any type of municipal, county, or special district referendum.

(18b) The term 'referendum committee' means a combination of two or more individuals or any business entity, corporation, insurance company, labor union, professional association, committee, association, or organization, the primary or incidental purpose of which is to support or oppose the passage of any referendum on the ballot, or to influence or attempt to influence the result of a referendum, or which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the outcome of any referendum."

**Sec. 4.** G.S. 163-278.7(b) is amended by adding a new subsection to read: "(5a) The name of the referendum(s) which the referendum committee is supporting or opposing, and whether the committee is supporting or opposing the referendum."

**Sec. 5.** G.S. 163-278.7(b)(9) is amended by adding before the period the following new language: "or referendum committee".

**Sec. 6.** Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.9A. *Statements filed by referendum committees.*—(a) The treasurer of each referendum committee shall file under verification with the Board the following reports:

(1) Organizational Report. The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and expenditures shall be filed with the Board no later than the tenth day following the organization of the referendum committee.

(2) Pre-Referendum Report. The treasurer shall file a report with the Board no later than the tenth day preceding the referendum.

(3) Final Report. The treasurer shall file a final report no later than the tenth day after the referendum. If the final report fails to disclose a final accounting of all contributions and expenditures, a supplemental final report shall be filed no later than January 7, after the referendum, and shall be current through December 31 after the referendum.

(4) Annual Reports. If contributions are received or expenditures made during a calendar year for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by January 7 of the following year.

(b) Except as otherwise provided in this Article, 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."

**Sec. 7.** Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.19A. *Contributions allowed.*—Notwithstanding any other provision of this Chapter, it is lawful for any person as defined in G.S. 163-278.6(13) to contribute to a referendum committee."

**Sec. 8.** G.S. 163-278.13 is amended by adding a new subsection (e)(1) to read:

"(e)(1) No referendum committee which received any contribution from a corporation, labor union, insurance company, business entity, or professional

association may make any contribution to another referendum committee, to a candidate or to a political committee.”

**Sec. 9.** G.S. 163-278.17 is amended by adding a new subsection to read: “(c) No media reports are required in a referendum.”

**Sec. 10.** G.S. 163-278.20 is amended by deleting the period at the end of subdivision (3) and inserting in lieu thereof the word “; or”, and by adding a new subdivision to read: “(4) The name of the referendum committee for which the funds will be used.”

**Sec. 11.** Chapter 163 of the General Statutes is amended by adding a new section to read:

“§ 163-278.38. *Effect of failure to comply.*—The failure to comply with the provisions of this Article shall not invalidate the results of any referendum.”

**Sec. 12.** G.S. 163-278.23 is amended in the last paragraph by deleting the words “candidate involved”, and inserting in lieu thereof the words “candidate or committee involved”.

**Sec. 13.** G.S. 163-278.23 is amended in the last paragraph by deleting the words “communications media and political committees”, and inserting in lieu thereof “communications media, political committees, and referendum committees”, and is further amended in the last paragraph by deleting the words “communications media, or political committees”, and inserting in lieu thereof the words “communications media, political committees, or referendum committees”.

**Sec. 14.** G.S. 163-278.24 is amended by deleting the word “election” and inserting in lieu thereof the words “election or referendum”.

**Sec. 15.** G.S. 163-278.27(b)(3) is amended by deleting the words “political committees”, and inserting in lieu thereof “political committees, referendum committees”.

**Sec. 16.** The following sections of the General Statutes are amended by deleting the words “candidate and political committee”, and inserting in lieu thereof the words “candidate, political committee, and referendum committee”:

G.S. 163-278.7(a)

G.S. 163-278.8(a).

**Sec. 17.** The following sections of the General Statutes are amended by deleting the words “treasurer, political committee”, and inserting in lieu thereof the words “treasurer, political committee, referendum committee”:

G.S. 163-278.23

G.S. 163-278.23(1)

G.S. 163-278.23(2).

**Sec. 18.** The following sections of the General Statutes are amended by deleting the words “candidates, political committees”, and inserting in lieu thereof the words “candidates, political committees, referendum committees”:

G.S. 163-278.7(b)(2)

G.S. 163-278.22(8).

**Sec. 19.** The following sections of the General Statutes are amended by deleting the words “candidate, political committee”, and inserting in lieu thereof the words “candidate, political committee, referendum committee”:

G.S. 163-278.6(6)

G.S. 163-278.20(a)

G.S. 163-278.6(9)

G.S. 163-278.27(a)

G.S. 163-278.14(a)

G.S. 163-278.34(a).

G.S. 163-278.16(f)



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**Sec. 20.** The following sections of the General Statutes are amended by deleting the words “candidate or political committee”, and inserting in lieu thereof the words “candidate, political committee, or referendum committee”:

G.S. 163-278.6(6)	G.S. 163-278.11(a)(1)
G.S. 163-278.6(19)	G.S. 163-278.11(a)(2)
G.S. 163-278.7(b)(1)	G.S. 163-278.12
G.S. 163-278.7(b)(3)	G.S. 163-278.13(f)
G.S. 163-278.7(d)	G.S. 163-278.16(a)
G.S. 163-278.8(a)	G.S. 163-278.16(a)(1)
G.S. 163-278.8(b)	G.S. 163-278.16(a)(2).
G.S. 163-278.10	

**Sec. 21.** This act is effective with respect to any referendum held on or after September 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1148      CHAPTER 1074

AN ACT TO ALLOW LOCAL BOARDS OF EDUCATION TO PROVIDE FOR THE DEFENSE OF AND PAY ANY JUDGMENTS AGAINST SCHOOL BOARD MEMBERS AND EMPLOYEES FOR ACTS DONE OR OMISSIONS MADE IN THE COURSE OF THEIR DUTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 115 of the General Statutes is amended by adding a new section to read:

“§ 115-53.1. *Defense of board of education member 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 (1) 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 (2) 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."

**Sec. 2.** G.S. 153A-248(a) is amended by adding at the end thereof a new subdivision (4) to read as follows:

"(4) To a training center or other private, nonprofit, charitable organization offering education, treatment, rehabilitation, or developmental programs to the physically or mentally handicapped, and may otherwise assist such organizations; provided, however, such action shall be with the concurrence of the county board of education; and provided, further, that within 30 days after receipt of the request for concurrence, the county board of education shall notify the board of county commissioners whether it concurs, and should it fail to so notify the board of county commissioners within such period, it shall be deemed to have concurred."

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1308

## CHAPTER 1075

AN ACT TO CREATE A NORTH CAROLINA GENERAL STATUTES CODE COMMISSION AND TO RECODIFY THE GENERAL STATUTES OF NORTH CAROLINA BY 1981 AND CODIFY SUBSEQUENT ACTS OF THE GENERAL ASSEMBLY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Creation of Commission. There is hereby created a Commission on Code Recodification (hereafter referred to as "the Commission") which shall be a temporary commission within the Department of Justice with the powers and duties set forth herein.

**Sec. 2.** Members of the Commission. The Commission shall be composed of:

(1) the Attorney General or his designate, ex officio, who shall serve as Chairman of the Commission and shall be a voting member of the Commission;

(2) two trial court judges, ex officio, one of whom shall be a Superior Court Judge and one a District Court Judge, appointed by the Governor, who shall be voting members;

(3) one judge or Justice of the Appellate Division, ex officio, appointed by the Chief Justice, who shall be a voting member;

(4) two members of the Senate appointed by the Lieutenant Governor for a term coincident with their terms as members of the Senate, and two members of the House of Representatives appointed by the Speaker of the House for a term coinciding with their terms as members of the House of Representatives; and

(5) two members who shall be active practicing attorneys, appointed by the President of the North Carolina State Bar. Members of the Commission shall serve until the expiration of the Commission or until their successors qualify. The Commission may, by majority vote, remove any member of the Commission for chronic absenteeism, misfeasance, malfeasance or other good cause. Vacancies shall be filled for the unexpired term by the persons authorized to make the original appointments.

**Sec. 3.** Compensation and expenses. The members of the Commission shall receive no compensation for attendance at meetings, except a per diem expense reimbursement. Legislative members of the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1 from funds made available to the Commission. Members of the Commission who are not officers or employees of the State shall receive reimbursement for subsistence and travel expenses at rates set out in G.S. 138-5 from funds made available to the Commission. Members of the Commission who are officers or employees of the State shall be reimbursed for travel and subsistence at the rates set out in G.S. 138-6 from funds made available to the Commission.

**Sec. 4.** Assuming duties. Within 30 days after the passage of this act, the Commission shall meet and begin duties assigned to the Commission.

**Sec. 5.** Authority to enter into contracts. The Attorney General, pursuant to authority vested in him by Article 2 of Chapter 114 of the General Statutes, the authority vested in him by G.S. 164-9 and G.S. 164-10, and this act is authorized and empowered to enter into and execute on behalf of the State of North Carolina contracts for the recodification, revision, republication and indexing of the statutory law of general applicability of the State of North Carolina. It is the intent of the General Assembly to give to the Attorney General wide latitude in negotiating the contract in order to take advantage of modern innovations in statute codification, updating and indexing. The Attorney General shall exercise his best efforts to obtain the best possible code for the State of North Carolina.

**Sec. 6.** Duties of Commission. The Commission shall coordinate the recodification using the facilities and research capacities of the Division of Legislative Drafting of the General Assembly, the Division of Legislative Drafting and Codification of Statutes of the Department of Justice and the publisher. The Commission shall have supervision and control over the recodification after a contract is entered into and shall have authority to accept or reject as satisfactory the drafts and manuscripts of the recodification. The recodification shall not be recognized as the statutory law of this State unless and until approved and enacted by the General Assembly of North Carolina.

**Sec. 7.** Contents of recodification. The recodification shall contain the full text of all operative and effective sections of the revision of the laws of North Carolina enacted by Chapter 33 of the 1943 Session Laws, said revision being known as the General Statutes of North Carolina, as modified by all operative and effective amendments thereto, and all operative and effective

session laws of a general and permanent nature enacted since the publication of the General Statutes of North Carolina down through the end of the 1979 Regular Session (2nd Session 1980) of the General Assembly.

Every act or part of an act of a permanent nature which affects 10 or more counties shall be deemed to be "general" for purposes of this section, but the Commission, in its discretion, may cause an act or part of an act affecting fewer counties to be codified and published.

The recodification shall contain such indices, tables, and ancillaries as the Commission shall deem to be desirable and practicable to include.

**Sec. 8.** Copyright to statutes. Copyright to the statutes as so recodified shall be taken by the publisher in the name of the State of North Carolina and be owned by it. The Attorney General shall have the authority to grant licenses under the copyright.

**Sec. 9.** Report of Commission to General Assembly. The Commission is authorized and directed to report and recommend to the General Assembly such legislation as it finds in making up the recodification as may be necessary or advisable to:

- (1) eliminate, modify or repeal obsolete laws;
- (2) clarify ambiguous laws; or
- (3) resolve conflicts in or between laws.

The report and recommendations of the Commission concerning these matters shall be prepared, printed and bound and presented to the 1981 Session of the General Assembly with the legislative edition of the recodification required to be submitted as hereafter provided.

**Sec. 10.** Printing of Recodified Statutes; distribution of new code; termination of Commission. As soon as the work of recodification is completed, the Commission shall cause to be printed and published no fewer than 600 copies of such recodification as a legislative edition, to be used for examination, consideration and action by the members of the General Assembly of 1981. Such legislative edition shall set forth all the general public laws of North Carolina, together with any supplemental or implementing legislation recommended by the division as essential to make a complete and clear statement of said laws, in such form and with such arrangement, numbering system, tables of contents, indices and editorial aids as said division shall determine.

As soon as the report of the Commission and legislative edition have been printed, one copy thereof shall be placed in the hands of each of the Justices of the Supreme Court, each judge of the Court of Appeals, each judge of the Superior Court, the Governor, the head of each principal department of the State government, the members of the General Statutes Commission, and, immediately upon their election, or as soon thereafter as possible, the members of the General Assembly of the Regular Session of 1981.

The Commission shall go out of existence upon the submission of its report and the legislative edition as herein provided.

**Sec. 11.** There is appropriated from the General Fund to the Department of Justice the sum of fourteen thousand five hundred dollars (\$14,500) for fiscal year 1979-80 and the sum of fourteen thousand five hundred dollars (\$14,500) for fiscal year 1980-81 for the purpose of carrying out the provisions of this act.

There is further hereby appropriated the sum of fourteen thousand four hundred dollars (\$14,400) for the year 1979-80 and a like sum for the fiscal year



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1980-81 to the Department of Justice to defray the per diem allowances to the members of the Commission.

**Sec. 12.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## H. B. 1454                      CHAPTER 1076

AN ACT TO PROHIBIT THE ISSUANCE OF ABC PURCHASE-TRANSPORTATION PERMITS TO PERSONS WHO HAVE BEEN CONVICTED OF LIQUOR OFFENSES WITHIN THE PAST THREE YEARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-27 is amended by adding a new subsection (f) to read as follows:

“(f) No person convicted of, or who has entered a plea of guilty or no contest to, any offense involving the sale, possession or transportation of nontaxpaid liquor, or any offense involving the sale of intoxicating liquor without a permit, whether a State or federal offense, within a period of three years of applying for the purchase-transportation permit, shall be entitled to the provisions of this section and any permit issued to such person shall be invalid. Any person convicted of procuring a purchase-transportation permit in violation of this section shall be guilty of a misdemeanor and punished as provided by G.S. 18A-56.”

**Sec. 2.** G.S. 18A-28 is amended by adding a new subsection (g) to read as follows:

“(g) No person convicted of, or who has entered a plea of guilty or no contest to, any offense involving the sale, possession or transportation of nontaxpaid liquor, or any offense involving the sale of intoxicating liquor without a permit, whether a State or federal offense, within a period of three years of applying for the purchase-transportation permit, shall be entitled to the provisions of this section and any permit issued to such person shall be invalid. Any person convicted of procuring a purchase-transportation permit in violation of this section shall be guilty of a misdemeanor and punished as provided by G.S. 18A-56.”

**Sec. 3.** Chapter 286 of the 1979 Session Laws is amended by deleting Section 1 of that act.

**Sec. 4.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. B. 1437

## CHAPTER 1077

## AN ACT TO RECREATE THE NORTH CAROLINA COURTS COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. Chapter 7A is amended by addition of a new Article 40 in Subchapter X thereof to read as follows:

“Article 40.

“North Carolina Courts Commission.

“§ 7A-510. *Creation; members; terms; qualifications; vacancies.*—The North Carolina Courts Commission is hereby created. It shall consist of 15 voting members, five to be appointed by the Governor, five by the President of the Senate, and five by the Speaker of the House of Representatives. At least three of the appointees of each appointing authority shall be practicing attorneys, at least three appointees of each appointing authority shall be members or former members of the General Assembly, and at least one appointee of each appointing authority shall be a layman. Three of the initial appointees of the Governor shall serve for two years, and two shall serve for four years. Three of the initial appointees of the President and the Speaker shall serve for four years, and two shall serve for two years. All initial terms shall begin July 1, 1979. Subsequent terms are for four years, beginning July 1, 1981, and July 1 of each odd-numbered year thereafter. A vacancy in membership shall be filled by the appointing authority who made the initial appointment. A member whose term expires may be reappointed.

“§ 7A-511. *Ex officio members.*—The following additional members shall serve ex officio: The Administrative Officer of the Courts; a representative of the N. C. State Bar appointed by the Council thereof; and a representative of the N. C. Bar Association appointed by the Board of Governors thereof. Ex officio members have no vote.

“§ 7A-512. *Duties.*—It shall be the duty of the Commission to make continuing studies of the structure, organization, jurisdiction, procedures and personnel of the Judicial Department and of the General Court of Justice and to make recommendations to the General Assembly for such changes therein as will facilitate the administration of justice.

“§ 7A-513. *Chairman; meetings; compensation of members.*—The Governor shall appoint a chairman from the legislative members of the Commission. The term of the chairman is two years, and he may be reappointed. The Commission shall meet at such times and places as the chairman shall designate. The facilities of the State Legislative Building shall be available to the Commission, subject to approval of the Legislative Services Commission. The members of the Commission shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally.

“§ 7A-514. *Supporting services.*—The Commission is authorized to contract for such professional and clerical services as are necessary in the proper performance of its duties.”

**Sec. 2.** *Appropriation.* There is hereby appropriated from the General Fund to the Department of Administration for fiscal year 1979-80 the sum of forty thousand dollars (\$40,000) and for fiscal year 1980-81 the sum of forty thousand dollars (\$40,000) for support of the Courts Commission. Any unused funds shall revert to the General Fund.

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**Sec. 3.** This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

# **RESOLUTION**

## **1977 GENERAL ASSEMBLY SECOND SESSION 1978**

Resolution 136 of the 1977 Session Laws was omitted from the volume of Session Laws published for the 1977 General Assembly, Second Session 1978. It appears below. The ratified Resolutions of the 1979 General Assembly, First Session 1979, begin on the following page.

### **H. R. 1695                      RESOLUTION 136**

**A JOINT RESOLUTION HONORING THE WASHINGTON "PAM PACK"  
FOR RECEIVING THE TITLE OF CHAMPIONS IN THE 3-A  
BASKETBALL CONFERENCE IN 1978.**

Whereas, the Washington High School basketball team has brought honor and pride to Washington, North Carolina, and to Beaufort County by winning the 3-A Basketball Championship; and

Whereas, the team showed great skill and effort to achieve this great honor; and

Whereas, each member of the team, Alvis Rogers, Dominique Wilkins, Shawn Williams, Eric Harris, Tony Boston, Hale Stephenson, James Barnes, Rudolph Black, Donald Godley, Ronald Flowers, Ralph Holley and Antone Jackson performed with great sportsmanship and with team spirit; and

Whereas, Coach Dave Smith and Coach Larry Sipe invoked in their team the desire and inspiration needed to win, and were aided by the team's managers, Tony Teele and Larry Gorham, the statistician, Glenn Davis, and the bus driver, Leslie Griffin; and

Whereas, the cheerleaders of the "Pam Pack", Stacy Blount, Jamie Grist, Patricia Moore, Valerie Weston, Cindy Tice, Kim Brothers, Vanessa Parker, Ginger Woolard, Vickie Woolard, Sherri Boyd, Demetrice Ward, and Karen Kwiakowski motivated the team through their cheers, their never-ending devotion, and their faith in the team's ability; and

Whereas, Dominique Wilkins was a particularly outstanding player who was often compared to David Thompson; Alvis Rogers was also outstanding and won a scholarship to Wake Forest University, Hale Stephenson was awarded a Morehead Scholarship, and Eric Harris won a scholarship to Southern Illinois University;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly of North Carolina extends congratulations to the entire "Pam Pack" basketball team and its coaches and staff members for an outstanding season and for winning the North Carolina 3-A Championship in basketball.

**Sec. 2.** That a certified copy of this resolution be forwarded to each member of the team and to the coaches.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.



# RESOLUTIONS

## S. R. 2                      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 8:00 P.M., MONDAY, JANUARY 15, 1979.

*Be it resolved by the Senate, the House of Representatives, concurring:*

**Section 1.** A committee of two Senators and three 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 8:00 P.M., Monday, January 15, 1979.

**Sec. 2.** The full text of the Governor's message shall be carried in the appendix of the House and Senate Journals of the 1979 Session of the General Assembly.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of January, 1979.

## S. R. 51                      RESOLUTION 2

A JOINT RESOLUTION INVITING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 8:00 P.M., MONDAY, JANUARY 29, 1979.

*Be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** A committee of two on the part of the Senate and three 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, James B. Hunt, Jr., to deliver an address to a Joint Session of the General Assembly at 8:00 P.M., Monday, January 29, 1979.

**Sec. 2.** The full text of the Governor's message shall be entered in the Appendix of the House and Senate Journals of the 1979 Session of the General Assembly.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of January, 1979.

## Resolutions—1979

### H. R. 3

### RESOLUTION 3

#### A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF D. LIVINGSTONE STALLINGS.

Whereas, D. Livingstone Stallings, a member of the North Carolina General Assembly, and one of North Carolina's most distinguished local government leaders, died on December 20, 1978; and

Whereas, D. Livingstone Stallings was born in Bridgeton, North Carolina, July 19, 1917, and was graduated from New Bern High School in 1934; and

Whereas, D. Livingstone Stallings attended Mars Hill College and The University of North Carolina where he was elected to Phi Beta Kappa and where he received the degree of Bachelor of Science in Business Administration in 1938; and

Whereas, D. Livingstone Stallings served as a member of the Craven County Board of Commissioners from 1962 to 1972, and as chairman of that board from 1962 to 1970, in which year he was elected President of the North Carolina Association of County Commissioners; and in these offices as well as in the capacity of President of the Neuse River Regional Planning and Development Council and as Chairman of the Senate Committee on Local Government in 1973, he worked tirelessly and effectively to make local government better and more responsive to the public needs; and

Whereas, D. Livingstone Stallings was elected to the State Senate in 1972 and served continuously in that body until his death, and as Chairman of the Senate Committee on Education made a tremendous contribution to the improvement of quality education in North Carolina; and

Whereas, in addition to his insurance business, D. Livingstone Stallings served as President of the Atlantic and North Carolina Railroad; and

Whereas, D. Livingstone Stallings was actively engaged in many civic and fraternal organizations, including the Masonic Order, 32nd degree, Sudan Temple, New Bern Scottish Rite Bodies, and New Bern York Rite Bodies; the Benevolent and Protective Order of Elks; Loyal order of the Moose; Woodmen of the World; and Civitan Club; and

Whereas, his contributions to his community were recognized as he was named Civitan of the Year in 1960, Civitan Citizen of the Year in 1962, and Distinguished Citizen of the Year, North Carolina District East, Civitan International in 1971; and

Whereas, D. Livingstone Stallings was active in the religious affairs of his community, having been reared in the Methodist Church, he gave leadership in the West New Bern Presbyterian Church for many years, served as Moderator, Albemarle Presbytery in 1970 and at the time of his death was a member of the Finance Committee of the Centenary United Methodist Church; and

Whereas, D. Livingstone Stallings is survived by his widow and two daughters and two sons;

*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 service of D. Livingstone Stallings and mourns the loss of one of North Carolina's truly distinguished citizens.

**Sec. 2.** The Secretary of State is directed to transmit a certified copy of this resolution to the family of D. Livingstone Stallings.

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**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of January, 1979.

S. R. 3

### RESOLUTION 4

A JOINT RESOLUTION COMMEMORATING THE LIFE AND MEMORY OF LUTHER J. BRITT, JR., DISTINGUISHED STATE SENATOR AND CITIZEN OF NORTH CAROLINA.

Whereas, Luther J. Britt, Jr. was born in Lumberton, North Carolina, on August 10, 1931; and

Whereas, Luther J. Britt, Jr. attended the Lumberton City Schools and Wake Forest College; and graduated from Wake Forest Law School with an L.L.B. in 1955; and

Whereas, Luther J. Britt, Jr. served as the city attorney of Lumberton for 12 years; and was twice selected as the Outstanding Young Man in Lumberton; and

Whereas, Luther J. Britt, Jr. served as the President of the Robeson County Bar Association and of the Sixteenth Judicial Bar Association; and

Whereas, Luther J. Britt, Jr. was a member of the Board of Directors of the Waccamaw Bank and Trust Company; and

Whereas, Luther J. Britt, Jr. held many positions in the Jaycees including the Presidency of the Lumberton Jaycees, the Vice-Presidency and Presidency of the North Carolina Jaycees and a National Directorship of the United States Jaycees; and on three successive years was selected the outstanding State Vice-President, the outstanding National Director and one of five outstanding State Presidents in the Jaycees; and

Whereas, Luther J. Britt, Jr. served the people of Robeson and Hoke Counties and the State of North Carolina through over seven years of service in the North Carolina General Assembly, of which five years were served as Chairman of the Senate Judiciary II Committee; and

Whereas, Luther J. Britt, Jr. was held in high esteem by his colleagues in the General Assembly as expressed in the following excerpts from tributes paid upon his demise July 22, 1978:

By the Honorable James B. Hunt, Governor of North Carolina:

"Tenacious in his love of the law and the legislative process, but even more tenacious in his dedication that the law and the legislative process deal fairly with men and women...a quiet man in the Senate, not given to long speeches or frequent comment...his words were carefully chosen and carefully offered, and the Senate of this State listened when he spoke...a real leader of the Legislature,...a true friend of the people."

By the Reverend Frank Dew, personal friend:

"...he was the kind of man who always made everyone of us feel special when we were in his presence."

By the Reverend E. B. Turner, City Councilman:

"His philosophy in government was as a servant. His purpose in government was to make life better. His will in government was to be open, accessible, and a voice for that which was right."; and

Whereas, Luther J. Britt, Jr. is survived by his widow, Sarah Williams Britt; his three sons Luther J. Britt, III, Hewitt Brooks Britt, and Lee Elkins

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Britt; his daughter, Sarah Beta Britt; his father, Luther J. Britt; and his sisters, Mary Brooks Britt and Dr. Marie Britt Rhyne;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the General Assembly of North Carolina expresses its deep appreciation for the life and accomplishments of Luther J. Britt, Jr. and for the great service he rendered to the nation, the State of North Carolina, Robeson County and the City of Lumberton.

**Sec. 2.** That the General Assembly of North Carolina extends its deepest sympathy to the family of Luther J. Britt, Jr. for the loss of its distinguished member.

