



PUBLIC EDUCATION: NORTH CAROLINA'S BEST INVESTMENT

2008 Legislative Summary

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2008 Legislative Summary

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2008 Summary of Statewide Bills

PUBLIC BILLS

HOUSE

HB 12 – STUDENTS WITH DISABILITIES AND SPECIAL EDUCATION CHANGES (SL 2008-90)

This bill requires a standard that an LEA shall be deemed to have a “basis of knowledge” that a child has a disability if, prior to the behavior that precipitated the disciplinary action, the behavior and performance of the child clearly and convincingly establishes the need for special education services. Prior disciplinary actions shall not, standing alone, constitute clear and convincing evidence (Section 3).

The bill also amends 115C-106.3(3a), the definition of “educational services”, by changing behavioral intervention services that are provided as part of educational services to those required by federal law (Section 1).

Additionally, 115C-107.7 is amended so that the continued appropriateness of the homebound instruction is to be evaluated monthly by the designee or designees of the student’s IEP team rather than the head of the student’s IEP team (Section 2).

Effective Date: 7/11/08. Section 3 becomes effective January 1, 2009 and expires March 1, 2011.

Statutes: G.S. 115C-107.7, -106.3(3a)

HB 15 – SOME PERSONAL LEAVE TIME/NO PENALTY (SL 2008-209)

The bill eliminates the \$50 deduction when a teacher uses personal leave on non-protected teacher workdays. Since teachers can accumulate up to 5 personal leave days, teachers would be able to take up to 4 additional days off without paying the \$50 if they are on non-protected workdays. Of the 15 teacher workdays, 10 are non-protected (See also Sec. 26.21 of SL 2008-107).

Effective Date: 8/9/08

Statute: 115C-302.1

HB 545 – CLARIFY AND AMEND VARIOUS PROVISIONS (SL 2008-194)

Section 9 changes the heading of Section 7.29 in S.L. 2007-323 to Realignment of Budgets to Organizational Structure (was Reorganization of the Department of Public Instruction). The expiration date of the provision allowing DPI to reorganize in accordance with the plan adopted by the State Board of Education is extended from June 30, 2008 to June 30, 2009.

Section 11 amends 115C-321 to allow the Retirement Systems Division of the Department of the State Treasurer to disclose the names and mailing

address of former public school employees to domiciled, nonprofit organizations representing 10,000 or more retired State government, local government, or public school employees.

*Effective Date: Section 9 is effective 6/30/08. Section 11 is effective 8/8/08.
Statute: G.S. 115C-321*

**HB 819 – ELECTRONIC RECYCLING AMENDS/ADDS TVS
(SL 2008–208)**

Section 5 amends G.S. 147-33.104 to prohibit school boards from purchasing computer equipment or televisions (defined in 130A-309.91) from any manufacturer the Department of Environment and Natural Resources determines is not in compliance with the requirements of G.S. 130A-309.93 or G.S. 130A-309.93A. The Office of Information Technology must make the list available to school boards.

*Effective Date: 1/1/2011
Statute: G.S. 147-33.104*

HB 933 – JESSICA LUNSFORD ACT FOR NORTH CAROLINA (SL 2008-117)

Section 12 creates a new G.S. 14-208.18 that makes it unlawful for any person required to register under the Sex Offender and Public Protection Program and who has been convicted of a sexually violent offense or an offense where the victim is under the age of 16, to knowingly be at any of the following locations:

- (1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries and playgrounds.
- (2) Within 300 feet of any location intended primarily for the use, care, and supervision of minors when located on a premises that is not primarily intended for the use, care, or supervision of minors.
- (3) Any place where minors regularly gather for educational, recreational, or social programs.

The bill provides conditional exceptions to the prohibitions above as follows:

- (1) Permits a parent or guardian of a minor to take the minor to any location that can provide emergency medical care treatment if care is needed.
- (2) Permits a parent or guardian of a student enrolled in school to be present on school property to attend a conference with school personnel about their child's academic or social progress or in response to a request from the principal for any reason relating to the welfare or transportation of the child.

The bill requires that the parent or guardian provide the principal notice of his or her registration under the Sex Offender Registry Program and notice of

their presence at school unless he or she has prior written permission to be present from the superintendent or school board chairman, or if the principal has granted ongoing permission for regular visits.

If written permission is by the superintendent or local board of education, the superintendent or chairman of the school board shall inform the principal the nature of the visit and the hours when the parent or guardian will be present at school. The bill requires that the parent or guardian be under direct supervision of school personnel at all times during the visit. Parents or guardians are not permitted to be on school property if no personnel are reasonably available to provide supervision.