**Sec. 3.** That this resolution become a part of the public records of this session of the General Assembly and copies of this resolution shall be certified by the Secretary of State and transmitted to the family of Luther J. Britt, Jr.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of January, 1979.

### S. R. 1

### RESOLUTION 5

A JOINT RESOLUTION APPLYING TO THE CONGRESS OF THE UNITED STATES TO CALL A CONVENTION TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO REQUIRE A BALANCED FEDERAL BUDGET.

Whereas, believing that inflation is the most serious problem facing the people of the United States, and the primary cause of inflation is unchecked federal spending; and

Whereas, the State of North Carolina is required by its Constitution to have a balanced budget, and has long operated on a sound fiscal basis which the federal government would be well-served to emulate; and

Whereas, under Article V of the Constitution of the United States, amendments to the federal Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states, the Congress shall call a Constitutional Convention for the purpose of proposing amendments which shall be valid when ratified by the legislatures of three-fourths of the several states or by conventions in three-fourths thereof;

Whereas, by Resolution 97 of the General Assembly, ratified July 1, 1977, the Congress was requested to submit an amendment to the states to require a balanced federal budget, but the Congress has failed to act;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the Congress of the United States is requested to propose and submit to the states an amendment to the Constitution of the United States which would require that, in the absence of a national emergency, the federal budget be balanced each fiscal year within four years after the amendment is ratified by the various states.

**Sec. 2.** That, alternatively, this body respectfully petitions the Congress of the United States to call a convention for the exclusive purpose of proposing



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an amendment to the Constitution of the United States to require a balanced federal budget in the absence of a national emergency.

**Sec. 3.** That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, or until this application is rescinded by the General Assembly of North Carolina; but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this joint resolution before January 1, 1980, this petition for a Constitutional Convention shall no longer be of any effect.

**Sec. 4.** That this application and request be deemed rescinded in the event that the convention is not limited to the subject matter of this application.

**Sec. 5.** That since this application under Article V of the Constitution of the United States is the exercise of a fundamental power of the sovereign states under the Constitution of the United States, it is requested that receipt of this application by the Senate and the House of Representatives of the United States Congress be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives of the Congress.

**Sec. 6.** That copies of this resolution be sent to the Secretaries of State, presiding officers of all state legislatures in the Union, the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and each member of the North Carolina Congressional delegation.

**Sec. 7.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of January, 1979.

### H. R. 4

### RESOLUTION 6

#### A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BROOKS POOLE.

Whereas, Brooks Watson Poole died at his home in Raleigh on December 27, 1978, at the age of 54, survived by his widow, Mrs. Kathleen S. Poole; a son, Robert Watson Poole; and a daughter, Patricia Ann Poole; and

Whereas, Brooks Poole served as a justice of the peace for Wake County in the 1960's, in which capacity he came to be known as a man who understood the frailties and troubles of ordinary people, and who could be at the same time a stern taskmaster and a compassionate dispenser of mercy—a serious judicial officer who saw the comic side of humankind and who shared in the joys and sorrows of those with whom he dealt; and

Whereas, Brooks Poole served the General Assembly of North Carolina as Sergeant-at-arms of the Senate from 1961 to 1975, and as Building Superintendent of the State Legislative Building from 1968 to his retirement because of health problems in 1976, during which time he served as aide, counselor, friend and companion to legislators and officers of both houses of the General Assembly; and

Whereas, Brooks Poole loved politics, mastered the art and craft of practical politics, and shared his insights, understanding and energies in working with politicians at all levels from the precinct to the Governor's office;

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and was the confidant of political leaders at all levels of State and local government; and

Whereas, Brooks Poole possessed a quick incisive wit, great courage in the face of long-time physical problems, a commitment to make government work effectively, and a cheerful disposition which made life more pleasant for those around him;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That in the death of Brooks Watson Poole the State of North Carolina has lost a useful and beloved citizen, and the General Assembly of North Carolina has suffered an especially grievous loss.

**Sec. 2.** The General Assembly extends to the family of Brooks Poole its deepest sympathy in their loss.

**Sec. 3.** The Secretary of State is directed to transmit a certified copy of this resolution to Mrs. Kathleen S. Poole.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of January, 1979.

### H. R. 197                      **RESOLUTION 7**

A JOINT RESOLUTION FIXING MARCH 9, 1979, AS THE DEADLINE FOR FILING OF LOCAL BILLS FOR INTRODUCTION IN THE CURRENT LEGISLATIVE SESSION.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** Notwithstanding any provisions of the Senate Rules, House Rules, or the Joint Rules of the Senate and House, all local bills to be introduced in the First Session of the 1979 General Assembly shall be filed in the appropriate Principal Clerk's office on or before 4:00 p.m., Friday, March 9, 1979.

**Sec. 2.** This resolution is effective upon ratification and has the status of a joint rule of the Senate and House of Representatives.

In the General Assembly read three times and ratified, this the 5th day of February, 1979.

### S. R. 224                      **RESOLUTION 8**

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:*

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**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:

### I. 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 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 and 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 until February 23, 1979. In order for a person to have standing to be considered as a candidate for nomination by the committee, that person must be formally proposed as a candidate for nomination by a member of the committee.

4. After February 23, 1979, the committees shall meet separately and receive from members of the committees formal proposals of candidates for nomination. A committee member may propose candidates only for the categories available for election by the house of which he is a member.

5. The 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 disabilities.

6. There is no limit on the number of persons a Senator or a Representative may propose as candidates. When the proposing process is closed, the committees shall separately list all proposed candidates by category and shall separately vote "aye" or "no" on each proposed candidate to determine whether that person shall be chosen as a candidate for nomination and listed on the ballot. A vote of a majority of those members of the committee present and voting shall constitute one a candidate for nomination. An individual cannot be a candidate for nomination in more than one category.

7. Committee candidates shall be placed before and recommended to a joint session of the House of Representatives and Senate.

### II. JOINT SESSION - SELECTION OF NOMINEES.

1. The Senate and House of Representatives shall meet in joint session at 1:00 p.m. on March 28, 1979, for the purpose of nominating persons for election

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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 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) At-large nominees for six-year term
- (7) Minority race nominees for two-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 or Representative may propose as nominees and no limit on the categories for which he may propose in the joint session.

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, six at-large nominees for an eight-year term (Senate), and four at-large nominees for an eight-year term (House of Representatives); a minimum of two at-large nominees for a six-year term; and a minimum of two racial minority nominees for a two-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.



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3. The Senate shall hold its election at the beginning of the daily session on March 29, 1979. 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.
- (iii) 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.
- (iv) 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 after 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 that there are positions to be filled and the Senate has three positions to fill. If one person receives the votes of a majority of all members present and voting for that category, then he is elected and a runoff will be held among the four next highest vote-getters. This is so because there are two positions remaining to be filled and there must be twice the number of nominees in the runoff that 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.)

- (v) 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.

4. The Senators shall proceed to mark their ballots for the following:
- One person in the minority party category for an eight-year term,
  - Three persons in the at-large category for eight-year terms,
  - No person in the women's category for an eight-year term,
  - No person in the minority race category for an eight-year term, and
  - One person in the minority race category for a two-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 Senate has chosen one member of the Board of Governors who is a Republican for a term of eight years, three members of the Board of Governors

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from the at-large category for a term of eight years, and one member of the Board of Governors from the minority race category for a term of two years, the Chairman of the University Board of Governors Committee in the Senate shall make a motion for the simultaneous election of those five 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.

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) 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.
- (iv) When fewer than two 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 after the first ballot is taken, no nominee receives a majority, then the top four vote-getters will be in the runoff, because there must be twice the number of persons in the runoff that there are positions to be filled and the House has two 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 between the two next highest vote-getters. This is so because there is one position remaining to be filled and there must be twice the number of nominees in the runoff that there are positions available, therefore two.)

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- (v) 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.

4. The members of the House of Representatives shall proceed to mark their ballots for the following:

- One person in the women's category for an eight-year term,
- One person in the minority race category for an eight-year term,
- Two persons in the at-large category for eight-year terms,
- No person in the minority party category for an eight-year term,
- One person in the at-large category for a six-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 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, two members of the Board of Governors from the at-large category for a term of eight years, and one member of the Board of Governors from the at-large category for a term of six years, 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.

In the General Assembly read three times and ratified, this the 7th day of February, 1979.

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S. R. 146

### RESOLUTION 9

A JOINT RESOLUTION MEMORIALIZING CONGRESS TO MERGE THE  
MEDICARE AND MEDICAID PAYMENT SYSTEMS.

Whereas, Congress created the Medicare program as a federal system of providing for the health care of our older citizens; and

Whereas, Congress later created the Medicaid program as a joint federal and state system of providing for the health care of our citizens in need; and

Whereas, having two separate systems leads to duplication, confusion, and administrative inefficiency; and

Whereas, the General Assembly would like a health care program where the maximum amount is spent on services;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Congress is urged to merge the payment system of the Medicare Program (Title XVIII of the Social Security Act) with the payment system of the Medicaid Program (Title XIX of the Social Security Act), so as to better facilitate coordination, cooperation, and better administrative and legislative control.

**Sec. 2.** The Congress is urged to provide a mechanism for the merger of the payment system in the individual states in advance of the implementation of Section 1 nationwide, when requested by the individual state legislatures. This resolution shall constitute such a request.

**Sec. 3.** Copies of this resolution shall be sent to each member of the North Carolina Congressional Delegation, to the Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the Secretary of the Department of Health, Education, and Welfare.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1979.

H. R. 77

### RESOLUTION 10

A JOINT RESOLUTION URGING THE FOOD AND DRUG  
ADMINISTRATION AND THE NATIONAL CANCER INSTITUTE TO  
PROCEED WITH SCIENTIFIC TESTING OF LAETRILE ON  
TERMINALLY ILL HUMANS.

Whereas, an estimated 8,800 North Carolinians will die from various forms of cancer in 1979; and

Whereas, over 55 million Americans now living will eventually have cancer; and

Whereas, a controversy now rages over the safety and efficacy of a preparation commonly known as laetrile, pitting one group of scientists, medical doctors and concerned individuals against another; and

Whereas, scientific evidence does not presently exist to settle this controversy to the satisfaction of many persons suffering from cancer; and

Whereas, it is recommended that laetrile be scientifically tested on terminally ill cancer patients who voluntarily submit to such procedures; and



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Whereas, such testing has not yet begun;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the United States Food and Drug Administration and the National Cancer Institute are urged to do everything possible to proceed with scientific testing of laetrile on terminally ill humans, subject to their informed consent.

**Sec. 2.** That the Secretary of State be instructed to deliver copies of this resolution to the Secretary of Health, Education and Welfare, the Commissioner of the United States Food and Drug Administration, the Surgeon General, and the Director of the National Cancer Institute.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1979.

H. R. 248

### RESOLUTION 11

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF  
JAMES T. CLELAND.

Whereas, James T. Cleland was born in Glasgow, Scotland, July 8, 1903, and died November 14, 1978, at Durham, North Carolina.

He was educated at Hillhead High School, Glasgow; Glasgow University, where he was awarded the Bachelor of Divinity degree, with distinction, in 1924, and the Master of Arts degree in 1927; and at Union Theological Seminary, where he was awarded the degree of Master of Sacred Theology, *summa cum laude*, in 1928, and the Doctor of Theology degree in 1954.

He had a distinguished career as a teacher and lecturer at a number of the great universities and seminaries in the United States and abroad, including 14 years at Amherst College and over 30 years at Duke University, where he came in 1945 and where he was named James B. Duke Professor in 1954 — a position which he held until his death.

He served as Dean of the Chapel, Duke University, from 1955 to 1973; and he was the author of a great many published articles and sermons, and four books — *The True and Lively Word*, 1954; *Wherefore Art Thou Come*, 1961; *Preaching to be Understood*, 1965; and *He Died as He Lived*, 1966; and

Whereas, in his life James T. Cleland displayed in full measure those characteristics which describe the truly great: His love for and enjoyment of the human race made him a cheerful companion to persons of all types and ages and circumstances. His cupboard of stories was never bare, and he lavished his great gifts as a master raconteur upon those about him, to their endless delight. As a soccer coach he taught the joys and values to be derived from athletic discipline for the fun of it, and in this role as in all others he emphasized the pursuit of excellence for its own sake. As a counselor he guided students, especially at Duke University, through their most difficult spiritual and moral crises. As a preacher he was the instrument through which the love of God was manifested as a living, almost visible, substance, bringing comfort, strength, peace and joy to many thousands of students and others. His was a radiant life that illumined and enriched all who knew him;

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*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly expresses its recognition of and its appreciation of the life of James T. Cleland, and is thankful for the great good fortune which befell North Carolina when he came to settle at Duke University.

**Sec. 2.** The General Assembly joins the widow of James T. Cleland, Mrs. Alice Mead Cleland, the Duke University community, and many others around the world in mourning the death of this uncommon man.

**Sec. 3.** A copy of this resolution, certified by the Secretary of State, shall be transmitted by him to Mrs. Alice Mead Cleland.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1979.

### H. R. 251

### RESOLUTION 12

#### A JOINT RESOLUTION NAMING PAUL GREEN AS 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, and married Elizabeth Atkinson Lay; and

Whereas, Paul Green graduated from Buies Creek Academy in 1914, and received his A.B. from The University of North Carolina in 1921, and did graduate study at The University of North Carolina and Cornell University; 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 served as a second lieutenant in the 105th Engineers in the American Expeditionary Force in the First World War; and

Whereas, Paul Green has 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, The University of North Carolina named him distinguished alumnus in 1973, and Campbell College bestowed a similar distinction in 1975, and the State of North Carolina named him Distinguished Citizen in 1976; and

Whereas, Paul Green is a member of Phi Beta Kappa; and

Whereas, Paul Green has written numerous Broadway plays, including 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 has written 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

## Resolutions—1979

Whereas, Paul Green has written numerous other plays, novels, short stories, screenplays, poetry, lyrics, and music; and

Whereas, Paul Green has received numerous awards including the Pulitzer Prize in 1927 and is our State's most recognized dramatist; and

Whereas, The University of North Carolina has recently honored the life and works of Paul Green by naming its new theatre in his honor; and

Whereas, Paul Green has distinguished himself and the State of North Carolina as a dramatist for more than 50 years; and

Whereas, the General Assembly wishes to designate Paul Green as the most honored dramatist in our State;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** Paul Green is hereby named the Dramatist Laureate of the State of North Carolina.

**Sec. 2.** A copy of this resolution shall be presented to Paul Green at an appropriate ceremony.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1979.

S. R. 61

### RESOLUTION 13

A JOINT RESOLUTION ENDORSING IN-HOME SERVICES TO THE AGED AS A VIABLE AND NEEDED ALTERNATIVE TO INSTITUTIONAL CARE AND REQUESTING THE DEPARTMENT OF HUMAN RESOURCES TO WORK WITH COUNTY GOVERNMENTS TO INSURE THAT A COMPREHENSIVE, EFFICIENT SYSTEM OF IN-HOME CARE IS AVAILABLE THROUGHOUT THE STATE.

Whereas, the General Assembly in Resolution 107, 1977 Session (Second Session, 1978) requested the Department of Human Resources to study coordination of homemaker-home health and similar services into a homemaker-home health aide program, and report to the Legislative Research Commission; and

Whereas, the Legislative Research Commission has received the report of the Task Force of the Department of Human Resources in response to the resolution; and

Whereas, the Task Force on Homemaker-Home Health Aide Services has determined that in-home services to the elderly form a cost-effective alternative to long-term institutional care for many elderly citizens; and

Whereas, the Task Force has determined that combined homemaker and home health aide services represent a desirable and efficient model for delivering in-home services; and

Whereas, the Department of Human Resources administers or supervises several federal programs which can finance different portions of a comprehensive homemaker-home health aide program; and

Whereas, primary responsibility for establishing and operating programs of in-home care for the elderly rests with county governments; and

## Resolutions—1979

Whereas, the Task Force has encouraged development of such program;  
*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The General Assembly endorses in-home services to the aged as a viable and needed alternative to institutional care and requests the Department of Human Resources to work with county governments to insure that a comprehensive, efficient system of in-home care is available throughout the State.

**Sec. 2.** The Secretary of Human Resources should work with county governments to insure that homemaker and home health aide services are available throughout the State.

Further, the Secretary should encourage counties to coordinate and integrate homemaker and home health aide services, insuring that no obstacles to such coordination are created by State agency actions.

**Sec. 3.** The Secretary of Human Resources shall report to the Legislative Research Commission on the progress of implementing this resolution on or before July 1, 1979.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1979.

S. R. 234

### RESOLUTION 14

A JOINT RESOLUTION TO REQUEST THE DIRECTOR OF THE BUDGET TO TRANSFER FUNDS TO PAY SUBSTITUTE TEACHERS.

Whereas, many local units of public education are finding it impossible to hire substitute teachers because the money they can offer is far too little even to enable the substitute teacher to pay necessary work expenses; and

Whereas, it is essential to the continuing operation of a school to have adequate substitute teaching;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Director of the Budget is requested to transfer any available appropriate funds, appropriated to the Department of Public Education for the fiscal year 1978-79, to local public school units for the purpose of paying substitute teachers a maximum salary of thirty dollars (\$30.00) per day, except that the daily rate of pay for non-qualified personnel employed as teacher substitutes shall remain at twenty dollars (\$20.00). Non-qualified personnel may be employed as teacher substitutes only in hardship situations and must be approved by school principals. The State Board of Education is directed to establish the necessary rules and regulations to determine qualified and non-qualified personnel and to ensure compliance with the provisions of this section.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1979.



## Resolutions—1979

H. R. 951

### RESOLUTION 15

A JOINT RESOLUTION TO CHANGE THE TIME FOR CONVENING OF A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES FOR THE PURPOSE OF NOMINATING PERSONS FOR ELECTION TO THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** Resolution 8 of the 1979 General Assembly is amended on Page 3, at the second line of paragraph 1 of the part designated as "II. JOINT SESSION - SELECTION OF NOMINEES." by striking out the phrase "1:00 p.m." and substituting in lieu thereof the phrase "2:00 p.m."

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1979.

H. R. 577

### RESOLUTION 16

A JOINT RESOLUTION HONORING TYRRELL COUNTY ON THE OBSERVANCE OF ITS 250TH ANNIVERSARY.

Whereas, Tyrrell County was part of the original proprietary land grant in 1663 from King Charles II to Sir Anthony Ashley Cooper; and

Whereas, Tyrrell County was created by act of the General Assembly meeting at Edenton on the 27th day of November, 1729, and was named for Sir John Tyrrell, one of the Lords Proprietors of Carolina; and

Whereas, Tyrrell County is among the 10 oldest counties in North Carolina in continuous existence, has had a long and distinguished history, and has furnished the State many citizens of outstanding character and ability; and

Whereas, during 1979 Tyrrell County is observing its 250th Anniversary;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly congratulates Tyrrell County on its 250th Anniversary, and extends good wishes to the people of Tyrrell.

**Sec. 2.** That this resolution shall be duly certified by the Secretary of State and forthwith transmitted to the Tyrrell County Board of Commissioners.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1979.

## Resolutions—1979

S. R. 686

### RESOLUTION 17

A JOINT RESOLUTION COMMEMORATING THE 203RD ANNIVERSARY OF THE HALIFAX RESOLVES.

Whereas, April 12, 1979, is the 203rd 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 thirteen colonies 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

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 Senate, the House of Representatives 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 13th day of April, 1979.

## Resolutions—1979

S. R. 272

### RESOLUTION 18

A JOINT RESOLUTION MEMORIALIZING CONGRESS TO REQUEST THE GERMAN FEDERAL REPUBLIC TO EXTEND THE STATUTE OF LIMITATIONS ON NAZI WAR CRIMINALS.

Whereas, it is reprehensible policy that would assume that the moral obligation for the mass murder of over 11,000,000 innocent victims of the "Holocaust" can be eliminated by the passage of time; and

Whereas, the statute of limitations of the German Federal Republic relating to Nazi war criminals is scheduled to expire on December 31, 1979; and

Whereas, if such statute of limitations does expire, no investigation of murder, including genocide, committed by Nazi war criminals can be initiated after that date; and

Whereas, if such statute of limitations does expire, thousands of Nazi war criminals who were actively involved in the calculated and brutal mass murder of millions of innocent victims will be rewarded for having evaded justice; and

Whereas, crimes of lesser horror than mass murder and genocide are subject to no statute of limitations either in North Carolina or in numerous other jurisdictions; and

Whereas, it is in the interest of all free people that new generations not be allowed to forget the dangers and consequences of the crime of genocide; and

Whereas, an international campaign to convince the German Federal Republic to eliminate or extend the current statute of limitations has been initiated by a broad base of concerned organizations and individuals;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Congress and the President should urge the German Federal Republic to abolish or extend the statute of limitations relating to Nazi War Criminals.

**Sec. 2.** Copies of this resolution shall be sent to President Jimmy Carter, Secretary of State Cyrus Vance, to the Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the North Carolina Congressional Delegation.

**Sec. 3.** The General Assembly requests that the President and Secretary of State of the United States transmit this joint resolution to the following officials of the German Federal Republic: the President, the Chancellor, and the Ambassador to the United States.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

## Resolutions—1979

H. R. 659

### RESOLUTION 19

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF J. SHELTON WICKER, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, J. Shelton Wicker, was born in Lee County on December 10, 1917, and died in Lee County, North Carolina, on August 6, 1978, survived by his widow, Clarice B. Wicker, and six children, Bob, Sharon, Mike, Dennis, James, and John; and

Whereas, J. Shelton Wicker graduated from Sanford High School and then from North Carolina State University in 1941; and

Whereas, J. Shelton Wicker served his country in World War II as a Second Lieutenant in the 290th Regiment of the 75th Infantry Division, saw action in the Battle of the Bulge, and was awarded the Bronze Star for Bravery; and

Whereas, J. Shelton Wicker entered business in his home county, became President of Wicker Oil Company, Incorporated, in 1946, and served in that position until his death; was named President of the North Carolina Oil Jobbers Association in 1971; and was appointed to the Board of Directors of the First Citizens Bank and Trust Company of Sanford; and

Whereas, J. Shelton Wicker served with distinction in various State and local offices, including membership on the Lee County Board of Commissioners in 1951; seven consecutive terms in the North Carolina House of Representatives beginning in 1953, during which period he served as Chairman of the House Finance Committee and a member of the Advisory Budget Commission in 1961; member of the Board of Trustees of The University of North Carolina beginning in 1953, and a member of the Executive Committee of that board from 1963 to 1971; member of the Board of Trustees of North Carolina State University from 1971 to 1974; and a member of the Board of Trustees of Central Carolina Technical Institute; and

Whereas, J. Shelton Wicker was active in civic affairs as a member of the Veterans of Foreign Wars, American Legion, Wildlife Club, Lions Club, and the Benevolent and Protective Order of Elks; and

Whereas, J. Shelton Wicker was an active participant in State and local affairs of the Democratic Party throughout his life; and

Whereas, J. Shelton Wicker was a member of St. Luke's Methodist Church in Sanford; and

Whereas, in all facets of his career, J. Shelton Wicker was devoted to the community in which he was born and lived, and contributed much to that community, and its educational, social, civic, commercial, political and religious life; and made equally great contributions to his State;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly joins the people of Lee County and of the State in mourning the loss of a valuable citizen, a dedicated government servant, and a warm and valued friend.

**Sec. 2.** The General Assembly extends to Mrs. Clarice B. Wicker and her children the deepest sympathy in their loss, and shares in their grief.

**Sec. 3.** The Secretary of State shall send a copy of this resolution to Mrs. Clarice B. Wicker.



## Resolutions—1979

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

H. R. 893

### RESOLUTION 20

#### A JOINT RESOLUTION ON ALCOHOL AND DRUG ABUSE AND DECRIMINALIZATION OF PUBLIC DRUNKENNESS.

Whereas, the 1978 Session of the 1977 General Assembly enacted a law to decriminalize public drunkenness; and

Whereas, this law shifts the responsibility for short-term care and detoxification from the county jails or State mental hospitals to the communities; and

Whereas, short-term care and detoxification should be available in local communities rather than State psychiatric hospitals; and

Whereas, this law establishes the need for longer term residential programs for the chronic population; and

Whereas, the approach mandated by the law decriminalizing public drunkenness will serve to use community resources more effectively; and

Whereas, a study should be made concerning the extent of alcohol and drug abuse; and

Whereas, an evaluation is needed concerning the effectiveness of the publicly funded responses to this abuse; and

Whereas, a report relating alcohol and drug expenditures to services is needed;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the Mental Health Study Commission of North Carolina make alcohol and drug abuse and the implementation of decriminalization of public drunkenness a major priority and be it recommended that a subcommittee of the Mental Health Study Commission be appointed to review these issues listed above.

**Sec. 2.** It is further resolved that this subcommittee on alcohol and drug abuse examine the policies and the service delivery system of private and public programs, including but not limited to those administered by the Commission on Mental Health and Mental Retardation of the Department of Human Resources and from such studies recommend ways and means to enhance programs of education, prevention, intervention and rehabilitation.

**Sec. 3.** It is further recommended that due to the increasing number and complexity of issues before the Mental Health Study Commission that the President of the Senate, the Speaker of the House and the Governor each have one additional appointment to the Mental Health Study Commission including a member of the Senate, a member of the House of Representatives and one to represent the public at-large.

**Sec. 4.** That the final report of the full Commission's findings and recommendations be submitted to the General Assembly and the Governor not later than January 1, 1981.

**Sec. 5.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

H. R. 1128

**RESOLUTION 21**

**A JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE  
STATE NATURE AND HISTORIC PRESERVE.**

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve, upon acceptance by resolution adopted by a vote of three fifths of the members of each house of the General Assembly; and

Whereas, the North Carolina General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443, 1973 Session Laws to prescribe the conditions and procedures under which properties may be specially dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution; and

Whereas, the 1973 General Assembly sought to declare units of the State park system and certain historic sites as parts of the State Nature and Historic Preserve by adoption of Resolution 84 of the 1973 Session of the General Assembly; and

Whereas, the effective date of 1973 Session Laws, Resolution 84 was May 10, 1973, while the effective date of Article XIV, Section 5, of the North Carolina Constitution and Chapter 443 of the 1973 Session Laws was July 1, 1973, thereby making Resolution 84 ineffective to confer the intended designation to the properties cited therein; and

Whereas, the General Assembly desires to reaffirm its intention to accept certain properties enumerated in Resolution 84 of the 1973 General Assembly and to add certain properties acquired since the adoption of said Resolution as part of the State Nature and Historic Preserve; and

Whereas, the Council of State pursuant to G.S. 143-260.6 *et seq.* has petitioned the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution accepting the following properties owned by the State of North Carolina for inclusion in the State Nature and Historic Preserve; and

Whereas, these properties have been acquired and are being utilized for the public purposes set forth in Article XIV, Section 5 of the North Carolina Constitution;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly dedicates all lands and waters hereinafter described as components of the State Nature and Historic Preserve:

(1) All land and waters within the boundaries of the following components of the State Parks System as of March 6, 1979: Bay Tree Lake, Bushy Lake Natural Area, Cliffs of the Neuse State Park, Crowders Mountain State Park, Duke Power Recreation Area, Fort Macon State Park, Goose Creek State Park, Hammocks Beach State Park, Hanging Rock State Park, Hemlock Bluffs Natural Area, Jockeys Ridge State Park, Jones Lake State Park, Lake Waccamaw, Lake Waccamaw State Park, Merchants Millpond State Park, Morrow Mountain State Park, Mount Jefferson State Park, Mount Mitchell State Park, Pilot Mountain State Park, Raven Rock State Park, Theodore Roosevelt Natural Area, Singletary Lake State Park, South Mountains State

## Resolutions—1979

Park, Stone Mountain State Park, Weymouth Woods-Sandhills Nature Preserve, and White Lake.

(2) All lands and waters within the boundaries of the Carolina Beach State Park in New Hanover County as of March 6, 1979, lying west of Dow Road, S.R. 1573.

(3) All lands and waters within the boundaries of Mitchells Millpond Natural Area in Wake County as of March 6, 1979, lying north of S.R. 2224.

(4) All lands and waters within the boundaries of Eno River State Park as of March 6, 1979, with the exception of those tracts recommended for exclusion in the petition of the Council of State dated March 6, 1979.

(5) All lands within the boundaries of Pettigrew State Park as of March 6, 1979, with the exception of the tract recommended for exclusion in the petition of the Council of State dated March 6, 1979.

(6) All lands and waters within the boundaries of William B. Umstead State Park as of March 6, 1979, with the exception of those tracts recommended for exclusion in the petition of the Council of State dated March 6, 1979.

(7) All lands and waters located within the boundaries of the following Historic Sites as of March 6, 1979: Alamance Battleground Historic Site, Historic Bath Historic Site, Bentonville Battleground Historic Site, Brunswick Town Historic Site, Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site, Duke Homestead Historic Site, House in the Horseshoe Historic Site, James Iredell House Historic Site, President James K. Polk Memorial Historic Site, Stagville Preservation Center Historic Site, State Capitol Historic Site, Town Creek Indian Mound Historic Site, Tryon Palace Historic Site, Governor Zebulon B. Vance Birthplace Historic Site, and Thomas Wolfe Memorial Historic Site.

**Sec. 2.** In accordance with G.S. 143-260.8(e) the Secretary of State is directed to forward a certified copy of this resolution to the Register of Deeds of the counties wherein the above dedicated properties are located.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1979.

H. R. 1347

### RESOLUTION 22

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 AND TO MEMBERSHIP ON 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 2:00 p.m., Thursday, May 10, 1979, for the purpose of voting on confirmation of appointments by the Governor to the North Carolina Utilities Commission, and for the purpose of voting on confirmation of appointments by the Governor to the State Board of Education.

**Sec. 2.** In the joint session, appointments to the Utilities Commission shall be voted on first, and after the results of that voting are tabulated and announced, appointments to the State Board of Education shall be voted on. On the question of confirmation of each appointee to either office, the roll of the

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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 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 2nd day of May, 1979.

H. R. 1363

### RESOLUTION 23

A JOINT RESOLUTION PROVIDING FOR THE ANNUAL DETERMINATION OF THE NORTH CAROLINA STATE HORSESHOE CHAMPIONSHIP.

Whereas, the skill of pitching horseshoes is an ancient and honorable art which has survived as a simple source of pleasure to persons all over the State of North Carolina; and

Whereas, there is much friendly rivalry among devotees of the sport residing in various areas of the State; and

Whereas, the Men's Garden Club of the City of Oxford has demonstrated a strong interest in the sport of horseshoe pitching and is a suitable organization to plan and administer an annual contest to determine the horseshoe championship of North Carolina;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Men's Garden Club of the City of Oxford is designated as the agency to conduct an annual tournament to determine the North Carolina State Horseshoe Championship. The contest shall be held each year at a time and place designated by the Men's Garden Club of Oxford, and under rules and regulations adopted and promulgated by that Garden Club.

**Sec. 2.** If the Men's Garden Club of Oxford fails for two successive years to hold the North Carolina State Horseshoe Championship Tournament, the authority granted by this resolution shall thereupon terminate.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1979.



## Resolutions—1979

H. R. 995

### RESOLUTION 24

#### A JOINT RESOLUTION REGARDING REIMBURSEMENT OF THE STATES BY THE FEDERAL GOVERNMENT.

Whereas, the federal government of the United States, by actions of both the Legislative branch and the Executive branch, requires the states to implement new programs and provide increased levels of service under existing programs; and

Whereas, in order to implement new programs and provide increased levels of service as required by the federal government, the states must incur significant costs which must be paid for out of State revenues, existing or to be raised by the imposition of additional taxes; and

Whereas, there exists, throughout the United States, a growing resentment of the heavy burden of taxation and an active rejection of existing and proposed levels and methods of revenue raising; and

Whereas, the public outcry against taxation makes it increasingly difficult for the states to raise the revenues necessary to finance the programs and services which the states are required to provide by the federal government; and

Whereas, it is a matter of simple equity that a level of government which establishes programs or services in the public interest should provide the means for financing those programs and services;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of the State of North Carolina respectfully memorializes the President and the Congress of the United States to undertake such actions as may be necessary to ensure that the federal government reimburses each state for all costs incurred with respect to implementing new programs or providing increased levels of service under existing programs pursuant to any law enacted by the United States Congress after September 30, 1979, or any executive order or regulation issued by the President of the United States after September 30, 1979.

**Sec. 2.** Copies of this resolution shall be sent to the President and Vice-President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from North Carolina in the Congress of the United States.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

## Resolutions—1979

S. R. 718

### RESOLUTION 25

A JOINT RESOLUTION ADDING A MEMBER APPOINTED BY THE NORTH CAROLINA STATE COMMISSION OF INDIAN AFFAIRS, TO THE COMMITTEE FOR THE STUDY OF THE NEED FOR A COMPREHENSIVE STATEWIDE PROGRAM FOR THE LOCATION, IDENTIFICATION, AND PROPER CARE OF ABANDONED CEMETERIES.

*Be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** Section 1 of Resolution 134 of the 1977 Session Laws is amended in the list by adding below the entry, "Division of Archives and History, Department of Cultural Resources" a new entry to read as follows:

"North Carolina State Commission of Indian Affairs, Department of Administration".

**Sec. 2.** Appointment of the new member provided for in Section 1 of this resolution shall be made by July 1, 1979.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1979.

H. R. 1384

### RESOLUTION 26

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HENRY B. SMITH, SR.

Whereas, Henry B. Smith, Sr., a previous member of the North Carolina General Assembly and one of North Carolina's most distinguished local government leaders, died on Saturday, March 31, 1979; and

Whereas, Henry B. Smith, Sr., was born in Union County on April 22, 1901; and

Whereas, Henry B. Smith, Sr., was educated at The University of North Carolina and the Wake Forest University School of Law; and

Whereas, Henry B. Smith, Sr., practiced law in Union County for 46 years and was senior partner of the law firm of Smith, Smith, Perry & Helms; and

Whereas, Henry B. Smith, Sr., served as attorney for Union County and the Union County Board of Education for many years, served as Prosecuting Attorney for the State of North Carolina for 12 years, served as judge of Union County Recorder's Court for a number of years, and served as President of the Union County Bar Association for several years; and

Whereas, Henry B. Smith, Sr., served in the North Carolina House of Representatives from 1947 through 1950, and in the North Carolina State Senate from 1953 through 1955; and

Whereas, Henry B. Smith, Sr., was very active in the political life of his county and State, serving on the State Democratic Executive Committee and as a delegate to the Democratic National Convention in 1964; and

Whereas, Henry B. Smith, Sr., served his local community in various capacities including the first Chairman of the Monroe Parks and Recreation Committee, a member of the Monroe Lions Club, and a member of the Central United Methodist Church; and

## Resolutions—1979

Whereas, Henry B. Smith, Sr., is survived by his widow, one daughter and two sons;

*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 service of Henry B. Smith, Sr., and mourns the loss of one of North Carolina's truly distinguished citizens.

**Sec. 2.** The Secretary of State is directed to transmit a certified copy of this resolution to the family of Henry B. Smith, Sr.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1979.

S. R. 561

### RESOLUTION 27

#### A JOINT RESOLUTION CONTINUING 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, and Resolution 70 of the 1977 Session; and

Whereas, the Commission membership has diligently pursued its assigned tasks of review and revision of the criminal law and procedure of North Carolina; and

Whereas, the Criminal Code Commission prepared legislation for consideration by the 1973 Session of the General Assembly dealing with pretrial procedure, which legislation was considered and enacted in part; and

Whereas, the Criminal Code Commission had originally planned to finalize its consideration of criminal procedure and a complete review of the substantive criminal law of North Carolina in time for submission to the General Assembly in its 1975 Session but found the time too limited for completion of its task for consideration by the 1975 Session of the General Assembly; and

Whereas, the Criminal Code Commission prepared legislation for the consideration by the 1977 Session of the General Assembly dealing with trial and appellate procedure, which legislation was considered and enacted; and

Whereas, the magnitude of the tasks set before the Commission and the importance of its work dictate that the Commission be extended through the 1981 Session of the General Assembly;

*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 hereby extended until July 1, 1981, or until the 1981 Session of the General Assembly adjourns *sine die*, whichever date is later.

**Sec. 2.** The powers and duties of the Commission are expressly continued in effect including the responsibility to prepare a biennial report to the Attorney General for transmission to the members of the General Assembly.

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**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 15th day of May, 1979.

H. R. 1188

### RESOLUTION 28

A JOINT RESOLUTION DIRECTING THE CRIMINAL CODE COMMISSION TO STUDY THE PROBLEM OF WHITE COLLAR CRIME IN THIS STATE.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Criminal Code Commission is directed to include as part of its duties a study of the problem of white collar crime in North Carolina and proposals to remedy that problem.

**Sec. 2.** The Commission shall report its findings to the 1979 Session of the General Assembly no later than the first day of its 1980 Session. However, if the life of the Commission is extended into 1981, the report shall be made no later than the first day 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 16th day of May, 1979.

H. R. 1229

### RESOLUTION 29

A JOINT RESOLUTION COMMEMORATING THE LIFE AND MEMORY OF LEONIDAS MARTIN CHAFFIN, A DISTINGUISHED PUBLIC SERVANT AND CITIZEN OF NORTH CAROLINA.

Whereas, Leonidas Martin Chaffin, a former member of the North Carolina General Assembly, and one of North Carolina's most distinguished State and local government leaders for more than 50 years, died on April 10, 1979; and

Whereas, Leonidas Martin Chaffin was born in Jonesboro, North Carolina, January 3, 1892, and was educated in the public schools of Camden and Warren Counties, North Carolina; and

Whereas, Leonidas Martin Chaffin graduated from Trinity College, now Duke University, in 1916, and received a law degree from the same institution in 1920; and

Whereas, Leonidas Martin Chaffin's untiring service to the people of Harnett County, North Carolina, is exemplified by his tenure as Clerk of Harnett County Superior Court and Juvenile Court Judge from 1922 to 1938, longer than any other clerk in the county's history; by his tenure as Mayor of Lillington, North Carolina, from 1939 to 1943; and by his tenure as Chairman of the Harnett County Selective Service Board during World War II; and



## Resolutions—1979

Whereas, Leonidas Martin Chaffin was considered the dean of Harnett County's legal profession, engaged in the practice of law since 1939 and serving as a president and secretary of the Harnett County Bar Association, and a member of both State and national bar associations; and

Whereas, Leonidas Martin Chaffin's faithful service to the people of North Carolina and the United States is illustrated by his tenure in the North Carolina General Assembly as State Senator from Harnett, Hoke, Moore and Randolph Counties in 1943 and 1947, and later as the General Assembly's Enrolling Officer from 1953 to 1965; by his term as a member of the United States Interstate Commerce Commission and a Presidential Elector in 1944 from North Carolina's Seventh Congressional District; and

Whereas, Leonidas Martin Chaffin's life was further dedicated to his church and community affairs, serving as a Sunday School teacher, trustee, lay leader, and official board chairman of Lillington United Methodist Church; serving as Past Master of the Lillington Masonic Lodge, a 32nd Degree Scottish Rite Mason, and a member of the Sudan Shrine Temple; serving as President of the Lillington Rotary Club, Commander of the Lillington American Legion Post, and member of the Lillington Lions Club; and

Whereas, Leonidas Martin Chaffin is survived by his daughter, Mrs. William H. (Helen) Byrd; two sons, Mr. L. M. (Tom) Chaffin, III and Mr. Robert J. (Bob) Chaffin; three sisters, Dr. Nora C. Chaffin, Mrs. Kate C. Johnson, and Mrs. Sarah C. Crooks; and two brothers, Mr. John H. Chaffin and Rev. Claude Chaffin;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly of North Carolina expresses its deep appreciation for the life and accomplishments of Leonidas Martin Chaffin, and for the great service he rendered to the nation, the State of North Carolina, Harnett County and the City of Lillington.

**Sec. 2.** That the General Assembly of North Carolina extends its deepest sympathy to the family of Leonidas Martin Chaffin for the loss of one of its most distinguished former members.

**Sec. 3.** That this resolution become a part of the public records of the 1979 Session of the General Assembly and copies of this resolution shall be certified by the Secretary of State and transmitted to the family of Leonidas Martin Chaffin.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

## Resolutions—1979

H. R. 1300

### RESOLUTION 30

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF  
DELBERT MICHAEL SAWYER.

Whereas, Delbert Michael Sawyer was born in Ransonville, Beaufort County, North Carolina, on March 16, 1916; and

Whereas, Delbert Michael Sawyer attended Pantego High School and Belhaven High School, after which he went into business in his home area; and

Whereas, Delbert Michael Sawyer was a dedicated servant of his community for his entire life: for more than 20 years he was active in the Boy Scouts of America in various capacities, including 12 years as a member of the National Council representing the East Carolina Council of the Boy Scouts, and he received the Silver Compass award for outstanding service to scouting; he served as a member and as president of the Columbia Rotary Club; a member of Providence Masonic Lodge No. 678, and a member of the Sudan Temple of the Shrine; he was a member of the Woodmen of the World; and he was President of the Columbia Junior Chamber of Commerce in 1950; and

Whereas, Delbert Michael Sawyer served his country as a member of the United States Navy during World War II, and later served as Commander of the Nip McClees Post, Veterans of Foreign Wars in 1947-48; and

Whereas, Delbert Michael Sawyer was a faithful and diligent servant of his church, serving as a member of his church board for 10 years, superintendent of the church Bible School for seven years, Bible School teacher for 15 years, and treasurer of the Albemarle Missionary Union for nine years; and

Whereas, Delbert Michael Sawyer served in the General Assembly of 1955 as Representative from Tyrrell County;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly recognizes the achievements of Delbert Michael Sawyer and expresses its appreciation for his contributions to the quality of life in his community and State.

**Sec. 2.** The General Assembly joins the family of Delbert Michael Sawyer in mourning the loss of this honored colleague, good friend, and valuable citizen.

**Sec. 3.** The Secretary of State shall transmit a copy of this resolution to Mrs. Helen Slone Sawyer, the surviving widow of Delbert Michael Sawyer.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1979.

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S. R. 579

### RESOLUTION 31

A JOINT RESOLUTION COMMENDING THE STATE HIGHWAY PATROL FOR ITS SERVICE TO THE PEOPLE OF NORTH CAROLINA ON THE FIFTIETH ANNIVERSARY OF ITS CREATION.

Whereas, the 1929 General Assembly responded to the growth of motor vehicle traffic and the increasing deaths and injuries from motor vehicle accidents by creating the State Highway Patrol; and

Whereas, the State Highway Commission, pursuant to its legislative mandate, selected a Patrol Commander and nine Lieutenants who in turn trained the first 32 State Highway Patrolmen; and

Whereas, the State Highway Patrol has grown to a force of over 1100 members charged with the protection of lives and property and the enforcement of the Motor Vehicle Code within the Great North State; and

Whereas, since the death of Patrolman George Ira Thompson on July 2, 1929, some 40 members have given their lives in service to the people of North Carolina; and

Whereas, as the Great North State has grown and weathered economic and social storms, the State Highway Patrol has remained steadfast in its purpose and resolve and unshaken in its integrity;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the North Carolina State Highway Patrol be, and hereby is, commended in this, the fiftieth anniversary year of its creation, for its unshaking integrity, unfailing devotion to duty, and continuing service to the people of the great State of North Carolina.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

S. R. 585

### RESOLUTION 32

A JOINT RESOLUTION DIRECTING THE SECRETARY OF HUMAN RESOURCES TO CARRY OUT A STUDY OF THE DELIVERY OF CANCER CONTROL SERVICES IN THE STATE OF NORTH CAROLINA.

Whereas, cancer is the second leading cause of death among persons in the United States and in North Carolina, is a major cause of disability and distress, and requires the expenditure of enormous sums of money in treatment and care; and

Whereas, the State of North Carolina has a major commitment to the control of cancer and to the provision of care to its citizens who suffer from this disease; and

Whereas, there is a need to review present statutes relative to the control of cancer in North Carolina and the programs pertaining thereunto;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Secretary of Human Resources is hereby authorized and directed to make a thorough study of State government programs relating to the

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care and treatment of cancer victims, the reporting and analysis of cancer cases in North Carolina, and such other matters that are relevant to improvement of cancer services. The secretary shall review present legislation pertaining to cancer and shall make recommendations for new or revised legislation as is deemed appropriate. The secretary shall survey other resources in the State, such as those offered by voluntary health organizations, medical centers, research efforts and other pertinent endeavors, to determine the most productive relationships with State services.

**Sec. 2.** The secretary shall call upon the expertise of leaders in the North Carolina Medical Society, the North Carolina Division of the American Cancer Society and other groups, organizations and individuals with knowledge of, interest in and concern for the effective control of cancer.

**Sec. 3.** The secretary shall report the findings and recommendations of this study to the 1980 session of the General Assembly.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1979.

H. R. 1316

### RESOLUTION 33

A JOINT RESOLUTION DIRECTING THE SECRETARY OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT TO STUDY THE IMPACT OF REGULATION ON COASTAL LANDS.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Secretary of Natural Resources and Community Development is hereby directed to study and report to the 1979 General Assembly, Second Session, concerning:

(1) the impact of regulation under the Coastal Area Management Act and the Dredge and Fill Law on land use and land values of private lands subject to such regulation;

(2) inequities or unfairness to landowners resulting from such regulation;

(3) funding that would be needed in order to adequately compensate landowners for their losses as a result of such regulation.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1979.

S. R. 893

### RESOLUTION 34

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOSEPH PAUL (CHALKER) WALLACE, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Joseph Paul (Chalker) Wallace was born in Troy, North Carolina, on October 29, 1905, and died at Troy on September 11, 1978; and

Whereas, Joseph Paul (Chalker) Wallace spent his life in his native area and contributed greatly to the quality of its life and the strength of its institutions; and

Whereas, Joseph Paul (Chalker) Wallace contributed to the economic life of his community as a businessman involved with the sale, servicing and supply of automobiles, as a director and secretary-treasurer of Montgomery Dairy, Inc., and as a member of the Troy Merchant's Association; and



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Whereas, Joseph Paul (Chalker) Wallace was active in civic affairs, serving as president of his Rotary Club, as a member of the Masonic Order, as president of the Montgomery County Young Democrats, and as a commissioner and Mayor of the Town of Troy; and

Whereas, Joseph Paul (Chalker) Wallace was actively involved in the work of the Methodist church, serving as church treasurer, as chairman of the board of stewards, and as president of the Men's Bible Class; and

Whereas, Joseph Paul (Chalker) Wallace served his district and the State, serving with distinction in both the Senate and the House of Representatives for a total of 10 terms between 1943 and 1966; and

Whereas, Joseph Paul (Chalker) Wallace is survived by his widow, Mrs. Miriam McKenzie Wallace; and three daughters, Rebecca Wallace Brown, Sue Wallace Long, and Carolyn Wallace Peel;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The General Assembly honors the memory of Joseph Paul Wallace — a good citizen, a valued and responsible legislator, a dear friend — and extends to Mrs. Miriam McKenzie Wallace and her daughters sincere sympathy in the loss of their husband and father.

**Sec. 2.** The Secretary of State shall transmit a copy of this resolution to Mrs. Miriam McKenzie Wallace.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1979.

H. R. 1338

### RESOLUTION 35

#### A JOINT RESOLUTION CONCERNING SERVICES TO THE VISUALLY IMPAIRED.

Whereas, there is a serious need to make readily available printed materials, audio materials and equipment, and technology to North Carolina's citizens with impaired vision; and

Whereas, there is a need for increased cooperative endeavors among those who are charged with providing services to and for those who have visual impairments, specifically the Division of Textbooks in the Controller's Office and the Division for Exceptional Children in the Department of Public Instruction, both in the Department of Public Education; the Division of Services for the Blind and the Governor Morehead School, both in the Department of Human Resources; the Department of Cultural Resources; and the agency charged with providing primary leadership in telecommunications;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the following efforts should be undertaken on behalf of the visually impaired:

(1) The Department of Public Instruction should: a. supervise and give direction to the education of pupils, ages 5 to 18, who are visually impaired; b. assist in providing and distributing necessary educational books and materials; c. print and distribute to school systems a catalog of available books and materials; d. provide, where possible, magnifiers, tape recorders and other

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teaching-learning equipment; e. contract with other agencies to obtain necessary books, materials and equipment; and f. maintain data regarding the number of pupils who are visually impaired and in need of special education services;

(2) The Department of Human Resources should: a. provide services and materials to adults and preschool children; b. provide residential care and educational services for those who are placed in residential programs; c. provide appropriate medical, corrective and preventive services as required by law; d. coordinate and promote the services and resources of interest groups, such as Lions Clubs, to assure maximum effectiveness; and e. contract and cooperate with other agencies, State and private, in making services and materials available;

(3) The Department of Cultural Resources should: a. provide books and materials through the library system for all visually impaired citizens and b. cooperate with other agencies and institutions in making maximum use of available books, materials and equipment; and

(4) The agency charged with responsibility for public telecommunications should: a. provide research and information to other agencies regarding appropriate technology and hardware; b. experiment in cooperation with other agencies in the use of technology and equipment and to help evaluate the effectiveness, including cost-effectiveness, of efforts involving telecommunications and related services; and c. provide technical assistance to other agencies and institutions regarding equipment and technology.

**Sec. 2.** That all agencies will coordinate their efforts and services to assure that all North Carolina's citizens who are visually impaired will have their special needs met with respect to printed materials, audio materials and equipment and technology insofar as is possible.

**Sec. 3.** That each agency named above shall report to the House of Representatives Committee on Commissions and Institutions for Blind and Deaf and the Senate Committee on Human Resources on March 1 of each odd-numbered year detailing (i) the services that have been and are being provided, (ii) the extent of cooperative efforts, and (iii) any barriers to the provision of services to the visually impaired.

**Sec. 4.** Nothing in this resolution shall be construed to obligate the General Assembly to appropriate additional funds.

**Sec. 5.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1979.

H. R. 1139

### RESOLUTION 36

#### A JOINT RESOLUTION PERTAINING TO THE DISPOSAL OF NUCLEAR WASTE IN NORTH CAROLINA.

Whereas, after investigation, it appears to the North Carolina General Assembly that there may be potential danger associated with the permanent storage and disposal of nuclear waste within the boundaries of North Carolina; and

Whereas, after investigation, it appears that the responsible agencies of the federal government have not developed a final policy or plan for permanent storage of nuclear waste, but that such federal agencies may be considering disposal sites in the various states, including the State of North Carolina; and

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Whereas, after investigation, it appears to the North Carolina General Assembly that it would not be in the best interest of the people of North Carolina for large amounts of nuclear waste to be permanently stored within the State of North Carolina;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the responsible agencies of the United States Government take the necessary steps promptly to develop acceptable plans for the permanent storage or disposal of nuclear waste.