(3) A student eligible under G.S. 115C-378 to attend public school and who is listed on the Sex Offender Registry for offenses that would otherwise ban them from school may be present on school property if permitted by the LEA pursuant to G.S. 115C-391(d)(2).

(4) Permits a registered sex offender who is eligible to vote to be present at a prohibited location that is being used as a voting place only for the purpose of voting. If the voting place is a school, the registered sex offender must notify the principal of that school he or she is registered under the Registry Program.

(5) A juvenile may be present at a prohibited location in order to receive medical treatment or mental health services, but must remain under direct supervision of an employee at all times.

A violation of this section is a Class H felony.

Section 12.1 amends 115C-391(d) to allow local board of education, in their discretion, to expel students who otherwise would be banned from school grounds because of the type of offense for which they are placed on the Sex Offender Registry. Prior to ordering expulsion, the local board must consider alternative programs for those students. If the local board determines that the student will be offered educational services on school property, the student must be under the supervision of school personnel at all times.

Section 12.2 amends G.S. 14-208.29 to require the release of registry information about juveniles enrolled in public schools to the local board of education.

Section 13 creates a new G.S. 14-208.25 that requires principals to register with the Sexual Offender and Public Protection Registry to receive e-mail notification when a registered sex offender moves within a one-mile radius of the school.

Section 21 creates a new G.S. 115C-332.1 that requires a local school board to require, as a term of any contract that it enters, that the employer of contractual personnel conduct an annual check of that person with the State and National Sex Offender Registries. The term "contractual personnel" is defined as any individual or entity whose contractual job involves direct interaction with students. The term contractual personnel does not include

any person covered under 115C-322. The section also requires that the school board must require as a term of the contract that any contractual personnel on the registry must be prohibited from having any direct interaction with students.

North Carolina Sex Offender Registry: <http://ncfindoffender.com>

Effective Date: 12/1/08, and applies to offenses committed on or after that date.

Statutes: G.S. 14-208.8 (new), -208.29, -208.25A (new); 115C-332.1 (new), -378, -391.

HB 1284 – BREACH/CONSTRUCTION CONTRACT ACCRUAL DATE (SL 2008-139)

This bill amends 1-53(1) to allow an extension of the two year statute of limitations when a contractor has a cause of action against a local government unit arising out of a contract to improve real property. Such an action may be brought: (1) no later than ninety days after substantial completion, or (2) no later than ninety days after termination of a contract if terminated prior to substantial completion. Substantial completion has the same meaning as in G.S. 1-50.

Effective Date: 7/28/08. Applies to actions filed on or after that date, and does not revive claims previously barred under G.S. 1-53(1).

Statute: G.S. 1-50, -53(1)

HB 1770 – FUTURE CONVEYANCES/SPECIAL ASSESSMENTS (SL 2008-165)

This bill creates a new Article 9A and Article 10A, "Special Assessments for Critical Infrastructure Needs." These articles enable a city or county to finance any of several capital needs, including school facilities, through revenue bonds that will be paid by issuing special assessments on the affected properties. To impose a special assessment, the Board of Commissioners or City Councils must receive a petition for the project to be financed by the assessment signed by at least a majority of the owners of real property to be assessed. Those owners must represent at least 66 percent of the assessed value of all real property to be assessed (See Section 47.5(b) of SB 1632).

Effective Date: 8/3/08

Statute: G.S. 153A-210

HB 2265 – SCHOOL BUSES EXEMPT FROM SAFETY INSPECTION (SL 2008-172)

This bill exempts school buses from annual safety inspections required by the motor vehicle laws if they are titled to LEAs that are subject to State Board of Education inspection requirements

Effective Date: 8/4/08

Statute: G.S. 20-183.2(a1)

HB 2306 – STUDENTS WITH DISABILITIES AND SPECIAL EDUCATION CHANGES (SL 2008-174)

This bill requires the State Board and DHHS to jointly meet and make a determination as to the public agency responsible for providing special education and related services to children with disabilities placed in private psychiatric residential treatment facilities by public agencies other than the LEAs.

Effective Date: 8/4/08

HB 2360 – BOARD CERTIFIED TEACHERS SERVE AS FULL-TIME MENTORS (SL 2008-86)

This bill allows local boards of education to assign a limited number of National Board Certified teachers to serve as full-time mentors. An LEA would be permitted to assign the greater of five or five percent of the number of Nationally Board Certified teachers it has during the school year immediately preceding. In order to be eligible, teachers need to have taught for at least two years after receiving National Board certification and may only serve as full-time mentors for up to three consecutive years. After service as a full-time mentor, a teacher would have to teach in the classroom for at least three years to be eligible for reassignment as a full-time mentor. The teachers would continue to receive their 12% salary differential, and would be school-based, work at one or more schools, and mentor at least 15 newly-hired teachers in the first through third year of teaching.