**Sec. 2.** That the State of North Carolina should be expected to accept for permanent storage or disposal only nuclear waste produced in the generation of electric power for use in North Carolina. Nuclear waste is defined as that radioactive waste material generated within reactor fuel elements in conjunction with the production of electricity and decommissioned and dismantled nuclear generating plants and facilities. All other radioactive materials are excluded.

**Sec. 3.** That the State of North Carolina not, except with the explicit approval of the General Assembly, accept for permanent storage or disposal any nuclear waste other than that produced in the generation of electric power to be used in North Carolina.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

S. R. 794

### RESOLUTION 37

A JOINT RESOLUTION DESIGNATING THE WEEK BEGINNING MAY 28, 1979, AS "VIETNAM VETERANS' AWARENESS WEEK".

Whereas, members of the Armed Forces of the United States who served in Southeast Asia during the Vietnam Conflict performed that service under the most trying conditions because of the lack of domestic support for the conflict and because of the nature of the conflict itself; and

Whereas, the battlefield performance of America's soldiers, sailors, marines and airmen during the Vietnam Conflict was by all measures the equal of that of their counterparts in previous conflicts; and

Whereas, an adverse image has often been unfairly attached to the Vietnam veteran as an individual because of the controversial nature of the Vietnam Conflict; and

Whereas, the State of North Carolina has never fully expressed its gratitude to those who gave a substantial portion of their lives at their government's request and in the name of the people of the United States to serve in the Vietnam Conflict;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The seven-day period beginning May 28, 1979, is designated as "Vietnam Veterans' Awareness Week" in North Carolina.

**Sec. 2.** The General Assembly requests that the Governor designate an appropriate official to organize appropriate ceremonies and activities to celebrate "Vietnam Veterans' Awareness Week" and to encourage local

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governments and private groups and organizations to observe the week with suitable programs.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1979.

S. R. 910

### RESOLUTION 38

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF I. C. CRAWFORD, DISTINGUISHED STATE SENATOR AND CITIZEN OF NORTH CAROLINA.

Whereas, the Honorable Irvin Cooper Crawford, affectionately known as "I. C.", was born in Ela, North Carolina, on September 1, 1905; and

Whereas, he received his education at Ela Elementary School, Cullowhee High School, Duke University, and Wake Forest College, now Wake Forest University; and

Whereas, he was admitted to the State Bar in 1930 and operated a successful, private law practice in Asheville, North Carolina; and

Whereas, in testimony to his ability as a community leader, he served as a member of the Swain County Board of Education (1933-1934), he was the Mayor of Bryson City (1935-1936), he served as Chairman of the Swain County Democratic Executive Committee (1932-1940), he was appointed to The University of North Carolina Board of Trustees and the Advisory Budget Commission, he served as Special Deputy Sheriff of Buncombe County, he was Chairman of the Buncombe County Board of Elections, and he was very active in the Central Methodist Church in Asheville; and

Whereas, in testimony to his distinguished service as a leader and servant to the State of North Carolina, he was elected to and served in the House of Representatives of North Carolina, in the General Assemblies of 1955-1956, 1957, 1959, 1961, 1963, and 1965-1966 as a Democrat from Buncombe County and in the Senate, in the General Assemblies of 1971, 1973-1974, 1975-1976, 1977-1978, and 1979 as a Democrat, Thirty-first District (1971) and the Twenty-sixth District (1973-1979). He served as a House and Senate member with distinction until his death, January 24, 1979; and

Whereas, while he served in the General Assembly he chaired the following committees: House; Judiciary II, Penal Institutions; Senate; Highway Safety, Appropriations Committee on Human Resources and Corrections, Governmental Operations, Public Utilities, and Energy; and

Whereas, Senator Crawford served as a watchdog of the State's ever-expanding budget and counselled his colleagues against wasteful spending on behalf of the State's taxpayers; and

Whereas, he saved the taxpayers untold millions of dollars in waste by his tireless efforts; and

Whereas, there was another, more gentle side to I. C. Crawford. His contributions toward the health and welfare of those widowed, orphaned or elderly demonstrated his compassion and generosity to the weak and underprivileged; and



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Whereas, I. C. Crawford is survived by his widow, Evelyn Gregory Crawford; and his son, Stephen G. Crawford;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the General Assembly of North Carolina expresses its deep appreciation for the life and the accomplishments of I. C. Crawford and for the great service he rendered to the Nation, the State of North Carolina, Buncombe County, Madison County, McDowell County, Yancey County, and the City of Asheville.

**Sec. 2.** That the General Assembly of North Carolina extends its deepest sympathy to the family of I. C. Crawford for the loss of its distinguished member.

**Sec. 3.** That this resolution become a part of the public records of this Session of the General Assembly and copies of this resolution shall be certified by the Secretary of State and transmitted to the family of I. C. Crawford.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1979.

H. R. 1314

### RESOLUTION 39

A JOINT RESOLUTION CALLING FOR A REVIEW OF THE DECISION TO RESTRICT AMTRAK SERVICE IN NORTH CAROLINA AND TO STUDY THE NEED FOR PASSENGER TRAINS IN THE SOUTHEASTERN PART OF THE UNITED STATES.

Whereas, the United States Secretary of Transportation has decided that on October 1, 1979, three Amtrak trains running through North Carolina, the Crescent, the Silver Meteor and the Champion, will be discontinued for reasons of economy; and

Whereas, the cost of oil has risen dramatically since the decision was made and the cost of oil is still rising; and

Whereas, because of recent political turmoil within the oil producing nations of the Middle East, the United States cannot depend on receiving a constant supply of oil; and

Whereas, the President's Energy Program requests that the use of automobiles be curtailed; and

Whereas, these changes and others in the availability of energy for passenger transportation have occurred since the Secretary made his decision with regard to the three trains;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly urges that Congress request the Secretary of Transportation to reassess its plans to curtail passenger train service in North Carolina in view of changes in energy availability which have occurred since the decision was made.

**Sec. 2.** That the General Assembly urges Congress to study the need for passenger train service in the southeastern part of the United States and consider restructuring the system to include local routes.

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**Sec. 3.** That a copy of this resolution be sent to Department of Transportation Secretary Brock Adams, Amtrak President Alan Boyd, and each member of North Carolina's Congressional Delegation.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

H. R. 1379

### RESOLUTION 40

A JOINT RESOLUTION DIRECTING THE MENTAL HEALTH STUDY COMMISSION TO REVIEW AND STUDY THE SERVICE NEEDS OF THE MENTALLY RETARDED CITIZENS AND TO MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL ASSEMBLY.

Whereas, there are an estimated 40,000 moderately, severely and profoundly retarded citizens in the State of North Carolina; and

Whereas, approximately 7,000 are currently served in institutional and community programs; and

Whereas, substantially handicapped citizens need specialized services to meet a variety of daily living and training needs; and

Whereas, the service needs of the substantially handicapped are lifelong developmental needs; and

Whereas, the State and county governments through the Area Mental Health Boards have undertaken over the last several years the development of a variety of community programs and have worked together toward the goal of deinstitutionalization;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the Mental Health Study Commission conduct a review and study of the following:

(a) State policies regarding the provision of services to substantially mentally retarded citizens;

(b) overlaps and gaps in services as they relate to the service needs of substantially mentally retarded citizens;

(c) the roles and responsibilities of different State agencies in meeting the needs of the substantially mentally retarded citizens;

(d) the roles and responsibilities of the family, the State and local government in providing the services for the substantially mentally retarded citizens.

**Sec. 2.** That the Mental Health Study Commission prepare a written report and recommendations regarding the issues outlined in Section 1 and present these to the Governor and the General Assembly not later than January 1, 1981.

**Sec. 3.** That the Mental Health Study Commission 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. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

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S. R. 539

### RESOLUTION 41

A JOINT RESOLUTION DIRECTING THE SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY AND THE SECRETARY OF TRANSPORTATION TO CREATE A TASK FORCE TO PREPARE A LOGICAL REWRITE OF CHAPTER 20 OF THE NORTH CAROLINA GENERAL STATUTES FOR SUBMISSION TO THE 1981 GENERAL ASSEMBLY.

Whereas, the number of people operating motor vehicles has greatly increased; and

Whereas, the average citizen of our State who operates a motor vehicle is required to be familiar with the motor vehicle laws; and

Whereas, the motor vehicle law has been amended in a piecemeal fashion over the years; and

Whereas, the motor vehicle law needs recodification and clarification;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Secretary of Crime Control and Public Safety and the Secretary of Transportation are directed to create a Task Force of personnel from their departments to prepare a logical rewrite of Chapter 20 of the North Carolina General Statutes for submission to the 1981 General Assembly.

**Sec. 2.** This rewrite shall be concerned with rearranging and clarifying the existing law only and shall not in any way change the substantive law.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

S. R. 662

### RESOLUTION 42

A JOINT RESOLUTION EXPRESSING SUPPORT FOR THE APPAREL AND TEXTILE INDUSTRIES IN NORTH CAROLINA.

Whereas, the apparel, textile and fiber industries in the United States account for twelve and one-half percent (12.5%) of the total value of manufactured goods in this Nation, and afford 2,370,300 jobs; and

Whereas, in North Carolina, the apparel, textile, and fiber industries account for forty-six percent (46%) of the total value of manufactured goods, and provide 343,000 jobs in this State; and

Whereas, the textile industry is the largest manufacturing employer in North Carolina, and the apparel industry is the second largest manufacturing employer and is the largest customer of the textile industry in North Carolina; and

Whereas, in the last 20 years textile and apparel imports have grown at an alarming rate and have displaced a significant portion of the domestic capacity; and this situation has led to development of a textile/apparel program as a part of multilateral trade negotiations — a program aimed at assisting the beleaguered domestic American textile and apparel industries to grow and maintain their economic health;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

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**Section 1.** The General Assembly recognizes the importance of sound textile and apparel industries to the economy and people of the State of North Carolina, and expresses its deep concern for the potential injury to the State and its people if those industries do not survive and grow.

**Sec. 2.** The General Assembly calls upon representatives of the apparel, textile and fiber industries, trade associations, employee groups, State and federal agencies and officers concerned with international trade negotiations, and all other persons who can contribute to the sound condition of the apparel, textile and fiber industries in North Carolina and in other parts of the United States to work toward the full implementation of all aspects of the textile/apparel program which resulted from the multilateral trade negotiations held in Tokyo.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

H. R. 1435

### RESOLUTION 43

A JOINT RESOLUTION TO DIRECT THE WILDLIFE RESOURCES COMMISSION TO STUDY THE FEASIBILITY OF ESTABLISHING HUNTER EDUCATION PROGRAMS AND OF REQUIRING PERSONS ENGAGED IN THE HUNTING OF BIG GAME ANIMALS TO DISPLAY ON THEIR PERSON A MINIMUM AMOUNT OF COLOR KNOWN AS "HUNTER ORANGE".

Whereas, the record of firearm and hunting accidents conclusively demonstrates that persons wearing fluorescent orange while hunting and having earned a competency certificate are significantly less likely to become involved in a firearm or hunting accident; and

Whereas, the United States Congress is considering expansion of the federal financial assistance program to the states for firearm safety and hunter education programs funded through an excise tax on arms, ammunition, archery equipment, hand guns, and reloading components; and

Whereas, it is the intent of the North Carolina General Assembly that the shooting sports and hunting activities engaged in by over one-half million of the citizens of this State be made as safe as possible through exposure of as many of these participants as possible to an accredited firearm safety and hunter education course and to the safety value of wearing fluorescent orange while hunting;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly directs the Wildlife Resources Commission to make a comprehensive study of firearm safety and hunter education training and the wearing of fluorescent orange while hunting, in consultation with as many knowledgeable and informed sources as possible.

**Sec. 2.** That the Wildlife Resources Commission shall report its findings and recommendations to the House and Senate Wildlife Committees of the 1981 Session of the General Assembly including in that report an analysis of the following areas of concern:

(1) the most effective means of presenting a course on firearm safety and hunter education to insure the widest exposure possible to those participating in



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the shooting sports and hunting activities, with special attention to the question of whether or not the course should be mandatory and if so what exemptions and exclusions might be appropriate;

(2) the organization, content, and method of delivery of the training and the record keeping system to be employed in order to provide the most meaningful, beneficial, and cost-effective program of firearm safety and hunter education possible that will be readily available to those who need or want the course, with particular attention being given to the effective date for initial implementation of any mandatory training requirements that may be recommended and the preparation that will be necessary to insure that adequate notice and information can be disseminated to those affected by any such provision to allow adequate time and opportunity for taking any course that may be required;

(3) the level of funding that will be required to implement any expanded or mandatory program of firearm safety and hunter education that may be recommended and appropriate sources of such funds;

(4) the most appropriate, acceptable, and effective means of insuring that hunters are made aware of the protection afforded by the wearing of fluorescent orange while hunting, with special attention to the question of whether or not the wearing of this color while hunting should be mandatory and if so what hunting activities and situations should be included in or excluded from such a requirement and what penalties should be assessed for violations of such a requirement; and

(5) if the mandatory wearing of fluorescent orange is not recommended, a comparative analysis of the alternatives to that course of action with an evaluation of the most effective means of implementing each alternative.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of May, 1979.

H. R. 769

### RESOLUTION 44

A JOINT RESOLUTION PETITIONING THE CONGRESS OF THE UNITED STATES TO TAKE STEPS, CONSISTENT WITH FIRST AMENDMENT RIGHTS, TO DISCOURAGE THE SHOWING OF MOTION PICTURE AND TELEVISION FILMS DEPICTING EXCESSIVE CRIME, VIOLENCE AND IMMORALITY.

Whereas, incidences of crime and violence in America have been increasing at an alarming rate for several decades, and continue to increase, with the result that in many parts of America people are no longer able to walk the streets in reasonable safety and peace; and

Whereas, the increase in crime, violence, and immorality among the young people of America is especially distressing, and threatens the very survival of America as a land where people can strive for self-fulfillment in a climate of peace, order, and mutual respect; and

Whereas, motion pictures and especially television programs exert an increasingly strong effect upon attitudes and actions of our children; and

Whereas, increasingly motion pictures and television programs not only depict crime, violence and immorality in their grossest and most brutal forms, but also sometimes tend to justify and glorify them, with the result that the

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sensitivities of young people are blunted, and respect for human personality and dignity and for human life itself is declining; and

Whereas, the Congress of the United States has been vigilant and effective in protecting our physical environment against pollution by irresponsible persons, while at the same time respecting property rights; and

Whereas, a clean environment wherein the mind and spirit may develop is of greater importance than a clean physical environment; and

Whereas, we believe that it is possible to protect the higher values of human existence without destroying the great principles of human freedom;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of North Carolina respectfully petitions the Congress of the United States to devote its best legal and philosophical resources to the task of producing legislation which will protect our society, especially our young people, against the destructive effects of motion pictures and television programs which depict, justify, or glorify excessive crime, violence, or immorality, but which will at the same time respect and protect the great human rights which are guaranteed by the First Amendment to the Constitution of the United States.

**Sec. 2.** The Secretary of State is directed to deliver a certified copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to all members of the North Carolina delegation in the Congress of the United States.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

H. R. 298

### RESOLUTION 45

A JOINT RESOLUTION DESIGNATING THE SECOND WEEK IN FEBRUARY AS BLACK HISTORY WEEK.

Whereas, North Carolina's black cultural experience is an integral part of the State's history and heritage; and

Whereas, African ideals, inspiration and talent have survived to this day and represent a valuable contribution to the physical and cultural development of the State; and

Whereas, the viability of the State's antebellum economy rested in large measure on the labor and craftsmanship of the black population; and

Whereas, many North Carolina blacks fought for the young country's independence from Britain; and

Whereas, North Carolina blacks were actively involved in the movement to destroy the institution of slavery in America; and

Whereas, North Carolina blacks gave their lives for both the Blue and the Gray in the Civil War; and

Whereas, black leadership was instrumental in guiding the State's black population to full citizenship following the Civil War; and

Whereas, black North Carolinians have given their lives in five armed conflicts since the Civil War in defense of this country; and

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Whereas, black North Carolinians have proved their abilities as statesmen through their services as members in the North Carolina House of Representatives continuously from 1867 through 1899 and in the North Carolina Senate from 1868 continuously through 1898, and again from 1969 in the House and from 1975 in the Senate through the present; and

Whereas, the contributions of black North Carolinians have benefited and enriched the lives of all North Carolinians;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly hereby designates the second week in February of every year as Black History Week in North Carolina.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

H. R. 1274

### RESOLUTION 46

A JOINT RESOLUTION DIRECTING THE CRIMINAL CODE COMMISSION TO STUDY THE INSANITY DEFENSE.

Whereas, the insanity defense has aroused increasing interest in the past two decades; and

Whereas, many respected legal theorists and practicing attorneys are asking whether the insanity defense should be substantially changed or completely abolished; and

Whereas, under the present law a person could be found not guilty by reason of insanity, but not be detained in a mental institution under current commitment statutes; and

Whereas, public opinion is often stirred when a person found not guilty by reason of insanity is released from custody soon after his trial; and

Whereas, no comprehensive study focusing on the insanity defense in North Carolina has been done in the past two decades;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Criminal Code Commission is directed to study the insanity defense to determine if amendment or abolition of that defense is needed.

**Sec. 2.** The Criminal Code Commission shall report its findings to the General Assembly, including any recommended legislation, no later than the first day 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 1st day of June, 1979.

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H. R. 1353

### RESOLUTION 47

A JOINT RESOLUTION TO URGE THE INTERNATIONAL WHALING COMMISSION TO ADOPT THE TEN-YEAR MORATORIUM ON THE NEEDLESS SLAUGHTER OF WHALES.

Whereas, 11 nations continue to ignore the 10-year whaling moratorium unanimously recommended by the United Nations Conference on the Human Environment; and

Whereas, this year more than 24,000 intelligent warm-blooded whales will be killed, needlessly, by explosive harpoons from the whaling vessels of these nations; and

Whereas, by far, the largest whaling operations are carried out by Japan and the Soviet Union whose floating factory ships, complete with helicopters and accompanied by sonar-equipped catcher boats, methodically hunt, chase and slaughter more than seventy-five percent (75%) of the whales killed worldwide; and

Whereas, in addition, smaller but equally deadly and unnecessary whaling operations are tolerated by the governments of Denmark, Norway, Iceland, Peru, Chile, South Korea, Spain, Taiwan and Cyprus; and

Whereas, whale killing has already caused the commercial extinction of the Blue, Humpback, Bowhead, Gray and Right whales and is seriously threatening other species as well; and

Whereas, unless we halt the needless slaughter immediately, we will, within a few years, succeed in killing off these magnificent creatures which took millions of years to evolve;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The President of the United States is hereby requested to have the moratorium issue placed on the agenda of the July, 1979, meeting in London of the International Whaling Commission.

**Sec. 2.** The Congress of the United States is hereby requested to urge the International Whaling Commission to take immediate steps to halt the needless slaughtering of the world's great whales by adoption of the 10-year moratorium unanimously recommended by the United Nations Environment Conference.

**Sec. 3.** That copies of this resolution be sent to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, to each member of the North Carolina Congressional Delegation and to the President of the United States.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.



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H. R. 1443

### RESOLUTION 48

A JOINT RESOLUTION DECLARING THAT THE POLICY OF THE STATE OF NORTH CAROLINA IS TO SEEK TO LIMIT THE ANNUAL INCREASE IN THE NUMBER OF STATE EMPLOYEES.

Whereas, the constantly increasing cost of State government is a matter of great concern to the people of North Carolina; and

Whereas, it is desirable that the General Assembly adopt and publicize a policy to guide the departments, agencies, and institutions of State government in planning for future growth and development;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** It is declared to be the policy of this State to limit the percentage increase in the total number of State employees in any fiscal year to no more than the percentage rate of population growth in North Carolina for that year, determined by averaging the rate of population growth in each of the preceding 10 fiscal years as reflected in the annual estimates of population in North Carolina made by the United States Bureau of the Census.

**Sec. 2.** In pursuance of the policy expressed in Section 1 of this resolution, the State Budget Office shall include a statement of this policy in the budget materials distributed to State departments, agencies and institutions for use in preparing each new biennial budget; and the budget submitted by the Director of the Budget to the General Assembly shall include a statement of the percentage increase in the total number of State employees reflected in the proposed budget, and the percentage growth in population of the State for the same fiscal period covered by the budget.

**Sec. 3.** This resolution shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 5th day of June, 1979.

H. R. 1515

### RESOLUTION 49

A JOINT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND OTHER AGENCIES TO TAKE THE NECESSARY STEPS TO PRESERVE AND RESTORE THE CAPE LOOKOUT LIGHTHOUSE AND ADJACENT AREAS.

Whereas, during the last several years the State of North Carolina and the United States Department of the Interior through the Cape Lookout National Seashore Park have acquired thousands of acres of land on the Outer Banks of North Carolina including the area surrounding Cape Lookout Lighthouse, which is owned by the United States Coast Guard and is still operated as an aid to navigation in the area; and

Whereas, these lands were acquired for the purpose of establishing the Cape Lookout National Park so that the citizens of North Carolina and the United States could enjoy the natural and historical surroundings of the Cape Lookout Lighthouse and Cape Lookout National Seashore Park; and

Whereas, the United States has invested millions of dollars in the acquisition and development of the Cape Lookout National Seashore Park; and

Whereas, the Cape Lookout Lighthouse and its former keeper's quarters are listed on the National Register of Historic Places; and these structures are

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subject to erosion and destruction, and the National Park Service estimates that if the current rate of erosion continues, the Lighthouse structures will no longer be standing by May, 1981 unless immediate action is taken to preserve and protect them; and

Whereas, Barden's Inlet, which separates Shackleford Banks from Cape Lookout is of great economic value to the commercial fishing industry, and to the sports fishing industry as well, is shifting eastward toward Cape Lookout and toward the base of the Cape Lookout Lighthouse; and

Whereas, the United States Army Corps of Engineers maintains Barden's Inlet through regular dredging operations; and

Whereas, dredging to relocate Barden's Inlet back to its earlier channel nearer to Shackleford Banks and away from Cape Lookout would reduce the erosion problem at Cape Lookout and would produce spoil which could be used to build up the area protecting the Cape Lookout Lighthouse; and would preserve the economic values of the inlet; and

Whereas, the National Park Service has recommended that no action be taken to restore and preserve the area adjacent to the Lighthouse structures so that the Lighthouse and keeper's quarters might be preserved; and

Whereas, the General Assembly of North Carolina feels that the recommendation of the National Park Service not to take steps to preserve and protect the Cape Lookout Lighthouse is ill-advised, and will, if approved, result in the destruction of a structure which is listed on the National Register of Historic Places, which is a picturesque and irreplaceable feature of the Cape Lookout National Seashore Park area, and which still serves an essential navigational purpose; and that a no-action policy will endanger effective maintenance of Barden's Inlet, with resulting major injury to the economy of the area and the health of the commercial fishing industry, all of which results will be to the permanent detriment of the Park and of the people of North Carolina and the United States;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of North Carolina agrees with the decision to list the Cape Lookout Lighthouse complex in the National Register of Historic Places and considers the Lighthouse to be a structure of permanent historical value and present navigational value to the people of the United States, and believes that proper steps to protect the Lighthouse can also protect Barden's Inlet and preserve its economic value.

**Sec. 2.** The General Assembly urges the Congress of the United States, the National Park Service of the Department of the Interior, the United States Coast Guard, and the Army Corps of Engineers, to take the necessary steps to ensure that the Cape Lookout Lighthouse is repaired, preserved and protected for the use and enjoyment of future generations, and that maximum related economic benefits be secured.

**Sec. 3.** The Secretary of State shall transmit a certified copy of this resolution to the United States Secretary of the Interior, to the Commanding Officers of the Coast Guard and Army Corps of Engineers, to each member of the United States Congress from North Carolina, and to the Governor of North Carolina.

**Sec. 4.** This resolution is effective upon ratification.

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In the General Assembly read three times and ratified, this the 5th day of June, 1979.

S. R. 822

### RESOLUTION 50

A JOINT RESOLUTION SUPPORTING FEDERAL BOATING SAFETY AND FACILITY DEVELOPMENT ASSISTANCE TO QUALIFYING STATES FROM THE FEDERAL TAX ON MOTOR FUELS USED IN BOATS.

Whereas, the availability of federal funds, from the United States Coast Guard, was established by the Federal Boat Safety Act of 1971 for states which complied with the federal law by requiring the registration of all motorboats and by meeting other criteria established by federal law; and

Whereas, the State of North Carolina enacted legislation in 1975 to comply with the federal laws to establish eligibility for the federal grant and maintain State control of its boating program; and

Whereas, such federal funds, in the amount of five hundred fifty-seven thousand eighty-eight dollars (\$557,088), have been received by North Carolina and used by the Wildlife Resources Commission to develop a boating safety course for our public school system, to provide for enforcement of the boating laws, to provide programs of waterway marking to improve boating safety, and to promote water safety generally; and

Whereas, the discontinuation of these funds, as is planned in the budget of the United States Coast Guard, would diminish the State's capabilities to provide boating safety courses, aids to navigation, and safety patrols;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The North Carolina General Assembly urges the Congress of the United States to enact legislation which would return to the several states for their use in supporting boating related programs the federal tax on fuel used to power motorboats, as was introduced by the Honorable Mario Biaggi in the Second Session of the Ninety-fifth Congress.

**Sec. 2.** Copies of this resolution shall be transmitted to the Speaker of the House of Representatives, the President of the Senate of the United States, the Honorable Mario Biaggi, and members of the North Carolina delegation to the Congress 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 6th day of June, 1979.

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S. R. 934

### RESOLUTION 51

#### A JOINT RESOLUTION TO CREATE A PUBLIC SCHOOL LAWS RECODIFICATION COMMITTEE.

Whereas, the 1975 General Assembly recognized that the North Carolina public school laws were out of date and in need of revision; and

Whereas, the 1975 General Assembly directed revision of the public school laws by the State Board of Education and a special Commission on Revision and Recodification; and

Whereas, this recodification and revision effort produced a lengthy report and complex proposed legislation which the 1977 General Assembly submitted to the Legislative Research Commission for further study; and

Whereas, these efforts have culminated in a 426-page bill (Committee Substitute for SB 45) which would recodify the public school laws by rearranging the format and maintaining the substance of the current law; and

Whereas, the 1979 General Assembly will not have sufficient time to examine the technical aspects of this recodification bill;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** A Public School Laws Recodification Committee is created to study a recodification of the public school laws based on Committee Substitute for SB 45.

**Sec. 2.** The Committee shall consist of the chairman of the Senate and House of Representatives Education Committees, one lawyer and one non-lawyer from the Senate appointed by the Lieutenant Governor, and one lawyer and one non-lawyer from the House of Representatives appointed by the Speaker of the House.

**Sec. 3.** The Legislative Services Officer shall provide staff assistance to the Committee.

**Sec. 4.** Members of the Committee shall receive per diem and necessary travel and subsistence expenses, in accordance with the provisions of G.S. 120-3.1, from funds appropriated for that purpose.

**Sec. 5.** The Committee shall report to the 1979 General Assembly, Second Session 1980.

**Sec. 6.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

H. R. 1505

### RESOLUTION 52

#### A JOINT RESOLUTION HONORING MAX P. BOWLING, NATHAN C. HALL, GEORGE L. MAGNESS, DONALD E. MELTON, FLOYD P. SHARTS, AND ALL OTHER VICTIMS OF THE SHELBY GAS EXPLOSION.

Whereas, on May 25, 1979, a downtown fire occurred in Shelby, North Carolina; and

Whereas, a city gas foreman, Max P. Bowling, and four city firemen, Nathan C. Hall, George L. Magness, Donald E. Melton, and Floyd P. Sharts were killed in the accident; and



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Whereas, these five men died while acting to the best of their abilities for the public; and

Whereas, the General Assembly wishes to honor the service and memory of these men and to express to their families and friends its sympathy; and

Whereas, 31 other persons were injured in the accident; and

Whereas, many law enforcement agencies, rescue units, and fire departments from Cleveland County assisted during and after the explosion;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly expresses high regard for the life and service of Max P. Bowling, Nathan C. Hall, George L. Magness, Donald E. Melton, and Floyd P. Sharts and expresses its condolences to their friends and family.

**Sec. 2.** That the General Assembly recognizes the fine service of the 31 other persons who were casualties of the accident.

**Sec. 3.** That the General Assembly recognizes all law enforcement agencies, rescue units, and fire departments who worked at the accident site.

**Sec. 4.** That the Secretary of State is directed to send copies of this resolution to the Cleveland County Board of Commissioners, the Shelby Town Council, and the families of Max P. Bowling, Nathan C. Hall, George L. Magness, Donald E. Melton, and Floyd P. Sharts.

**Sec. 5.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.

### H. R. 657

### RESOLUTION 53

#### A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN HERVEY WHEELER.

Whereas, John Hervey Wheeler was born in Kittrell, North Carolina, January 1, 1908, and died July 6, 1978, at Durham, North Carolina; and

Whereas, John Hervey Wheeler was educated in the public schools of Atlanta, Georgia; at Morehouse College in Atlanta where he received the Bachelor of Arts degree, *summa cum laude*, and at North Carolina Central School of Law where he received the Bachelor of Laws degree; his accomplishments were recognized by honorary degrees from many of the South's leading educational institutions, including Johnson C. Smith University, Duke University, North Carolina Central University, and Morehouse College; and he served as a member of the Board of Trustees of Morehouse College, where the building housing the Department of Business was named in his honor; and

Whereas, John Hervey Wheeler achieved national prominence in the fields of banking and business; he joined the Mechanics and Farmers Bank of Durham soon after his graduation from college and rose through the ranks to the position of president of that bank in 1952; under his leadership the bank became one of America's leading minority-owned-and-operated institutions; he was a member of the Board of Directors of North Carolina Mutual Life Insurance Company, Mutual Savings and Loan Association, the Mutual Real Estate Investment Trust in New York, and the National Corporation for Housing Partnerships; and

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Whereas, John Hervey Wheeler served his community in many capacities; he was a trustee of Lincoln Hospital in Durham, the Durham County General Hospital Corporation, the Durham City-County Library, the Durham Committee for Economic Development, Chairman of the Redevelopment Commission of the City of Durham from 1975 until his death, Chairman of the Durham Committee on the Affairs of Black People, treasurer of St. Joseph's A.M.E. Church, and treasurer of John Avery Boys' Club; and

Whereas, John Hervey Wheeler served his nation as the first black to head the Southern Regional Council, as a member of the Commission on Race and Housing, the President's Committee on Equal Employment Opportunity, the President's Committee on Urban Housing, the Governor's Council for Economic Development, as appointee of President Johnson to a team to review progress under the Marshall Plan in Germany, consultant and lecturer for the State Department in Egypt and Syria, and in other capacities; and

Whereas, John Hervey Wheeler rendered distinguished service to his race; he participated in the litigation that brought about desegregation of the Durham City Schools; he was a long-time member of the NAACP; he molded the black community in Durham into a potent and highly effective political force; he was in the forefront of civil-rights efforts as he exemplified his slogan "The battle for freedom begins every morning"; and he accomplished these things while maintaining the mutual respect of persons of goodwill of every race and creed; and

Whereas, Durham County, the State of North Carolina, the United States of America, and mankind are better because John Hervey Wheeler lived and worked among us;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly expresses its recognition of, and its appreciation of, the life and contributions of John Hervey Wheeler.

**Sec. 2.** The General Assembly joins his family and his colleagues around the world in commemorating a brilliant man and in mourning his passing.

**Sec. 3.** The Secretary of State is directed to transmit a copy of this resolution to members of the immediate family of John Hervey Wheeler.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1330

### RESOLUTION 54

A JOINT RESOLUTION DIRECTING THAT THE ISSUE OF SEARCHES OF NEWSROOMS BE STUDIED.

Whereas, many of this country's great historical figures have been newspapermen, all the way back to Peter Zenger, Thomas Paine, and Benjamin Franklin; and

Whereas, the founding fathers of this country recognized the importance of a free press by explicitly stating that freedom in the First Amendment of the Constitution; and

Whereas, on May 31, 1978, the United States Supreme Court decided the case of *Zurcher v. The Stanford Daily* in which it held that police officers may

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search newsrooms for evidence, armed only with a search warrant, even if the newspaper is not itself suspected of any criminal behavior; and

Whereas, throughout the country the *Zurcher* decision has been criticized as an unwarranted intrusion on freedom of the press; and

Whereas, the United States Congress is presently debating the wisdom of legislation to modify or reverse that decision;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Judicial Council is directed to study the issues raised by the Supreme Court's decision in *Zurcher v. The Stanford Daily* dealing with searches of third parties not suspected of criminal behavior and to report its findings and recommendations, including recommended legislation, to the General Assembly no later than the tenth day of the 1981 Session of the General Assembly.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1344

### RESOLUTION 55

A JOINT RESOLUTION TO ENCOURAGE EFFORTS TO ESTABLISH A  
PEDIATRIC-FAMILY CENTER IN NORTH CAROLINA.

Whereas, approximately 2,000 North Carolina families of chronically ill children annually require a "home-away-from-home" during the time their children are infirmed and required to be treated in distant specialty hospitals; and

Whereas, the first temporary residence for families of chronically ill children is planned to open in Fall, 1979, in Durham, North Carolina; and

Whereas, the residence "House" is operated by a nonprofit organization, the Pediatric-Family Center of North Carolina, Inc.; and

Whereas, the residence provides emotional stability for children who are out-patients by keeping the families together in a home-like atmosphere at a nominal cost consistent with the family's means; and

Whereas, it is the first Statewide effort on such a project; and

Whereas, the residence will be operated solely on private gifts and donations and does not require any appropriation of tax funds from the General Assembly; and

Whereas, such a project benefits the citizens of North Carolina;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the North Carolina General Assembly enthusiastically encourages and supports the Pediatric-Family Center of North Carolina in its efforts to provide families of chronically ill children with a "home-away-from-home," and to help parents who experience the emotional, physical and financial upheaval associated with a chronically ill child.

**Sec. 2.** Copies of this resolution shall be transmitted to the offices of the Pediatric-Family Center of North Carolina.

**Sec. 3.** This resolution is effective upon ratification.

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In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1413

### RESOLUTION 56

A JOINT RESOLUTION ENDORSING TO THE NORTH CAROLINA DELEGATION IN THE CONGRESS OF THE UNITED STATES THE AIM OF THE NORTH CAROLINA VETERANS COUNCIL TO ESTABLISH A NATIONAL COMMISSION TO CELEBRATE THE BICENTENNIAL ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION OF THE UNITED STATES.

Whereas, on September 17, 1787, the United States Constitution was signed at the Constitutional Convention in Philadelphia; and

Whereas, the State of North Carolina was one of the original signatories of the Constitution of the United States; and

Whereas, the North Carolina Veterans Council has achieved national recognition for its achievements in promoting understanding of and support of the American Heritage; and

Whereas, the bicentennial anniversary of the signing of the Constitution offers a unique and matchless opportunity to focus attention on the basic values of the political and economic freedom nurtured and protected by the United States Constitution; and

Whereas, the North Carolina Veterans Council now seeks to persuade the Congress of the United States to establish a national commission to commemorate the bicentennial anniversary of the signing of the Constitution;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of North Carolina endorses the effort and aim of the North Carolina Veterans Council in seeking the establishment of a national commission to commemorate the bicentennial of the United States Constitution in 1987, and urges the members of the Congress from North Carolina to support that effort.

**Sec. 2.** The Secretary of State shall transmit a copy of this resolution to each member of the United States Congressional delegation from North Carolina.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1534

### RESOLUTION 57

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MARY GRICE BATTEN.

Whereas, Mary Grice Batten was born April 5, 1920, died suddenly in Raleigh on June 6, 1979; and

Whereas, Mary Grice Batten was born in Johnston County, North Carolina, and attended the public schools of Selma; and

Whereas, Mary Grice Batten lived and worked in and near Raleigh most of her life; and

Whereas, Mary Grice Batten was a member of the Baptist church; and



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Whereas, Mary Grice Batten had worked as an employee of the food service section of the Legislative Services Office since 1974, and was known to legislators and other patrons of the Legislative Snack Bar as a friendly, cheerful, responsible person, a willing worker who helped to relieve the pressures of the day on those with whom she came in contact; and

Whereas, Mary Grice Batten, a widow, is survived by four daughters and four sons, as well as 14 grandchildren whom she loved dearly and in whom she took great pride;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That in the death of Mary Grice Batten the General Assembly has lost a good friend, a loyal worker, and a fine citizen; and the General Assembly joins her surviving children in mourning her untimely death.

**Sec. 2.** The Secretary of State shall send a certified copy of this resolution to the family of Mary Grice Batten.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. R. 791

### RESOLUTION 58

A JOINT RESOLUTION CONCERNING THE TAKING OF LAND IN PASQUOTANK AND CURRITUCK COUNTIES FOR WILDLIFE, PARK, OR OTHER RECREATIONAL USE BY FEDERAL AGENCIES.

Whereas, various lands in this State are reserved for the use of all North Carolinians in the form of parks, wildlife preserves, or other recreational areas; and

Whereas, such land may be held by the State, sold to the federal government or an agency thereof, or control may be taken by right of eminent domain; and

Whereas, land reserved for such recreational uses may be needed for growth in the county in which it is situated; and

Whereas, the persons residing in such counties should be permitted an opportunity to voice their objections to, or support of, any plans to remove from the potential tax base any large tracts of lands; and

Whereas, the solicitation of input from concerned and interested citizens is an important part of an open and democratic form of government;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** Before a tract of land located in Pasquotank or Currituck Counties of this State larger than 30 acres is to be transferred to and set aside for use as a wildlife preserve, park, or other recreational area by a federal agency, a public referendum shall be afforded by the federal agency to the residents of the county or counties in which the land is located to determine the wishes of the people.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

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S. R. 900

### RESOLUTION 59

A JOINT RESOLUTION AMENDING RATIFIED RESOLUTION 23 OF THE 1979 SESSION OF THE GENERAL ASSEMBLY.

Whereas, House Joint Resolution 1363, ratified May 4, 1979, as Resolution 23 of the 1979 General Assembly, dealt with an annual horseshoe championship to be held by the Men's Garden Club of the City of Oxford; and

Whereas, the City of Statesville has for many years conducted an annual State horseshoe championship in that city, an event which the General Assembly does not wish to disturb;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** Resolution 23 of the 1979 General Assembly is amended:

(a) by revising the title to read:

“A JOINT RESOLUTION PROVIDING FOR THE ANNUAL DETERMINATION OF THE MEN'S GARDEN CLUB OF OXFORD, NORTH CAROLINA STATE HORSESHOE CHAMPIONSHIP.”

(b) by rewriting the third paragraph of the preamble to read:

“Whereas, the Men's Garden Club of the City of Oxford has demonstrated a strong interest in the sport of horseshoe pitching and is a suitable organization to plan and administer an annual contest to determine the Men's Garden Club of Oxford horseshoe championship of North Carolina”;

(c) by rewriting the first sentence of Section 1 of the resolution to read:

“The Men's Garden Club of the City of Oxford is designated as the agency to conduct an annual tournament to determine the Men's Garden Club of Oxford, North Carolina State Horseshoe Championship.”

(d) by deleting Section 2 of the resolution.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. R. 648

### RESOLUTION 60

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE DESIGN, CONSTRUCTION AND INSPECTION OF PUBLIC FACILITIES.

Whereas, large sums of money are spent each year to provide facilities for public agencies and activities; and

Whereas, the cost of such construction continues to increase as the economy of the State expands; and

Whereas, new and improved methods and techniques are constantly being developed both in planning procedures and in construction methods; and

Whereas, revised and expanded inspection services may be needed in the interests of safety and economy;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Legislative Research Commission is authorized to study the design, construction and inspection of public facilities.

**Sec. 2.** The Commission may:

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a. Study and review recent developments in the area of contracts, liability, planning procedures, claims, facilities design, construction, and inspection with the aim to determine whether North Carolina is taking full advantage of any new developments that have merit and whether North Carolina laws permit the State and its subdivisions and agencies to take full advantage of these developments.

b. Recommend to the 1981 General Assembly changes in the General Statutes deemed necessary for the State, its institutions, and its subdivisions to take full advantage of any of the methods and procedures for contracts, liability, planning procedures, claims, facility design, construction, and inspection deemed to be in the interests of safety, economy and utility.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. R. 897

### RESOLUTION 61

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE OWNERSHIP OF LAND IN NORTH CAROLINA BY ALIENS OR FOREIGN CORPORATIONS.

*Be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Legislative Research Commission is authorized to study the ownership of North Carolina real property by aliens or foreign corporations. Such study may include, but not be limited to, a review of the amount of land presently owned in North Carolina by aliens or foreign corporations, the short and long-term effects of such ownership on citizens of North Carolina, projected effects of such ownership on the general economy of North Carolina, and any other pertinent matter the Legislative Research Commission deems relevant to this area.

**Sec. 2.** The Legislative Research Commission may report its findings and recommendations to the 1981 Session of the General Assembly.

**Sec. 3.** This resolution shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 68

### RESOLUTION 62

A JOINT RESOLUTION TO PERMIT THE CONTINUANCE OF THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY ON THE PROBLEMS OF AGING AS BEGUN UNDER RESOLUTION 86 OF THE 1977 SESSION (1ST SESSION 1977) AS AMENDED BY RESOLUTION 106 OF THE 1977 SESSION (2ND SESSION 1978).

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, continued inflation, rising taxes, increasing costs of medical care, inadequate institutional care facilities, insufficient pension income, forced early retirement, and lack of public awareness, have compounded the problems of the elderly; and

Whereas, because these older citizens have contributed magnificently to the progress and general well-being of our State and nation, and it is our concern

## Resolutions—1979

and desire that their retirement years be a time of fulfillment rather than frustration; and

Whereas, the Legislative Research Commission Study Committee on the Problems of Aging Authorized by Resolution 86 of the 1977 Session, having made two reports, recommends that aging needs be given additional study time;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., may continue the study of the entire range of problems and needs of the older adults of this State and to make specific recommendations to the General Assembly on how these problems can be satisfactorily solved and met by legislative action which is deemed necessary and appropriate. In its deliberations, the commission may examine national trends and programs in other states as well as programs and priorities in North Carolina. For purposes of this study, "older adult" is defined as every person who is 60 years of age or older.

**Sec. 2.** The membership of the Committee on Aging of the Legislative Research Commission shall consist of ten members to be appointed as follows: three senators appointed by the President Pro Tempore, three representatives appointed by the Speaker, two persons of sixty years of age or older appointed by the President Pro Tempore, and two persons of 60 years of age or older appointed by the Speaker. The Commission may report to the 1981 General Assembly and may submit an interim report to the 1979 General Assembly.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 617

### RESOLUTION 63

A JOINT RESOLUTION TO CREATE A LEGISLATIVE RESEARCH COMMISSION COMMITTEE TO STUDY THE RESCUE SQUADS OF NORTH CAROLINA IN ORDER TO DEVELOP A FAIR AND EQUITABLE PROGRAM OF RETIREMENT INCENTIVES.

Whereas, there are approximately 7,000 citizens of North Carolina who are members of the North Carolina State Association of Rescue Squads; and

Whereas, there are over 240 Rescue Squads serving the citizens of North Carolina; and

Whereas, Rescue Squads provide vital and various life-saving and life-sustaining services to all the citizens of North Carolina; and

Whereas, all members of the Rescue Squad are ready 24 hours a day to extract victims from automobile and truck wrecks, to scale towers to rescue injured workers, to recover drowning victims, to provide emergency medical treatment, to provide seventy percent (70%) of all ambulance service rendered in North Carolina, and in general, to save and sustain the lives of the citizens of North Carolina in any way the emergency demands; and

Whereas, Rescue Squad training demands many hours of specialized education, rescue training requiring 36 hours per year, emergency medical training requiring a minimum of 81 hours, focusing on emergency childbirth, poison and fracture treatment, and treatment for cardiac arrest; and



## Resolutions—1979

Whereas, the North Carolina State Association of Rescue Squads has won several national and international awards, and runs the only volunteer mobile intensive care unit program in the United States, which program is made up of three units staffed by technicians with a minimum of 481 hours of training; and

Whereas, North Carolina has a vital interest in providing incentives to keep the highly trained members of the Rescue Squads serving the citizens of the State, as continuity of excellent service will not only cut down on training and equipment costs in those districts providing some funding for these Rescue Squads, but, more importantly, will result in experience service which will save and sustain more lives; and

Whereas, although the North Carolina State Association of Rescue Squads was incorporated in Winston-Salem in 1938, from that time to the present there has been no retirement incentive provided by the State analogous to that provided firemen, which would encourage continued, experienced service; and

Whereas, there is, at present, no available standardized information on financing of the many Rescue Squads, on property and equipment values and on individual member's training and service, that would enable a fair and equitable program of retirement incentives to be set up; and

Whereas, the Legislative Research Commission has recently studied the problem of firemen and law enforcement officers' retirement incentives, which study has resulted in equitable modification of available programs; and

Whereas, the Legislative Research Commission alone has the expertise, the investigatory power, the staff and the funding to study all the Rescue Squads of this State, to examine the issue of retirement incentives, to develop a fair and equitable program of incentives, and to develop uniform standards by which each of the 7,000 members of the Rescue Squads of this State shall be fairly and equitably treated by the program developed;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission may study the Rescue Squads of this State in order to develop a fair and equitable program of retirement incentives and to develop uniform standards by which each of the 7,000 members of the Rescue Squads of this State shall be fairly and equitably treated by the program developed.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1143

### RESOLUTION 64

A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE POTENTIAL PRODUCTION AND USE OF GASOHOL IN NORTH CAROLINA.

Whereas, the United States is faced with a significant decline in the availability of dependable sources of oil; and

Whereas, the cost of available oil is increasing rapidly and promises to continue to increase in the future; and

Whereas, this increase has made alternative fuels more feasible as a matter of comparative economics; and

## Resolutions—1979

Whereas, research has demonstrated that forms of alcohol suitable for use as a partial substitute for gasoline can be produced from a number of agricultural products in North Carolina; and

Whereas, production of a gasoline substitute in North Carolina would reduce the State's dependence on external sources for gasoline, and could provide a less expensive fuel to the consumers of the State, and could stimulate the economy of the State;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission is authorized to study the feasibility of producing and distributing partial fuel substitutes for gasoline from agricultural and forest products grown in North Carolina.

**Sec. 2.** The Commission in its study may:

(1) review the current research on gasohol and how it relates specifically to North Carolina;

(2) assess the existing technology to determine its potential for use in North Carolina;

(3) perform an economic evaluation of raw material availability, marketability, and long-run supplies;

(4) investigate and evaluate the alternatives to encourage the production, marketing, and distribution of gasohol; and

(5) make recommendations to the General Assembly concerning appropriate actions or further needs relative to producing and distributing fuel substitutes for gasoline from agricultural and forest products grown in North Carolina.

**Sec. 3.** The Commission may report its findings and recommendations to the 1979 General Assembly, Second Session 1980.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1177

### RESOLUTION 65

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE LAWS OF EVIDENCE AND COMPARATIVE NEGLIGENCE IN THIS STATE.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission is authorized to study the law of evidence and to direct its efforts toward a proposed Evidence Code for this State. The Commission is also authorized to undertake the items listed in Section 2 of the Committee Substitute for H.B. 821, which was adopted on May 24, 1979. The Commission is authorized to report its findings and recommendations to the 1981 General Assembly.

**Sec. 2.** The study committee shall be composed of the following eleven members:

(a) five members to be appointed by the President Pro Tempore, of which four are trial lawyers, and of which one is not an attorney;

(b) five members to be appointed by the Speaker of the House, of which four are trial lawyers, and of which one is not an attorney; and

## Resolutions—1979

(c) one member from the staff of the Attorney General to be appointed by the Attorney General 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 June, 1979.

H. R. 1294

### RESOLUTION 66

A JOINT RESOLUTION DIRECTING THE NORTH CAROLINA COURTS COMMISSION TO STUDY THE METHODS OF PROCESSING MINOR TRAFFIC CASES THROUGH THE COURT SYSTEM IN THIS STATE.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The North Carolina Courts Commission, if established by the provisions of House Bill 1437 of the 1979 General Assembly, is directed to study the processing of minor traffic cases through the courts system in this State and to direct its efforts towards formulating alternatives to the present system. The Commission is directed to report the findings and recommendations of this study to the 1981 General Assembly.

**Sec. 2.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1299

### RESOLUTION 67

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY STATE REVENUE SHARING.

Whereas, the economic well-being of local government in North Carolina is important to the continued economic development of the State; and

Whereas, general purpose State aid, such as a State Revenue Sharing Program, allows the people of North Carolina to set government spending priorities at a level of government highly responsive to local needs; and

Whereas, a program of general purpose aid is one method for compensating for imbalances among local fiscal capabilities;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission may study the feasibility of a State revenue sharing program for North Carolina municipalities and counties.

**Sec. 2.** The Commission may make a thorough and comprehensive study and review of the concept of State revenue sharing, or other forms of State aid for general purpose local governments, and make specific recommendations to the General Assembly on the feasibility of such a program in North Carolina. The Commission may, among other things, specifically investigate current revenue trends of municipalities and counties, and State revenue sources to fund a State revenue sharing program.

**Sec. 3.** The Commission may call upon the Department of Revenue to cooperate with it in its study, and the Secretary of Revenue shall insure that its employees and staff provide full and timely assistance to the Commission in the execution of its duties. The Commission may also call upon officials of municipal and county governments to assist in its study.

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**Sec. 4.** The Commission may report the results of its study to the 1981 General Assembly.

**Sec. 5.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### H. R. 1313

### RESOLUTION 68

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE RIGHTS OF ADOPTED CHILDREN AND THEIR NATURAL AND ADOPTED PARENTS REGARDING THE ADOPTION.

Whereas, there are over five million adoptees in the United States; and

Whereas, approximately two million of these adoptees are actively making inquiries regarding their origins; and

Whereas, certain information, such as medical records and medical information, may be vital to the well-being of these individuals;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission may study the rights of adopted children and their natural and adopted parents regarding the adoption. The study may include examination of the right to release of information regarding the adoption.

**Sec. 2.** The Commission may produce an interim report to the 1979 General Assembly, Second Session 1980, and a final report to the 1981 General Assembly.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

### S. R. 667

### RESOLUTION 69

A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE DRIVERS' EDUCATION AND THE SCHOOL BUS DRIVERS' PROGRAMS.

Whereas, the Drivers' Education Program for students in the public schools and the School Bus Drivers' Program have become of increasing public concern because of recent dramatic and tragic events; and

Whereas, it is a matter of vital concern to the State of North Carolina to provide adequate drivers' education to young people in school and to ensure that the children of this State are carried to and from school safely; and

Whereas, there is not at present sufficient information to enable the General Assembly adequately to evaluate the present Drivers' Education and School Bus Drivers' Programs and to recommend necessary improvements; and

Whereas, the Legislative Research Commission alone has the funding and the management resources adequately to evaluate the present Drivers' Education and School Bus Drivers' Programs and to recommend necessary improvements;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*



## Resolutions—1979

**Section 1.** The Legislative Research Commission may evaluate the present Drivers' Education and School Bus Drivers' Programs in the public schools and make recommendations for necessary improvements to the 1981 Session of the General Assembly.

**Sec. 2.** The Legislative Research Commission is further authorized to study the Wilderness Camp in Surry County.

**Sec. 3.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. R. 786

### RESOLUTION 70

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE ITS STUDY OF THE FEASIBILITY OF CONSTRUCTING AND FINANCING A SPORTS ARENA IN NORTH CAROLINA.

Whereas, there continues to be substantial interest among the people of North Carolina and among the universities and colleges of North Carolina in the possibility of constructing a sports arena of sufficient capacity to serve the people of the State and accommodate additional needs generated by future growth;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Legislative Research Commission is authorized to continue its study of the feasibility of constructing and financing a sports arena in North Carolina of sufficient capacity to meet the present and projected future needs of the State. The Commission may report to the 1981 Session of the General Assembly.

**Sec. 2.** The Commission's study may include, without limitation, the study directives contained in Resolution 119 of the 1975 General Assembly.

**Sec. 3.** The Cochairmen of the Legislative Research Commission may appoint additional members of the General Assembly to study committees to assist the regular members of the Research Commission in conducting this study, and may appoint members of the public to advisory subcommittees. The President pro tempore of the Senate shall consult with the President of the Senate when he considers these additional appointments.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

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S. R. 876

### RESOLUTION 71

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE USE OF ELECTRONIC DEVICES FOR THE DETECTION OF SPEED OF MOTOR VEHICLES.

Whereas, the use of radar and other types of electronic equipment for metering the speed of motor vehicles has become commonplace, and law enforcement officers rely heavily upon such devices in the detection and prosecution of alleged speeders; and

Whereas, recent court decisions and rulings have raised serious questions as to the appropriateness of the devices for speed metering purposes and the value as evidence of the information obtained through use of the devices; and

Whereas, it is important to law enforcement officials, to persons using the highways, and to the courts that reliable answers be provided to the questions raised as to the use of these devices;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Legislative Research Commission is authorized to conduct a study of the use of radar and other electronic devices for metering the speed of motor vehicles. The study may include:

(1) an evaluation of the reliability of available types of equipment, including techniques for calibrating the radar transmitter accuracy on a current basis;

(2) essential training and supervision of operating personnel, including special requirements, if any, of background training;

(3) legal ramifications, including nature of essential proof as to the calibration for accuracy of the equipment, qualifications of operator, and demands upon the time of various personnel arising from required appearances in court.

**Sec. 2.** The Legislative Research Commission may make its report, with recommendations and with a draft of recommended implementing legislation, if any to the 1980 General Assembly.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 31

### RESOLUTION 72

A JOINT RESOLUTION TO CREATE A STUDY COMMISSION TO STUDY CERTAIN LEGISLATION RELATIVE TO THE IMPLEMENTATION OF A MOTOR VEHICLE INSPECTION/MAINTENANCE PROGRAM IN URBAN AIR QUALITY NONATTAINMENT AREAS AND TO REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE 1979 GENERAL ASSEMBLY BY FEBRUARY 1, 1980.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** (a) There is hereby created an Air Quality Legislative Study Commission (hereinafter, "the commission") which shall consist of 10 members, two to be appointed by the Governor, two each to be appointed by the Lieutenant Governor and the Speaker of the House of Representatives; additionally, the Chairman of the North Carolina Environmental Management

## Resolutions—1979

Commission or his designee, the Chairman of the Association of County Commissioners or his designee, the Chairman of the League of Municipalities and the North Carolina Commissioner of Motor Vehicles or his designee shall serve on this commission. The Lieutenant Governor's appointees shall be members of the Senate, and the Speaker's appointees shall be members of the House of Representatives. All appointments shall be made in time for the commission to begin its work by July 1, 1979.

(b) Upon its appointment, the commission shall organize by electing from its membership a chairman and a vice-chairman.

(c) 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.

(d) The commission may utilize the expertise of appropriate State and federal agencies in performing its duties under this resolution.

(e) The commission is authorized to meet or to hold hearings 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.

**Sec. 2.** Given the requirement of the federal Clean Air Act for the implementation of a Motor Vehicle Maintenance and Inspection Program in certain areas of the State designated as not being in compliance with certain national air quality standards, and in view of the fact that Mecklenburg County has been designated such a nonattainment area and other urban areas may subsequently be so designated, the commission is hereby directed to study the need for new legislation or amendments to existing legislation or both concerning:

(a) the most effective and practicable means of implementing the required said program by the dates given, including but not limited to, a determination as to the most effective implementation option. Of specific concern are the selection of the implementing agency and mechanisms for assuring compliance; and,

(b) such other legislation, including appropriations, concerning the Motor Vehicle Inspection and Maintenance Program as the commission may deem appropriate.

**Sec. 3.** The commission shall make a written report of its study to the 1979 General Assembly, no later than February 1, 1980, including recommendations for appropriate legislative action.

**Sec. 4.** There is appropriated from the General Fund to the General Assembly for fiscal year 1979-80 the sum of five thousand dollars (\$5,000) for the purpose of carrying out the provisions of this act.

**Sec. 5.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## Resolutions—1979

H. R. 923

### RESOLUTION 73

A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE NEED FOR A CENTRAL PIEDMONT STATE PARK.

Whereas, the 1977 Session of the General Assembly created the North Carolina State Parks Study Commission to report on parks and recreation of the State; and

Whereas, that commission recognized that the Central Piedmont area deserves special attention;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** Central Piedmont area defined. For purposes of this resolution, the Central Piedmont area consists of the following counties: Alamance, Guilford, Forsyth, Davidson, Davie, Rowan, Randolph, and Cabarrus.

**Sec. 2.** The Legislative Research Commission may study:

(1) the possibilities for parks and recreational areas with the perspective that lands may be purchased and maintained either by the State of North Carolina for State Parks or by local governments for county or municipal parks and recreation areas, according to their rules and regulations;

(2) the possibilities, with the cooperation of the Department of Natural Resources and Community Development, of any available matching funds to purchase any areas the commission may recommend.

**Sec. 3.** This resolution shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. R. 937

### RESOLUTION 74

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE LAWS RELATING TO THE COLLECTION OF MONEY JUDGMENTS AND TO EXEMPTIONS AND TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

Whereas, the North Carolina Bar Association has made a thorough study of the present North Carolina statutory remedies for enforcement of judgments; and

Whereas, public hearings have been held throughout the State on the need for revision of the present laws; and

Whereas, in the 1979 Session a bill entitled "An Act to Improve the Laws Relating to the Collection of Money Judgments and to Exemptions" was introduced in the House and the Senate and assigned to committees which began initial studies of the bill; and

Whereas, the committees have heard testimony from many interested representatives from the legal profession, the judiciary, and the public who have directed the committees' attention to problems which exist under our present laws in this area; and

Whereas, due to the contemplated fundamental changes in the laws governing collection proceedings and the need for additional research and study in this area;



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*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The General Assembly is authorized to consider House Bill 813 and Senate Bill 499 in the 1979 General Assembly, Second Session 1980.

**Sec. 2.** This resolution is effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 279

### RESOLUTION 75

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ALCOHOLIC BEVERAGE CONTROL LAWS, AND APPROPRIATING FUNDS FOR THAT PURPOSE.

Whereas, the passage of the local option mixed beverage act in 1978 has focused attention on North Carolina's alcoholic beverage control laws; and

Whereas, many legislators and other citizens have found those laws confusing and sometimes contradictory; and

Whereas, numerous amendments have been made to the alcoholic beverage control statutes since the last major recodification in 1971; and

Whereas, both before and after the 1971 revision there have been many local acts passed which alter State ABC laws for particular cities and counties;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission is authorized to study North Carolina's alcoholic beverage control laws, including but not limited to Chapter 18A of the General Statutes and the liquor taxation provisions of Chapter 105. The commission may recommend to the 1981 General Assembly a general revision of those laws to make them more readable, to remove inconsistencies, and to establish, to the extent possible, a uniform statewide system of regulation which discourages the excessive use of alcohol. In making this study the commission may consider, but not be limited to, the following issues: (a) whether it is time to eliminate brown-bagging altogether in North Carolina; (b) what role cities and counties should have in the issuance of ABC permits; (c) whether the same categories of places should be eligible for all ABC permits rather than having different kinds of premises eligible for beer, wine, brown-bagging and mixed drink permits; (d) whether State law should provide for the establishment of city ABC systems; (e) under what conditions cities should be eligible to vote separately from counties on ABC issues; (f) the organization of the State ABC Board and the method by which its members are appointed; (g) the relationship between State alcohol law enforcement agents and local ABC officers and the jurisdiction of each; (h) whether provision should be made for consolidation of ABC systems which operate only one or two stores and have a small profit margin; (i) the size of fees for ABC permits and local licenses; (j) whether the State ABC Board should have authority to levy fines or impose other administrative punishments other than suspension or revocation of the permit; (k) public consumption of liquor and whether a State law is needed on consumption of beer and wine; (l) the use of liquor revenues for alcoholism programs; (m) taxation of liquor and the division of that revenue between State and local governments; and (n) advertising of liquor.

## Resolutions—1979

**Sec. 2.** In making its study, the commission might bear in mind what the 1936 Commission to Study the Control of Alcohol Beverages in North Carolina identified as the two basic requirements of any control system: "... one was to restrict the use of alcohol within as narrow a limit as possible on account of the well recognized evils of the intemperate use of alcohol as a beverage; and second, to avoid excessive restrictions which, however sincere, would result in defeating the desired ends."

**Sec. 3.** In making its study, the commission may also study the effects of the provisions of Senate Bill 857 of the 1979 General Assembly; and may study the conversion of all State taxes on intoxicating liquor (as defined in G.S. Chapter 18A) to a proof-liter system and devise a plan to implement that conversion.

**Sec. 4.** The commission may make an interim report to the General Assembly as soon as possible after the convening of the 1980 session.

**Sec. 5.** The commission may request the assistance of appropriate public or private agencies or individuals for research, drafting, or other services necessary to complete this study.

**Sec. 6.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 538

### RESOLUTION 76

A JOINT RESOLUTION DIRECTING THE NORTH CAROLINA COURTS COMMISSION TO STUDY THE OFFICE OF THE CLERK OF SUPERIOR COURT.

Whereas, the clerk of superior court is an elected official paid by the State, and provided administrative support by the Administrative Office of the Courts; and

Whereas, the salary of the office of the clerk is based solely upon the population of the county without reference to other criteria; and

Whereas, there is a recent trend towards local legislation increasing the number of assistant and deputy clerks and such legislation is not predictably based on county population, or case load, or centers of population, or any other relevant criteria, or combination of criteria, in an ascertainable formula;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The North Carolina Courts Commission, if established by House Bill 1437 of the 1979 General Assembly, is directed to study the office of the clerk of superior court, including, but not restricted to, the method of appointment, compensation of the clerk, and the method of appointment, compensation, and criteria by which allocations of assistant and deputy clerks are determined for each county, and to recommend improvement therein.

**Sec. 2.** The Commission shall report its findings and recommendations to the 1981 General Assembly.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 843

**RESOLUTION 77**

A JOINT RESOLUTION TO ESTABLISH THE COMMISSION TO STUDY THE PUBLICATION, DISSEMINATION AND REVIEW OF STATE ADMINISTRATIVE RULES, AND THE FEASIBILITY OF ESTABLISHING A CENTRAL POOL OF ADMINISTRATIVE HEARING OFFICERS.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** There is created the Commission to Study the Publication, Dissemination, and Legislative Review of State Administrative Rules and the Feasibility of Establishing a Central Pool of Administrative Hearing Officers.

**Sec. 2.** (a) The commission shall have 13 members, consisting of the following:

(1) the Governor shall appoint four members; one of whom shall represent the North Carolina League of Municipalities, one the North Carolina Association of County Commissioners, and one the North Carolina Bar Association;

(2) the President of the Senate shall appoint three members of the Senate;

(3) the Speaker of the House shall appoint three members of the House of Representatives; and

(4) the Chairman of the Administrative Rules Review Committee of the Legislative Research Commission; the Secretary of State, or his designee; and the Attorney General, or his designee as ex officio members.

(b) If a vacancy occurs in the appointive membership of the commission, it shall be filled by action of the officer who made the original appointment to the office, and the person so appointed shall serve for the remainder of the term of the member whom he succeeds.

(c) The commission shall elect from its membership a chairman and any other officers it deems necessary.

**Sec. 3.** The commission shall study:

(a) the most effective, expeditious, and economical means of editing, publishing, distributing, and keeping current the Administrative Rules of the State of North Carolina, including a specific examination of a "State Register" and Administrative Code Systems in states such as Texas, Pennsylvania, Washington and Maryland, to the end that the public officials and citizens of the State and of its cities and counties may have reasonably convenient access to the current rules, standards, policies and procedures having the effect of law with which they are expected to comply; and

(b) the legislative review of State administrative rules as is now conducted by the Legislative Research Commission's Administrative Rules Review Committee with the view to suggesting what additional powers the committee and other legislative bodies, including the Joint Legislative Commission on Governmental Operations, may need to insure that the State administrative agencies promulgate only those rules within their statutory authority;

(c) ways in which to reduce the number of and curb the proliferation of rules; and

(d) the need and feasibility of creating in a single State agency a central pool of administrative hearing officers to conduct administrative hearings for all State agencies.

## Resolutions—1979

**Sec. 4.** The commission shall submit reports on the subject matter of its studies, including summaries of proceedings, findings, recommendations, and appropriate suggested legislation. The final report shall be filed with the Governor and other members of the Council of State and the members of the General Assembly not later than January 1, 1980. The commission shall terminate upon the filing of its final report.

**Sec. 5.** Upon the request of the commission all State and local governmental officials shall provide the commission with any information relevant to the subjects to be studied in their possession.

**Sec. 6.** The Attorney General shall provide administrative and clerical assistance to the commission. The commission may engage such professional assistance as it finds necessary to the performance of its duties. Upon the commission's request, the Legislative Services Commission shall provide adequate space for meeting in the State Legislative Building between legislative sessions.

**Sec. 7.** Members of the committee who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Any member of the committee who is a State officer or employee shall receive travel allowances at the rate set forth in G.S. 138-6. Members of the committee who are not State officials or employees 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.

**Sec. 8.** There is appropriated from the General Fund of the State to the commission for the 1979-1980 fiscal year the sum of seven thousand five hundred dollars (\$7,500) to conduct the study authorized by this resolution.

**Sec. 9.** This resolution shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1377

### RESOLUTION 78

A JOINT RESOLUTION TO REESTABLISH THE UTILITY REVIEW COMMITTEE.

Whereas, by Joint Resolution 100 of the 1975 Session, the North Carolina General Assembly established a permanent Utility Review Committee to evaluate the actions of the State Utilities Commission and analyze the operations of the several utility companies doing business in North Carolina and to make periodic reports and recommendations to the General Assembly; and

Whereas, said resolution provided that said Utility Review Committee shall continue in existence for five years, beginning July 1, 1975; and

Whereas, the Utility Review Committee has faithfully discharged the duties assigned to it pursuant to the provisions of said Resolution 100 of the 1975 Session; and

Whereas, the complex nature of utility regulation makes it difficult for the members of the General Assembly to exercise responsible judgment unless adequately informed in such complex areas as the regulation of public utilities; and



## Resolutions—1979

Whereas, the Utility Review Committee can continue to serve to inform the members of the General Assembly on the regulation of public utilities;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** Notwithstanding the provisions of the Executive Budget Act, there is hereby reestablished a permanent Utility Review Committee to evaluate the actions of the State Utilities Commission and analyze the operations of the several utility companies doing business in North Carolina and make periodic reports and recommendations to the General Assembly.

**Sec. 2.** The Utility Review Committee shall continue in existence for an additional five years, beginning July 1, 1980; and any vacancy occurring during that period shall be filled through appointment by the presiding officer of the appropriate house.

**Sec. 3.** The reestablished Utility Review Committee shall consist of sitting members of that committee as that membership shall appear upon the date of ratification of this resolution, with any vacancies to be filled as provided in Section 2 of this resolution.

**Sec. 4.** The Utility Review Committee shall have authority to employ a professional staff, giving first consideration to employees of the Legislative Services Commission who may be able to serve on an interim basis without additional pay except as is necessary to cover travel, subsistence and such other expenses as may be incurred.

**Sec. 5.** The Utility Review Committee shall be independent of all offices, agencies, boards, commissions, divisions and other instrumentalities of State government except the General Assembly. It shall not be subject to the Executive Budget Act or the State Personnel Act.

**Sec. 6.** The Utility Review Committee shall have no regulatory authority, but may exercise the following powers and duties:

(1) to review the interim and final orders of the State Utilities Commission to the end that members of the General Assembly may better judge whether these actions serve the best interest of the citizens of North Carolina, individual and corporate;

(2) to review the programs, projects, sources and amounts of income, performance and accomplishments of utility companies doing business in North Carolina to determine whether expenditures plowed back into the rate structure were in all cases appropriate and necessary;

(3) to inquire into the role of the State Utilities Commission, the Public Staff, and the several utility companies in the development of alternate sources of energy;

(4) to inquire into the individual and collective effort of the utility companies to encourage the conservation of energy and thus reduce requirements for additional generating facilities;

(5) to submit evaluations to the General Assembly, from time to time, of the performance of the State Utilities Commission, the Public Staff, and the various utilities operating in the State. A proposed draft of such evaluation shall be submitted to the Utilities Commission, the Public Staff, and the affected public utilities prior to submission to the General Assembly and Utilities Commission, the Public Staff, and affected utilities shall be given an

## Resolutions—1979

opportunity to be heard before the Utility Review Committee before the evaluation is finally completed and submitted to the General Assembly.

**Sec. 7.** The Utility Review Committee, or its designated agents, shall at all times with proper notice, have access to such books, records or other documents relating to expenditures, revenues, operations and organizations, public and private, as may be necessary to the performance of its mission.

**Sec. 8.** In the discharge of any duty imposed by law, the Utility Review Committee, acting through its chairman or cochairman, may subpoena witnesses, administer oaths and take testimony or cause depositions of witnesses to be taken where appropriate.

**Sec. 9.** The Utility Review Committee shall be a continuing committee of the General Assembly and shall be assigned suitable office space and equipment.

**Sec. 10.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1477

### RESOLUTION 79

A JOINT RESOLUTION URGING A CONCERTED NATIONAL EFFORT TO REPLACE THE CATALYTIC CONVERTERS ON AUTOMOBILES WITH ALTERNATIVE DEVICES IN THE INTEREST OF PROTECTING THE NATION'S CONSUMERS AND SERVING AN IMPORTANT PUBLIC PURPOSE.

Whereas, the Federal Clean Air Act of 1970 established mandatory automobile emission standards and time schedules for their implementation by automobile manufacturers; and

Whereas, in response to the stringent emission control requirements of the Clean Air Act, automobile manufacturers have installed catalytic converters to reduce harmful pollutants on most cars built after 1974; and

Whereas, catalytic converters are muffler-type devices intended to chemically alter harmful carbon monoxide, hydrocarbons, and nitrous oxides in automobile exhausts into harmless emissions; and

Whereas, while the catalytic converters have enabled automobile manufacturers to comply with the mandates of the Clean Air Act, a serious question has arisen as to whether these devices are in the best interests of the nation's drivers and the general public as well; and

Whereas, for example, the installation of catalytic converters on new vehicles reportedly increases the initial selling price of vehicles so equipped by an estimated average cost of up to four hundred dollars (\$400.00) per vehicle; and

Whereas, in addition, it is an established fact that minimal amounts of lead, a common ingredient in regular and premium gasolines, will seriously impair, if not totally negate the intended cleaning function of the catalytic converter; and

Whereas, as a result, vehicles fitted with catalytic converters must, out of practical necessity, use only unleaded gasoline to assure the effective functioning of the emission control systems and to contain the emission of harmful pollutants within acceptable limits; and

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Whereas, unleaded gasoline is more expensive than conventional gasolines because of the extra costs associated with the production of unleaded gasoline; and

Whereas, efforts of the federal government to assure adequate supplies of unleaded gasoline have not been entirely successful due in large part to circumstances of an international nature beyond the control of the federal government with the resultant shortage of unleaded fuel in several regions of the United States; and

Whereas, experience has demonstrated that frequent repairs and engine service work are required for vehicles equipped with catalytic converters to assure maximum fuel efficiency and effective functioning of the emission control system with the resultant obvious additional costs which must be borne by owners of such vehicles; and

Whereas, informed sources point to the additional cost of manufacturing unleaded gasoline coupled with the expected increase in price when and if gasoline is deregulated; and

Whereas, the cost of replacing a defective catalytic converter with a new one is upwards of three hundred dollars (\$300.00) per installation; and

Whereas, effective alternative technologies have been developed to reduce the emission of harmful pollutants; and

Whereas, the questionable effectiveness, fuel efficiency, high repair and maintenance cost, and other problems associated with the catalytic converter give rise to the firm conviction that the elimination of the catalytic converter and its replacement with alternate technologies may better serve the intended purposes of the catalytic converter is a matter of compelling national interest;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the President of the United States, the United States Congress, the Department of Energy, the Department of Transportation, the Environmental Protection Agency, and all other State Legislatures are respectfully urged to join in a concerted national effort to do away with the reliance on the use of catalytic converters in view of the concerns expressed in this resolution.

**Sec. 2.** Upon ratification, copies of this resolution shall be sent to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and the President of the United States.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

## Resolutions—1979

H. R. 1531

### RESOLUTION 80

A JOINT RESOLUTION TO AUTHORIZE THE GENERAL ASSEMBLY TO STUDY HYDROELECTRIC POWER.

Whereas, both small and large scale hydroelectric power plants produce energy without atmospheric pollution, and use the force of gravity to produce electric power; and

Whereas, many small and large scale hydroelectric plants could produce substantial amounts of energy as part of a Statewide program of generating electricity without reliance on petroleum;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission is authorized to study the issue of hydroelectric generation power in North Carolina.

**Sec. 2.** This resolution shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

H. R. 1532

### RESOLUTION 81

A JOINT RESOLUTION HONORING ROBERT L. PETERSON, ROY HUSKEY, AND OWEN MESSERSMITH.

Whereas, on May 31, 1979, Robert Lee (Pete) Peterson, Roy Huskey, and Owen Messersmith were killed near Rutherfordton after a domestic disturbance; and

Whereas, the 37-year old Robert Peterson was a 10-year veteran of the Highway Patrol; and

Whereas, the 48-year old Roy Huskey was a captain in the Rutherford County Sheriff's office, where he had served for 11 years, and was the brother of Rutherford County Sheriff, Damon Huskey; and

Whereas, Owen Messersmith, 58 years old, was a sergeant and 4 1/2-year veteran in the Rutherford County Sheriff's office; and

Whereas, all three men were killed while answering a call;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly honors the service and lives of Robert Lee (Pete) Peterson, Roy Huskey, and Owen Messersmith, and expresses its sympathy to their families.

**Sec. 2.** The General Assembly thanks Sheriff Damon Huskey and his staff, the Highway Patrol, and all other law enforcement officers who were involved in the search for and arrest of the man suspected of killing the officers.

**Sec. 3.** The Secretary of State is directed to send copies of this resolution to the Rutherford County Sheriff's office, the Highway Patrol office in Rutherford County, and the families of Robert Peterson, Roy Huskey, and Owen Messersmith.

**Sec. 4.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.



## Resolutions—1979

H. R. 1533

### RESOLUTION 82

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF LEROY SCOTT, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, LeRoy Scott was born in Washington, North Carolina, on October 20, 1909, and died in Washington on March 10, 1978; and

Whereas, LeRoy Scott spent his life in his native area and contributed greatly to the quality of its life and the strength of its institutions; and

Whereas, LeRoy Scott contributed to the economic life of his community as an attorney at law and a member of the Junior Chamber of Commerce; and

Whereas, LeRoy Scott was active in civic and governmental affairs, serving as a member of the Elks Club and as a U. S. Conciliation Commissioner under the Frazier Lempke Farm Bankruptcy Act; and

Whereas, LeRoy Scott was active in the service of his country, serving in the U. S. Navy from October 1, 1942 to November 1, 1945, and later serving as a member of the Veterans of Foreign Wars and the American Legion; and

Whereas, LeRoy Scott served his district and the State, serving with distinction in the House of Representatives in 1947 and 1949; and

Whereas, LeRoy Scott is survived by his widow and children, LeRoy Scott, Jr., Lenny Scott, Kaye Scott Buckman, Faye Scott, and Sandra Scott Edwards;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly honors the memory of LeRoy Scott, a good citizen, a valued and responsible legislator, and a dear friend, and extends to Mrs. LeRoy Scott and their children sincere sympathy in the loss of their husband and father.

**Sec. 2.** The Secretary of State shall transmit a copy of this resolution to Mrs. LeRoy Scott.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. R. 94

### RESOLUTION 83

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY THE REVENUE LAWS OF THE STATE OF NORTH CAROLINA.

Whereas, the Legislative Research Commission was directed by the 1977 General Assembly in ratified Resolution 85 to conduct a study of the revenue laws of North Carolina; and

Whereas, pursuant to Resolution 85 a Committee on Revenue Laws was appointed and held 11 meetings before reporting its recommendations to the Legislative Research Commission and the 1979 General Assembly; and

Whereas, the Committee on Revenue Laws reviewed many areas of the revenue laws and prepared more than 40 legislative proposals to modernize, improve, and delete obsolete sections from the revenue laws; and

Whereas, the scope of the subject matter assigned to the Committee on Revenue Laws was so broad that not all areas could be addressed within the time and budget limits placed on the Committee; and

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Whereas, in the course of its deliberations the Committee on Revenue Laws discovered several matters which warranted further investigation; and

Whereas, changes in federal tax laws often make review of related State laws advisable; and

Whereas, the Committee on Revenue Laws has proved to be an excellent forum to which both taxpayers and State officials can turn with problems and complaints about the revenue laws;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Legislative Research Commission shall continue to study the revenue laws and their administration in North Carolina.

**Sec. 2.** The commission shall continue to review the revenue laws of the State of North Carolina to determine which laws need clarification, technical amendment, repeal, or other change to make the revenue laws as concise, intelligible, administratively responsive, and efficient as is reasonably practicable. Where the recommendations of the Commission, if enacted, would result in an increase or decrease in State tax revenues, the final report of the Commission shall include an estimate of the amount of such increase or decrease.

**Sec. 3.** The Commission may call upon the Department of Revenue to cooperate with it in its study, and the Secretary of Revenue shall insure that its employees and staff provide full and timely assistance to the Commission in the performance of its duties.

**Sec. 4.** The Commission shall produce a final report with its recommendations for improvement of the revenue laws to the 1981 General Assembly and may produce an interim report to the 1979 General Assembly, Second Session 1980.

**Sec. 5.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

S. R. 933

### RESOLUTION 84

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT OF THE 1979 GENERAL ASSEMBLY ON JUNE 8, 1979, AT 4:00 P.M., TO RECONVENE FOR A SECOND SESSION IN 1980 FOR REVIEW OF THE BUDGET FOR FISCAL YEAR 1980-1981 AND FOR CONSIDERATION OF CERTAIN OTHER BILLS.

*Be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** On Friday, June 8, 1979, at 4:00 p.m., both the Senate and the House of Representatives shall stand adjourned, to meet again on Thursday, June 5, 1980, at 12:00 noon.

**Sec. 2.** When the Senate and House of Representatives reconvene pursuant to Section 1 of this resolution, they shall consider bills directly affecting the State budget for fiscal year 1980-1981, and they shall consider bills introduced in 1979, and favorably acted upon in the house in which introduced, and not disposed of by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading in the other house, provided that after ratification of a joint resolution passed by a two-thirds majority in each

## Resolutions—1979

house, the House of Representatives and the Senate may also consider any matters authorized by that resolution.

**Sec. 3.** In addition to the matters described in Section 2 of this Resolution, the House of Representatives and Senate when they reconvene in 1980, may consider bills implementing the reports of study commissions which have been authorized or directed to make final or interim reports and recommendations to the 1979 General Assembly, Second Session 1980, and the two houses may also receive reports of the Governmental Evaluation Commission and may receive and consider bills implementing reports of that Commission. The House of Representatives and Senate when they reconvene in 1980 may also consider, under the provisions of G.S. 115D-2.1, joint resolutions selecting members of the State Board of Community Colleges and Technical Institutes and joint resolutions confirming or rejecting appointments by the Governor to that Board.

**Sec. 4.** The 1980 adjourned session of the General Assembly may consider, in addition to other matters properly before it, all local bills filed for introduction in either house not later than 5:00 p.m., Tuesday, June 10, 1980, provided that each local bill bears a certificate, signed by the principal sponsor, stating that (a) no public hearings will be required on the bill, (b) the bill is noncontroversial, and (c) the bill is approved for introduction by every member of the Senate and House of Representatives whose district includes the local area to which the bill applies.

**Sec. 5.** Upon authorization of the presiding officer of either house, the appropriate committees are authorized to meet in the interim to review the budget for fiscal year 1980-1981, as passed by the 1979 General Assembly, First Session 1979; to review other matters of appropriations, finance, and the general economy; and to prepare a report on these matters, including a revised budget for 1980-1981, if necessary, for delivery to the Senate and House of Representatives on the convening date of the 1979 General Assembly, Second Session, 1980.

**Sec. 6.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

STATE OF NORTH CAROLINA  
DEPARTMENT OF STATE,  
RALEIGH, JUNE 15, 1979

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.

A handwritten signature in dark ink, appearing to read "Thad Eure", is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

*Secretary of State*





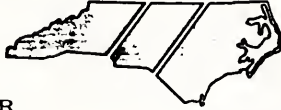
# APPENDIX

## EXECUTIVE ORDERS OF GOVERNOR JAMES B. HUNT, JR.

Title	Number
AN EXECUTIVE ORDER PROCLAIMING THE STATE REGIONAL POLICY .....	XXVII
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# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 27

WHEREAS, the Local Government Advocacy Council was established by Executive Order Number 22 on April 21, 1978; and;

WHEREAS, the Local Government Advocacy Council accepted as its initial charge a request to study the State's policy on multi-county regions and Lead Regional Organizations, and;

WHEREAS, the Local Government Advocacy Council spent considerable time on the study of regions, and subsequently made 16 recommendations thereon, and;

WHEREAS, the Administration is committed to the concept of maximum coordination with local governments in a State-local partnership.

NOW, THEREFORE, I, James B. Hunt, Jr., under and by the authority vested in me as Governor of North Carolina, do hereby proclaim the following as the Regional Policy for the State of North Carolina, and charge all agencies of State Government to adhere to this policy to the maximum extent possible: The concept of a single Lead Regional Organization in each of the 17 regions shall be continued with the following guidelines:

Section 1. The membership composition of governing boards of Lead Regional Organizations should be left to the discretion of the local units of government comprising such Lead Regional Organizations; however, the State urges the Lead Regional Organizations to limit policy board representation to elected officials from member general purpose local governments. The State will encourage Federal agencies to waive requirements which contradict such membership composition.



Section 2. The specific powers and duties of all Lead Regional Organizations, whether Councils of Governments or Economic Development Districts, should be those specified for Councils of Governments in Section 160A-475 of the General Statutes of North Carolina.

Section 3. In dividing the State for administrative and/or service delivery purposes, State agencies shall, to the extent possible, make such subdivisions coterminous with the LRO boundary lines, or with combinations of LROs. Administrative agencies shall work in concert with LROs, but shall not utilize them as sub-state administrative districts.

Section 4. State agencies desiring to eliminate, re-direct, or begin programs within the purview of, or which impact local governments, through LROs, are hereby directed to submit proposed changes and modifications to the Local Government Advocacy Council for review prior to the establishment of the policy. Any new programs involving regional service delivery through LROs must have the approval of all the local governments affected prior to the establishment of such programs.

Section 5. State financial support to regional organizations should be limited to grants to carry out specific tasks imposed by State government which necessitate coordination and planning for local governments. No State funds shall be provided for general administrative support except under an approved indirect cost plan and other contractual agreements.

Section 6. The determination of employment procedures for Lead Regional Organizations shall be left to the discretion of local governments. No State agency shall impose its job descriptions or other employment procedures on LROs.

Section 7. The Secretary of the Department of Administration is hereby charged with revising and implementing existing guidelines dealing with the changing of regional boundary lines, in accordance with the following:

(a) Boundary changes shall not be considered unless a petition for change is received from one or more county boards of commissioners or from the governing bodies of one or more municipalities whose population represents 50% of the county population. No boundary change shall be made until after notice of such proposed change is given, and sufficient opportunity for public comment is provided.

(b) Any request for boundary change shall be acted upon within ninety (90) days of the receipt of a valid petition.

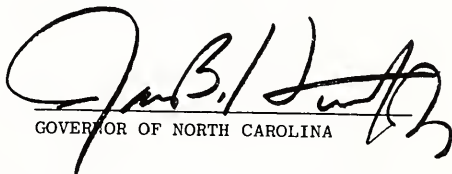
(c) Approved boundary changes shall be effective on July 1st of the following year, and must be announced at least ninety days prior thereto.

(d) No change which has been unfavorably considered shall be reconsidered for a minimum period of three years from the date of prior disapproval.

Section 8. This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 23rd day of October, 1978.



  
GOVERNOR OF NORTH CAROLINA

# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 28

WHEREAS, the State of North Carolina is in full accord and support of the tradition and spirit of the World Olympic games; and,

WHEREAS, other states and private industry now provide employees time off with pay to participate in international and world competition; and,

WHEREAS, many of our best American athletes have in the past had to decline the opportunity to wear their country's colors and have deprived the United States of their best talents because they could not afford the time away from their jobs; and,

WHEREAS, more and more foreign governments are paying their athletes a subsidy to train and compete in international and olympic competition; and,

WHEREAS, the State of North Carolina recognizes the need to make a contribution to aid this State's and the Nation's amateur athletes;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. A State employee, including an employee of an educational institution, who qualifies as a member of the United States team for athletic competition shall be granted leave with pay to participate in olympic competition sanctioned by the United States Olympic Committee.

(a) Leave with pay to compete in international and world events shall be granted up to a maximum of 30 working days per calendar year. Such leave may be

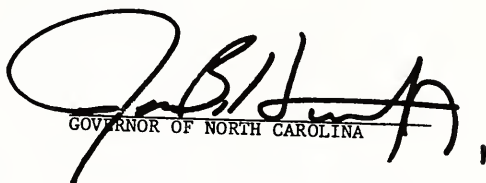
granted for official training periods as determined by the United States Olympic Committee, travel time to and from competition site, and a reasonable amount of time at the competition site.

(b) Employees granted leave for this purpose shall be compensated at their regular rate of pay and without loss of other benefits.

Section 2. This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 9th day  
of November, 1978.



  
GOVERNOR OF NORTH CAROLINA



# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 29

WHEREAS, the Departments of Human Resources, Education, Natural Resources and Community Development, and Transportation administer state and federally funded programs, many of which may be used directly or indirectly to provide needed transportation for the recipients of human services; and

WHEREAS, these programs incorporate varying amounts of public funds furnished by federal, state, and local governmental units; and

WHEREAS, it is known that at the local level, there sometimes occurs a duplication of effort as well as identification of gaps in the delivery of human services transportation; and

WHEREAS, human services vehicles in some cases are not being used as efficiently or effectively as possible and, therefore, are unable to provide the transportation needs of their clients; and

WHEREAS, the administrative policies and procedures of these several State government agencies greatly impact on vehicle usage and the delivery of transportation services at the local level; and

WHEREAS, there is a need for a statement on coordination of resources and these State departments and agencies are in a strategic position to bring about better use of transportation resources; and

WHEREAS, there are forms of public transportation, such as buses and taxicabs, available to provide transportation service; and

WHEREAS, it should be the policy of the State of North Carolina to support and utilize wherever practical existing transportation resources, public and private, before any new resources will be made available through public funds; and

WHEREAS, it should be the policy of the State of North Carolina that departments and agencies supported by public funds will fund existing providers if the provider is willing, able, and agreeable to furnish the proposed transportation in a cost-effective manner before funding new public transportation programs; and

WHEREAS, the providing of transportation services can support the attainment of balanced growth in North Carolina;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is hereby created the North Carolina Public Transportation Advisory Council. The Advisory Council will be composed of nineteen members: one member from each of the seventeen multicounty regions and the Secretary of the Department of Human Resources and the Department of Transportation. The Governor shall appoint the seventeen lay members to serve at the will of the Governor who shall represent a cross section of transportation interests. The Secretary of Transportation shall chair the Advisory Council.

Section 2. The Advisory Council shall have the following duties:

- (1) To review and make recommendations to the Interagency Transportation Review Committee concerning guidelines and criteria for the Review Committee;
- (2) To review and make recommendations to the funding agencies concerning project situations when there are unresolved problems between the Review Committee and the applicant or other local interests;

- (3) To advise and make recommendations to the Board of Transportation concerning public transportation policy; and
- (4) To develop transportation policies which are consistent with balanced growth.

Section 3. There is hereby created the North Carolina Interagency Transportation Review Committee. The Review Committee will be composed of Representatives from the Departments of Education, Human Resources, Natural Resources and Community Development, and Transportation. The Secretaries of the respective departments shall appoint the representative(s) from their departments who shall represent each funding agency. The Secretary of Transportation shall chair the Review Committee.

Section 4. The Review Committee shall have the following duties:

- (1) To implement policy and apply criteria as developed by the Advisory Council.
- (2) To provide written notice of recommendations based upon review of applications or plans to the appropriate state agency; and
- (3) To review all transportation components of applications or plans requesting transportation funding when the funds are administered by a state agency.

Section 5. The Department of Transportation shall provide the planning, technical, and administrative support for the Review Committee and Advisory Council.

Section 6. The Secretary of Transportation, after conferring with the appropriate departmental Secretaries, shall have the final authority on all transportation funding decisions.

Section 7. To further the objectives of this Executive Order, all departments and agencies under the Governor's Jurisdiction shall immediately draft directives and procedures

necessary to implement these policies. Such drafts shall be submitted to the Secretary of Transportation for review and approval within 60 days of the signing of this Executive Order.

Section 8. Every agency within State Government within my authority is requested to cooperate with the Council and Committee in providing all necessary information regarding their activities.

Section 9. This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 6th day of December, 1978.



  
GOVERNOR OF NORTH CAROLINA



# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 30

WHEREAS, last year I created by Executive Order the Judicial Nominating Committee for Superior Court Judges to test the concept of merit selection of judges; and,

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 (July 28, 1977) and amended by Executive Order Number 24 (May 15, 1978) is hereby extended for a period of one year, effective on the date of the signing of this Order.

Section 2. The Committee shall consist of 35 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) Three attorneys licensed to practice law in the State, one to be appointed by the President Pro Tempore of the Senate, one by the Speaker of the House of Representatives, and one to be appointed jointly by the President Pro Tempore of the Senate and 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 will be divided into thirty-three judicial districts, pursuant to Chapters 1130 and 1238 of the 1977 Session Laws. 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 for a second one-year term. 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 is 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 therefor; 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 shall 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 shall 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 Officer 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.

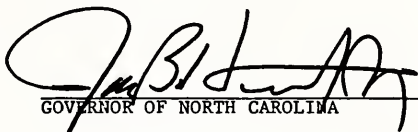
(c) All other rules which are applicable to regular Superior Court Judges are hereby incorporated for the filling of vacancies for Special Superior Court Judges.

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 prerogatives 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 31st day of December, 1978.

  
GOVERNOR OF NORTH CAROLINA





# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 31

### UNIFORM FLOOD PLAIN MANAGEMENT POLICY

WHEREAS, there is a need for the State to establish regulations for State agencies to help minimize the extent of flood damage by preventing development within the floodway which would inhibit water flow and increase flood height and damage, to otherwise regulate use of the flood plain areas, to prevent and/or minimize loss of life, injuries and property damage, and to promote the public health, safety and general welfare; and

WHEREAS, the State of North Carolina, operating under existing statutes for improvements and capital outlay, has compiled the following record of flood damage to state-owned facilities: The State of North Carolina has approximately \$100,000,000 in state-owned buildings and contents located in the 100-year floodplain. Of this figure, there is about \$25,000,000 of property exposure in the 600-mile length and breadth of the State. Losses to state-owned buildings and contents for the past 20 years does not exceed \$400,000; and

WHEREAS, I deem it necessary and proper to establish a Uniform Flood Plain Management Policy for State agencies to provide for the continued sound management of state-owned properties as they relate to potential flood hazards;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. The Department of Administration shall administer a Uniform Flood Plain Management Policy for State agencies. This order shall apply to those lands coming under

the broad definition of "state-owned" lands including but not limited to public waterways, marshes, estuarine waters, and to privately-owned land and improvements which are leased to the State of North Carolina or any of its agencies. This order in no way affects municipal and county zoning authority pursuant to General Statutes Chapter 160A, Article 19, Part 3 and Chapter 153A, Article 18, Part 3; however, in cases of conflict between Municipal and County Floodway Regulations pursuant to Chapter 143, Article 2, Part 6, and the provisions set forth in this order, the Department of Administration shall investigate the area of conflict and make appropriate determinations to comply with the intent of this executive order.

Section 2. To encourage State agencies to work within the existing statutes of the State of North Carolina to establish a Uniform Flood Management Policy, the following statutes and codes, though not repeated herein, are hereby incorporated by reference:

- (1) Chapter 143B, Article 9, Part 3, N. C. Capital Planning Commission
- (2) Chapter 143-Article 1, Executive Budget Act
- (3) Chapter 143-Article 8, Public Building Contracts
- (4) Chapter 143-Article 36, Department of Administration
- (5) Chapter 143, Section 214.1, Water Quality Standards
- (6) Chapter 143, Section 215, Effluent Standards and Limitations
- (7) Chapter 143, Article 21, Part 6, Floodway Regulations
- (8) Chapter 146-Articles 5, 6, and 7, Acquisition and Disposition of State Lands
- (9) Chapter 113-Article 1, Estuarine Waters and State-Owned Lakes
- (10) Chapter 113A, Article 4, Sedimentation Pollution Control Act of 1973
- (11) Chapter 113A, Article 1, Environmental Policy Act
- (12) Chapter 150A-Administrative Procedures Act
- (13) Chapter 160A, Article 19, Part 3, Local Zoning Authority
- (14) Chapter 58, Section 193, Commissioner of Insurance required to inspect State Property
- (15) The North Carolina State Building Code, 1978 Addition
- (16) Chapter 113A, Article 7, Coastal Area Management Act of 1974
- (17) PL 92-500, Pollution Control Act of 1972
- (18) Chapter 153A, Article 18, Part 3, County Zoning Authority

Section 3. Definitions. It is not the intent of this order to create any new terms or phrases. The terms and phrases

used herein shall be interpreted to conform with existing common usage, statutes, or other applicable regulations, as follows:

- (1) Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland streams and rivers or coastal waters.
- (2) Base Flood or 100-Year Flood - That flood having a one percent chance of being equalled or exceeded in any given year.
- (3) Coastal High Hazard Area - The area subject to high velocity waters, including but not limited to hurricane wave wash. The lateral limits of the coastal high hazard area shall be established from the latest hydrologic maps and engineering data obtainable. When H.U.D. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, or Flood Insurance Study Data are available, they shall be the primary source of such hydrologic data.
- (4) 100-Year Flood Plain - The lowlands and relatively flat areas adjoining inland streams and coastal waters which are susceptible to flooding during the base flood. The lateral limits of the 100-year flood plain shall be established from the latest hydrologic maps and engineering data obtainable. When H.U.D. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, or Flood Insurance Study Data are available, they shall be the primary source of such hydrologic data.
- (5) Regulatory Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The lateral limits of the regulatory floodway shall be established from the latest hydrologic maps and engineering data obtainable. When H.U.D. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, or Flood Insurance Study Data are available, they shall be the primary source of such hydrologic data.
- (6) Floodway Fringe Area - The area outside the regulatory floodway but inside the 100-year flood plain.
- (7) Flood Protection Elevation - The elevation to which structures in the 100-year flood plain must be elevated or flood proofed to protect against inundation by the waters of the base flood. This elevation shall be established from the latest hydrologic maps and engineering data obtainable. When H.U.D. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, or Flood Insurance Study Data are available, they shall be the primary source of such hydrologic data.

- (8) Structure - A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.
- (9) Development - Any land-disturbing change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, excavation, grading and paving.
- (10) Substantial Improvement - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure.
- (11) Habitable Floor - Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof. A floor used only for storage purposes is not a "Habitable Floor."
- (12) Stream - A watercourse that collects surface runoff from an area of one square mile or greater.
- (13) Principle of Equal Coveyance - Principle which states that both sides of a stream will pass approximately one-half the volume of the base flood.

#### Section 4. Location of Regulatory Floodway and Flood

Plain Boundaries. Determination of boundaries for the regulatory floodway, the 100-year flood plain, and the coastal high hazard areas shall be established by using the latest hydrologic maps and engineering data obtainable. Maps available from local, state and federal agencies shall be used to carry out the provisions of this order.

When H.U.D. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, or Flood Insurance Study Data are available, they shall be the primary source of such hydrologic data. If interpretation is needed as to exact location, and where there appears to be a conflict between map boundaries and actual field conditions, the Department of Administration shall make the necessary interpretation upon recommendation by the Office of State Construction provided the following procedures are followed:

- (1) Use Corps of Engineer's location and width data at all actual surveyed cross sections.
- (2) The location of floodways at points along a stream between surveyed cross sections shall be established on the ground by using the following procedures in the order that they appear below:
  - (A) The regulatory floodway lateral limits shall be scaled or interpolated, whichever is greater,



using the centerline of the stream as the base. The distances to both floodway lines shall be checked using actual field surveys and the following criteria:

- (1) All points between the floodway lines shall lie below the 100-year flood plain elevation.
  - (2) The floodway as defined by the right and left distances from the stream centerline shall maintain the flow area below the 100-year flood level that was interpolated from the upstream and downstream cross sections.
  - (3) The alignment does not result in jogs, offsets, or sharp bends.
  - (4) Flood plain shape and average retardance is generally uniform between the cross sections.
  - (5) If the above four criteria cannot be met then proceed to paragraph (B) below.
- (B) The professional engineer may reduce or enlarge the floodway with respect to the stream centerline as long as the following criteria are met:
- (1) All points between the floodway lines shall lie below the 100-year flood plain elevation.
  - (2) The alignment does not result in jogs, offsets, or sharp bends.
  - (3) Flood plain shape and average retardance is generally uniform between the cross sections.
  - (4) The principle of equal conveyance of flood flow is maintained using the 100-year flood level and other data in the F.I.A. Report.  
$$\frac{A5/3^*}{P2/3}_L = \frac{A5/3^*}{P2/3}_R$$
  - (5) The cross sectional area shall always be approximately hydrologically equal to the interpolated area derived from the upstream and downstream cross section.  
$$\frac{A5/3^*}{P2/3} = \frac{A5/3^*}{P2/3}$$
  - (6) If the above criteria cannot be met then proceed to paragraph (C) below.
- (C) The professional engineer may shift the floodway with respect to the stream centerline when the principle of equal conveyance cannot be maintained but the 100-year flood flow can be accommodated within the flood plain and the following criteria

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\*Note - A equals the cross sectional area. P equals the wetted perimeter. L is left. R is right.

can be met:

- (1) All points between the floodway lines shall lie below the 100-year flood plain elevation.
- (2) The alignment does not result in jogs, offsets, or sharp bends.
- (3) Flood plain shape and average retardance is generally uniform between the cross sections.
- (4) The 100-year flood elevation is held.
- (5) The cross sectional area shall always be approximately hydrologically equal to the interpolated area derived from the upstream and downstream cross sections.

$$\frac{A5/3^*}{P2/3} = \frac{A5/3^*}{P2/3}$$

- (6) The stream channel is within the floodway at all locations.
- (7) The floodway is located laterally so that the deleted and added areas on either side of the floodway are hydrologically equal, i. e.,  $\frac{A5/3^*}{P2/3}_L = \frac{A5/3^*}{P2/3}_R$
- (8) If the above criteria cannot be met then proceed to paragraph (D) below.

- (D) If any of the preceding procedures cannot be used because their mandatory criteria cannot be met, then the data should be sent to the U. S. Army Corps of Engineers for a determination of the actual floodway.

- (3) The engineering calculations and/or interpretation for this Section shall be made and certified by a Registered Professional Engineer and the establishing and documentation of field conditions shall be made and certified by a Registered Land Surveyor.

Section 5. Regulations. The following regulations shall apply to all State agencies:

(A) Floodway and Flood Plain

- (1) New structures and other development within the regulatory floodway will be prohibited where the placement of such structure or development would result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) New or replacement utility lines within 100-year flood plains must be designed to minimize obstruction to water flow during the base flood.
- (3) Planning of the floodway fringe areas as open space, recreational areas, and public parks is encouraged.

- (4) In new structures and substantial improvement to existing structures located within the 100-year Flood Plain, no habitable floors will be below the flood protection elevation.

(B) Coastal High Hazard Areas

- (1) In coastal high hazard areas, new structures must be located landward of the reach of mean high tide. The State Port facilities and other water access related structures, which by necessity must be located on the water, are specifically excluded from this provision.
- (2) All new structures located in coastal high hazard areas shall be elevated on adequately anchored pilings or columns, and securely anchored to such pilings or columns so that the lowest portion of the structural members of the lowest floor is elevated to or above the base flood level, and that a registered professional engineer or architect certify that the structure is securely anchored in order to withstand velocity waters and hurricane wave wash.
- (3) All new structures and substantial improvements to existing structures located in coastal high hazard areas must have the space below the lowest floor free of obstructions or be constructed with "breakaway walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimal. Such temporarily enclosed space shall not be a habitable space.
- (4) In coastal high hazard areas, any alteration of sand dunes which would increase potential flood damage shall be prohibited.

(C) Non-Conforming Structures. Any structure which was lawful before this order, but not in conformance with the flood plain policy may continue subject to the following limitations:

- (1) No such use shall be expanded, changed, or altered which shall increase its non-conformity.
- (2) Any substantial improvement must bring the total structure into conformity now and thereafter.
- (3) If the structure is destroyed or extensively damaged, it cannot be rebuilt in its original non-conformity.
- (4) A structure abandoned for 12 months cannot be reoccupied until it is improved and brought into compliance.

- (D) Permits. Permits shall be required for all new construction or other development within the flood plain. Applications from the duly constituted authority shall be submitted to the Secretary of the Department of Administration. Applications for permits for improvements within the flood plain shall include the following:

- (1) Description of the project.
- (2) Plot plan.
- (3) Flood hazard boundary map (HUD) if available.
- (4) In lieu of (3) above, other flood plain maps and data from a certified land surveyor or professional engineer.
- (5) Overall floodlands development plan.

Upon receipt of the permit applications, the Secretary of the Department of Administration or his designee will review the application with other departments, and will (1) deny the permit application; or (2) issue a temporary permit for further development of the project. If a temporary permit is issued, the applicant may proceed with development of detailed planning and specifications, such plans and specifications to be submitted to the Department of Administration for periodic review.

Upon final approval of detailed plans and specifications, the Department of Administration shall issue a permit for construction. In granting or denying permits, the Department shall be guided by the standards, limitations and requirements set forth in this order.

- (E) Certificate of Compliance. Before the facility is occupied, the owning agency shall issue or cause to be issued a certificate of compliance stating that the subject project complied with all of the provisions of this order. The certificate shall be prepared by a professional architect, engineer or land surveyor, or a combination thereof, if so required by the aforementioned statutes.
- (F) North Carolina Department of Insurance Approval. When the project is a structure normally covered by insurance, the construction permit under (D) will not be issued until the project is approved by the Department of Insurance for full insurance coverage.
- (G) Appeals, Adjustments, Amendments and Violations. Appeals, adjustments, amendments and violations shall be considered and determined as provided in the aforementioned statutes and in accordance with the rules and regulations governing the Department of Administration adopted pursuant to the Administrative Procedures Act.



Section 6. The Department of Insurance and the Department of Natural Resources and Community Development shall assist the Department of Administration in jointly administering the provisions of this order under applicable statutory provisions.

Section 7. This order shall become effective immediately.

Done in Raleigh, North Carolina, this the first day of February, 1979.



  
GOVERNOR OF NORTH CAROLINA

# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 32

### ADVISORY COMMITTEE FOR THE NORTH CAROLINA PUBLIC MANAGER PROGRAM

WHEREAS, management in North Carolina State Government requires the development and implementation of new standards of effectiveness, efficiency and accountability; and

WHEREAS, better liaison and more effective cooperation is required between governmental agencies at all levels; and

WHEREAS, the public manager will be confronting many challenges in providing direction and leadership to promote more efficient management of State Government operations; and

WHEREAS, there is a need on the State Government level to provide a development and training program for State Government managers and supervisors to better prepare and train them for more efficient management of State Government operations.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. There is hereby created the Advisory Committee for the North Carolina Public Manager Program which shall consist of not less than 14 nor more than 17 members appointed by the Governor to serve at the pleasure of the Governor. The Director of the Office of State Personnel shall be an ex-officio full voting member of the Advisory Committee. The Governor shall also designate the Chairman of the Advisory Committee.

Section 2. The members of the Advisory Committee appointed by the Governor shall be from the following categories:

(a) Not less than 8 nor more than 10 representatives of State Government Departments, at least one of which shall be a representative of the Department of Public Instruction, and at least one of which shall be a representative of the Department of Community Colleges.

(b) Five representatives of the University of North Carolina System.

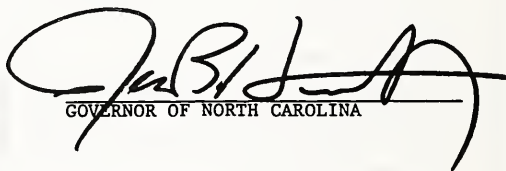
Section 3. The duties of the Advisory Committee are to plan and implement a North Carolina Public Manager Program which shall provide for training of managers and supervisors to improve the effectiveness of State Government at the management level. The curriculum should meet or exceed the job specifications for managers and supervisors at all levels in order to develop and maintain high standards of performance among public managers. Specifically, the following program areas should be considered: appropriate policy and funding resources for program development, delivery and evaluation; quality curricula, instructors and facilities; and access to training and development opportunities for all State Government managers in terms of timing, geographic location, and cost.

Section 4. Staffing and services for the Advisory Committee shall be provided jointly by the Office of State Personnel and the University of North Carolina System. The expenses of the Advisory Committee shall be paid through the Office of State Personnel by a grant under the Intergovernmental Personnel Act.

Section 5. This order shall become effective upon signing.

Done in Raleigh, North Carolina, this the 6th day of

June, 1979.

  
GOVERNOR OF NORTH CAROLINA



# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

EXECUTIVE ORDER NO. 33

WHEREAS, fuel shortages across the nation and strikes by independent truck operators have prevented the shipment of perishable farm products from North Carolina farms and from farms of other states; and

WHEREAS, the inability to transport perishable farm products threatens the livelihood of farmers and presents the possibility of severe economic loss to farming operations in this and other states; and

WHEREAS, there is a need to facilitate the transportation of perishable farm products to minimize the losses resulting from leaving the products in the fields; and

WHEREAS, the Governor, as Chief Executive of this State, is directed by the Constitution and the Statutes of this State to take action to protect the health, welfare, lives and property of the people of this State.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Vehicles which are transporting perishable farm products and which are displaying valid license plates shall be permitted to carry the maximum weights as provided in N.C.G.S. 20-118 notwithstanding the load limit prescribed by the license procured for the vehicle. A vehicle shall not be permitted to carry loads in excess of the axle weight limit prescribed for that vehicle, nor shall the vehicle be permitted to carry loads in excess of the appropriately established maximum road limits.



Section 2. The Director of the Division of Motor Vehicles of the Department of Transportation is directed to administer the provisions of this Order.

Section 3. This Order is effective immediately and shall remain in effect for a period of seven days unless rescinded by the Governor prior to the expiration of the seven day period. The Governor, in his discretion, may renew this Order for as many seven day periods as he deems appropriate.

Done in Raleigh, North Carolina, this the 27th day of June, 1979.

  
GOVERNOR OF NORTH CAROLINA



# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 34

WHEREAS, fuel shortages across the State of North Carolina and the Nation threatens the livelihood of the citizens and presents the possibility of severe economic loss to business and industry in this and other States; and

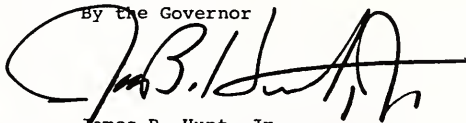
WHEREAS, there is a need to extend the capability of the motor transportation industry to provide maximum delivery of goods and commodities necessary to the health, welfare, and safety of the citizens of this and other States; and

WHEREAS, the Governor, as Chief Executive of this State, is responsible for the health, welfare, lives and property of the people of this State:

I AM TODAY directing the Secretary of the North Carolina Department of Transportation to adopt emergency procedures for the intrastate transportation of goods and commodities including special provisions for the intrastate transportation of motor fuels. The procedures adopted are to provide for the most efficient use of equipment now available to the motor transportation industry.



By the Governor

A large, stylized handwritten signature of James B. Hunt, Jr., written in dark ink.

James B. Hunt, Jr.  
June 28, 1979

# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

EXECUTIVE ORDER NO. 35

WHEREAS, the conditions which prevailed across the State of North Carolina, namely strikes by independent truck operators and fuel shortages coupled with the urgent need for prompt and adequate transportation of this State's perishable farm products, prompted the granting of Executive Order No. 33; and

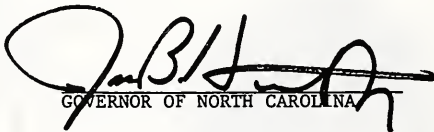
WHEREAS, those same conditions continue to threaten the livelihood of North Carolina's farmers as well as the general welfare of all her citizens.

NOW, THEREFORE, IT IS HEREBY ORDERED:

That Executive Order No. 33, pertaining to increasing allowable weight limits for vehicles transporting perishable farm products, is extended for a period of seven (7) days. This Executive Order is to take effect immediately.

Done in Raleigh, North Carolina, this 3rd day of July, 1979.



  
GOVERNOR OF NORTH CAROLINA

# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

## EXECUTIVE ORDER NUMBER 36

WHEREAS, independent truckers transport a large percentage of the cargo in this state and nation; and

WHEREAS, these independent truckers presently face a multitude of complex and inconsistent regulations as they travel from state to state; and

WHEREAS, these regulations increase truckers costs and ultimately increase costs to consumers; and

WHEREAS, permanent changes in the federal and state regulations affecting independent truckers would greatly increase their effectiveness; and

WHEREAS, the problems and needs of the independent truckers need to be explored, studied, and resolved;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. There is hereby created the Special Task Force on Independent Truckers, which shall have the following duties:

(a) Conduct a complete and thorough study of the problems faced by independent truckers;

(b) Recommend to the Governor permanent administrative and legislative changes that would be appropriate in state and federal regulation.

Section 2. The Task Force shall be composed of at least seven (7) representatives of independent truckers and at least five (5) State Government representatives. All members are to be appointed by the Governor and will serve at the pleasure of the Governor for the life of the Task Force. A member of



the Task Force shall be able to select an alternate to serve in his behalf. Members and alternates of the Task Force shall be entitled to reimbursement for travel and expenses as may be authorized for members of state boards and commissions generally, pursuant to G. S. 138-5.

Section 3. The Chairman of the Task Force shall be designated by the Governor from among the Task Force membership. The duties of the Chairman shall include the following:

(a) The Chairman or his designee shall plan, schedule, and chair all meetings of the Task Force. He shall cause such meetings to be announced in advance to the public and to interested parties in State Government.

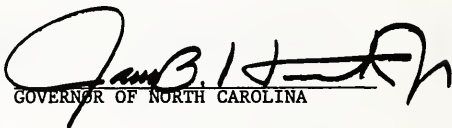
(b) The Chairman shall have primary responsibility for coordinating the reports and recommendations resulting from the work of the Task Force.

Section 4. Every agency within State Government within my authority is requested to cooperate with the Task Force in providing all necessary information regarding their activities.

Section 5. This Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 10th day of July, 1979.



  
GOVERNOR OF NORTH CAROLINA

# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

EXECUTIVE ORDER NO. 37

## TRANSPORTATION STUDY COMMISSION

WHEREAS, a strong transportation system is vital to the balanced, economical growth and development of North Carolina, and

WHEREAS, North Carolina has enjoyed a continual growth of transportation services through recent years, and

WHEREAS, there is a historical commitment to good roads in North Carolina, and

WHEREAS, improvement in all transportation areas has been carried forth with the cooperation of the people of this state and their elected officials for the benefit of all North Carolinians, and

WHEREAS, fuel shortages are changing the attitudes of the public toward fuel consumption and is reflected in the public's changing transportation habits, and

WHEREAS, revenues for highway maintenance and new highway construction are derived from federal aid programs, state gasoline taxes and public bonds approved by the voters of North Carolina, and

WHEREAS, a recent study points to a severe strain on revenue resources currently supporting these federal aid programs by the year 1981, and

WHEREAS, the rate of inflation of the state and national economy is further eroding the value of these revenues, and

WHEREAS, adequate transportation services, including airports, railways, seaports and mass transit, will be needed to meet the demands of the public in the future;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is hereby created the North Carolina Transportation Study Commission. The Study Commission will be composed of thirty-four (34) members representing a cross-section of the people of North Carolina, who shall serve at the pleasure of the Governor for a term expiring at the close of the 1981 Legislative Session.

Section 2. The Governor shall designate a Chairman from the membership of the Transportation Study Commission. Meetings of the Study Commission shall be held at the call of the Chairman.

Section 3. The Transportation Study Commission shall have the following duties:

- (1) to review and assess North Carolina's transportation needs in the areas of highways, public transit, aviation, rail, bicycles and motor vehicle administration;
- (2) to review and assess the present State programs for meeting these needs;
- (3) to review and assess the operational capability of our Department of Transportation's organization to develop and effectively administer our State's transportation programs;
- (4) to review and assess the funding sources that support our State's transportation programs; and
- (5) to develop recommendations for the Governor and the 1981 General Assembly on actions (programmatic, operational and financial) needed to assure North Carolina has a balanced transportation program that will provide the services required to meet our transportation needs and support the balanced growth and development of our State.

Section 4. The Department of Transportation shall provide the administrative support for the Transportation Study Commission.

Section 5. To further the objectives of this Executive Order, all State Agencies and personnel are requested to cooperate with this Commission in providing all necessary information and statistics regarding their activities.

Section 6. Members of the Transportation Study Commission 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.

Done in Raleigh, North Carolina, this the 31st day of July, 1979.

  
GOVERNOR OF NORTH CAROLINA





# State of North Carolina



JAMES B. HUNT, JR.  
GOVERNOR

EXECUTIVE ORDER NO. 38

AN ORDER TRANSFERRING THE DIVISION OF STATE BUDGET  
AND THE STATE DISBURSING OFFICE FROM THE DEPARTMENT  
OF ADMINISTRATION TO THE OFFICE OF THE GOVERNOR

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 and in the allocation of those functions, powers and duties as he considers necessary for efficient administration of State Government; and

WHEREAS, G. S. 143B-12 authorizes and empowers the Governor to assign or reassign the duties and functions of the executive branch among the principal State departments; and

WHEREAS, G. S. 143-20 authorizes and empowers the Governor to designate or appoint such person or persons to exercise or perform the duties and powers conferred on the Governor as Director of the Budget; and,

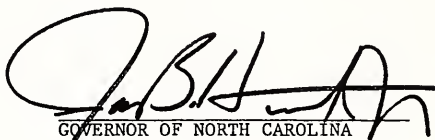
WHEREAS, G. S. 143-3.2 authorizes and empowers the Governor to designate a State Disbursing Officer;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. The Division of State Budget and the State Disbursing Office are transferred from the Department of Administration to the Office of the Governor.

Section 2. This transfer shall not affect those powers and duties reposed in the Secretary of the Department of Administration or in the Department of Administration.

Section 3. This Order shall become effective immediately.  
Done in the Capital City of Raleigh, this the 10th day  
of September, 1979.

  
GOVERNOR OF NORTH CAROLINA





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## 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 1979

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
1	R5	128	894	215	546
2	R1	131	435	216	1072
3	R4	132	144	224	R8
8	544	135	252	226	830
11	932	140	414	228	138
14	137	142	299	229	229
17	92	143	98	230	576
19	55	144	41	234	R14
21	103	145	95	238	125
29	4	146	R9	239	191
30	388	153	214	240	361
31	1	157	190	242	935
33	892	163	377	243	170
36	653	164	378	244	562
37	182	166	456	250	105
40	31	167	42	251	936
41	143	170	112	254	166
43	136	171	561	255	207
51	R2	174	238	256	420
52	76	176	911	257	540
53	560	177	32	260	415
56	325	186	499	261	912
58	206	187	239	265	300
59	60	189	654	266	896
61	R13	190	35	268	326
64	545	191	96	272	R18
68	9	200	253	273	667
84	77	201	93	274	379
85	413	202	94	275	111
86	104	203	356	280	824
94	R83	205	110	288	215
118	298	207	933	289	788
120	3	209	254	291	171
124	838	210	632	292	547
125	731	211	934	301	255
126	56	212	633	305	152
127	893	213	895	318	913



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319	937	406	380	484	503
321	345	407	390	485	899
322	914	408	391	490	949
323	216	409	446	493	332
324	915	410	613	494	950
326	167	411	381	495	364
327	389	415	484	500	458
330	729	416	485	502	951
331	468	417	614	504	952
332	897	424	433	505	429
335	457	425	327	507	953
336	208	427	210	508	615
337	529	428	447	509	616
338	346	429	328	510	920
339	209	430	569	511	434
340	577	434	329	512	393
342	347	437	350	518	921
344	362	438	351	519	799
346	938	439	382	520	333
348	676	442	159	525	922
359	217	443	257	526	506
360	445	446	919	528	417
361	482	448	352	529	941
362	348	449	330	532	617
363	172	451	258	535	541
364	708	453	363	538	532
365	173	454	448	539	R41
366	192	455	353	540	954
367	168	456	331	541	512
372	285	457	449	544	923
373	916	460	500	547	563
374	530	462	392	550	513
377	256	463	259	552	924
379	483	466	383	559	925
380	917	467	211	560	760
381	416	468	212	561	R27
383	505	469	213	562	421
385	939	470	240	564	761
389	898	473	260	567	533
390	349	475	501	571	618
391	825	478	261	572	418
393	940	479	832	573	709
396	432	480	663	574	564
397	831	481	948	579	R31
398	918	482	450	585	R32
400	947	483	531	586	668

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588	474	683	943	823	675
592	800	685	955	824	836
595	705	686	R17	833	771
596	706	689	673	840	906
599	669	691	903	843	845
601	710	692	712	845	959
602	670	693	713	846	677
604	928	694	834	848	772
609	570	695	904	850	773
614	798	697	790	851	774
615	762	707	905	852	791
616	542	709	849	853	775
617	833	710	664	858	907
618	394	712	944	859	717
621	810	713	730	862	966
622	942	717	964	863	946
623	486	718	R25	864	812
624	789	722	956	873	1009
625	590	726	764	876	R71
627	619	727	765	877	645
631	900	730	965	879	908
632	901	731	665	880	776
641	929	737	666	882	826
643	930	741	766	883	777
644	902	747	767	893	R34
648	R60	750	945	895	960
649	763	756	843	896	961
650	644	761	844	897	R61
651	747	765	714	900	R59
652	646	768	837	904	801
653	565	771	715	910	R38
654	711	774	835	915	962
656	543	776	957	922	967
659	690	778	748	925	963
662	R42	786	R70	929	792
664	671	787	768	932	813
665	620	791	R58	933	R84
666	566	793	674	934	R51
667	R69	794	R37	936	968
668	672	799	769	937	R74
670	811	808	958	945	969
672	634	820	716		
673	502	821	770		
677	931	822	R50		



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3	R3	87	11	146	970
4	R6	88	12	147	678
7	101	89	47	148	75
9	193	90	22	150	194
10	148	91	62	151	195
11	149	92	63	152	51
13	2	93	64	157	8
16	145	94	16	159	749
18	21	95	59	164	113
20	43	97	65	165	25
21	73	99	66	166	354
22	846	100	58	167	523
25	5	101	67	173	177
26	30	102	68	174	118
31	R72	103	48	175	535
32	15	104	17	177	127
35	422	105	49	178	26
37	44	106	74	180	128
38	436	107	69	181	99
39	174	108	18	182	183
40	139	109	70	183	655
44	61	111	150	187	129
47	45	112	71	188	38
49	6	114	13	189	184
50	430	115	57	190	459
51	861	116	72	191	218
52	126	117	85	192	982
53	140	118	23	194	52
56	981	119	24	197	R7
57	108	122	50	199	27
58	554	124	19	201	39
65	862	125	7	202	114
66	241	126	10	205	78
68	R62	130	1037	206	718
74	97	131	534	211	719
75	36	132	462	213	109
77	R10	134	175	214	86
78	578	136	176	215	178
79	160	139	14	216	33
82	106	142	34	217	53
84	117	144	37	218	28
85	46	145	555	219	983



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222	476	301	365	382	437
223	469	306	386	384	154
224	984	307	302	385	122
225	29	310	82	386	221
227	179	311	83	388	407
228	102	312	54	389	135
233	463	313	84	390	304
236	119	315	793	391	1014
237	720	316	120	393	1015
238	169	317	162	394	1016
239	536	318	163	395	146
241	591	319	121	398	477
242	185	320	116	401	155
247	153	321	303	403	40
248	R11	325	431	405	580
249	87	331	243	406	592
250	20	333	451	407	200
251	R12	334	151	408	201
252	385	335	91	409	1039
253	863	338	262	410	452
254	115	341	196	414	593
259	186	343	132	415	147
260	88	344	197	417	1040
261	100	345	293	418	1028
262	180	346	198	419	264
265	107	348	460	420	438
268	89	349	1012	422	187
269	90	350	1038	427	123
271	141	352	679	428	265
272	79	353	487	430	478
275	985	355	585	433	1029
277	130	356	133	434	439
278	131	357	691	437	156
279	R75	359	165	439	680
280	1010	360	134	441	266
283	357	361	219	443	164
284	286	362	199	444	621
285	80	363	334	448	157
287	81	364	508	449	222
290	464	365	579	450	158
291	1011	366	647	451	230
292	242	369	794	452	244
294	507	372	1013	453	245
297	567	373	220	454	581
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457	247	538	R76	613	234
458	267	539	509	614	305
459	1041	543	231	615	471
460	358	544	232	617	R63
461	1030	545	470	618	986
462	571	546	224	622	1048
463	142	548	274	623	524
465	1031	549	751	625	276
467	1032	550	1044	626	277
470	223	557	752	627	278
471	550	558	366	629	425
474	815	561	864	632	369
475	656	564	510	633	306
476	692	566	926	634	397
477	847	567	295	635	465
478	622	568	738	636	279
479	850	569	909	639	461
481	202	571	423	640	466
482	203	572	324	641	732
483	287	573	424	642	490
484	288	574	440	645	582
485	289	576	1045	646	280
486	750	577	R16	647	281
487	248	578	556	648	370
488	294	579	225	649	336
491	408	580	488	650	307
496	124	581	595	651	753
499	249	582	1046	652	721
500	268	588	367	653	227
502	250	589	368	657	R53
507	387	590	226	659	R19
508	269	591	396	660	235
512	681	592	409	662	754
517	270	593	290	663	426
520	359	596	335	667	491
521	1042	598	291	668	308
522	395	599	648	670	410
524	1043	601	233	672	511
525	271	602	441	673	371
526	272	603	568	674	188
528	273	604	816	675	587
529	1033	606	1047	677	514
530	453	607	204	679	309
532	1034	609	1036	683	337
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687	360	772	340	897	475
688	406	779	318	900	403
689	292	780	341	901	657
690	372	781	319	902	495
692	492	782	320	904	866
693	373	783	321	906	496
694	296	785	342	907	992
695	284	787	355	908	757
697	236	788	322	911	993
698	972	791	343	916	404
699	693	792	323	917	444
701	297	793	817	918	515
702	310	794	375	921	538
704	205	795	237	922	516
707	755	796	827	923	R73
708	987	797	588	924	517
709	311	798	795	927	635
714	228	799	558	928	695
717	181	800	682	930	778
726	189	802	1049	934	479
727	312	803	537	940	551
728	756	811	455	941	518
729	313	812	493	943	344
732	398	818	1017	946	376
733	596	819	494	947	867
734	399	820	818	948	868
735	400	828	988	951	R15
737	251	829	989	952	526
738	314	833	401	957	1050
740	722	839	865	958	630
741	642	843	R77	960	480
746	427	846	597	962	467
749	338	847	990	963	583
750	339	850	442	965	572
753	973	852	411	974	994
754	315	853	525	976	405
755	548	858	733	984	869
756	851	863	991	986	683
759	454	874	412	989	539
761	549	877	443	992	995
763	316	886	694	994	696
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1004	573	1112	601	1202	737
1005	1018	1113	1001	1203	553
1011	584	1116	1002	1204	643
1013	1073	1117	874	1209	879
1014	779	1118	875	1213	880
1016	598	1119	724	1214	783
1019	1052	1121	473	1215	602
1021	807	1122	1003	1216	603
1023	419	1123	528	1217	604
1024	870	1124	637	1219	828
1025	481	1127	876	1220	1057
1028	780	1128	R21	1222	703
1030	575	1129	498	1224	1006
1031	659	1131	1004	1225	640
1032	631	1134	697	1226	687
1033	497	1136	639	1227	641
1034	974	1139	R36	1229	R29
1035	975	1141	977	1230	927
1040	976	1143	R64	1231	758
1058	649	1144	698	1233	808
1059	599	1146	1053	1238	726
1061	819	1148	1074	1239	1007
1062	871	1149	520	1242	605
1063	872	1155	699	1248	626
1064	472	1158	782	1252	978
1065	781	1160	877	1254	742
1066	997	1161	878	1255	662
1067	839	1165	651	1257	688
1070	998	1171	700	1259	1058
1078	504	1175	701	1260	627
1084	624	1177	R65	1261	881
1086	574	1179	1005	1263	743
1087	559	1180	739	1266	521
1088	684	1181	1054	1267	522
1090	625	1182	638	1268	1059
1092	636	1183	1055	1271	1008
1094	999	1184	661	1273	589
1095	1000	1185	736	1274	R46
1097	527	1186	740	1275	882
1099	735	1188	R28	1281	883
1101	660	1189	702	1282	606
1102	519	1190	725	1284	607
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1299	R67	1362	785	1468	1065
1300	R30	1363	R23	1469	1066
1301	628	1365	1022	1472	1067
1302	707	1370	809	1474	759
1303	727	1377	R78	1477	R79
1304	689	1379	R40	1481	1068
1305	652	1380	612	1484	1069
1306	610	1384	R26	1487	853
1307	1060	1385	802	1489	854
1308	1075	1391	728	1491	822
1309	704	1392	1063	1492	840
1310	1019	1397	980	1494	823
1311	979	1402	1023	1495	841
1312	1061	1405	745	1496	855
1313	R68	1407	1024	1497	842
1314	R39	1408	910	1498	856
1315	629	1409	829	1499	857
1316	R33	1413	R56	1500	858
1317	796	1416	1025	1501	859
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