Effective Date: 7/7/08

Statute: G.S. 115C-296.2

HB 2431 – STUDIES ACT OF 2008 (SL 2008-181)

This bill provides for studies by the Legislative Research Commission, Statutory Oversight Committees and Commissions, and other agencies, committees, and commissions.

Section 2.5 authorizes the Legislative Research Commission to study issues relating to the expunction of youthful offenders' criminal records, and allowing the Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Commission access to the records of expunction.

Section 5.2 authorizes the Joint Legislative Education Oversight Committee to study the legal and policy issues regarding the dismissal, demotion, or suspension without pay of noncertified school employees and their current employment status as at-will employees.

Section 5.4 authorizes the Joint Legislative Education Oversight Committee, in coordination with the Department of Public Instruction, to study the impact of raising the compulsory attendance age from 16 to 17 or 18.

Section 16 directs the Department of Public Instruction to analyze the participation of students with disabilities in Learn and Earn Early College Schools, Redesigned High Schools, the North Carolina Virtual Public School, and North Carolina public schools that are on block schedules. In conducting its analysis, DPI shall consider enrollment, graduation, and dropout rates for students with disabilities in these different programs. The Department shall report its findings and recommendation to the Joint Legislative Education Oversight Committee by March 15, 2009.

Section 21 directs the Board of Governors of the University of North Carolina, in conjunction with the State Board of Community Colleges, the State Board of Education, and the North Carolina Independent Colleges and Universities to study the issue of providing qualified immunity to mental health professionals for the disclosure of confidential information when the disclosure is for the purpose of preventing or mitigating harm to others. The Board of Governors of the University of North Carolina shall submit a final report to the Joint Select Committee on Governmental Immunity on or before December 1, 2008.

Section 23 directs the Department of Public Instruction to study the effectiveness of geography education in middle schools and high schools and shall consider potential changes in geography education. DPI shall report the results of the study to the Joint Education Oversight Committee on or before January 15, 2009.

Section 24 directs the State Board of Education to conduct a study to develop a framework for a North Carolina Board Certification process for principals and assistant principals. The State Board of Education shall deliver a draft proposed framework to the Joint Legislative Education Oversight Committee by December 1, 2008, and the cost of implementing the Program for the 2009-2010 fiscal year.

Section 25 directs the State Board of Education to study the current status of K-12 physical education in North Carolina. Each LEA unit shall collect baseline data at the individual school level and report the baseline data to DPI. At a minimum, the baseline data shall include:

(1) Minutes in physical education on a weekly basis throughout the school year for every school.

(2) Number of physical education classes per week throughout the school year for every school.

(3) Average physical education class size for every school.

(4) Student Body Mass Index (BMI) data for a statistically random sample of students of various ages from all 100 counties. This data shall be collected by a trained professional such as a school nurse or physical education teacher. LEAs are directed to seek guidance from DPI in determining the appropriate sample size for the BMI data.

(5) Nutrition and physical activity knowledge and behaviors of the same random sample of students.

The State Board of Education shall report the findings of the study to the Joint Legislative Education Oversight Committee on or before December 1, 2008.

Section 33 directs the Joint Education Oversight Committee to contract with an independent source, individual, or organization to study the roles that regional education service centers created within the Department of Public Instruction can play in the delivery of professional development throughout the State.

Section 35 changes the reporting requirements of the Joint Legislative Commission on Dropout Prevention and High School Graduation.

Section 36 creates the Legislative Study Commission on Urban Growth and Infrastructure Issues. The purpose of the Commission is to determine what measures the General Assembly may take to foster more responsive and cost effective planning to accommodate rapid population growth in North Carolina's urban areas. The Commission is directed to report the results of its study to the 2009 General Assembly.

Section 37 directs the Joint Legislative Committee on Public School Funding Formulas to extend its review of public school funding.

Section 41 creates the Poverty Reduction and Economic Recovery Legislative Study Commission. The Commission is charged with studying the causes and effects of poverty and developing a better understanding of how to reduce poverty in low-wealth areas. The Commission is directed to submit a final report by the 2010 Regular Session.

Section 48 establishes the Higher Education Civic Education Study Commission to advise the State on the role of higher education in helping to strengthen and enhance the ability of colleges and universities to participate in civic engagement activities with K-12 educational institutions, faith-based programs, or other service programs affecting the social development and literacy of school-aged children. The Commission is directed to submit a final report to the 2009 General Assembly.

Section 49 amends Section 7.17 of S.L. 2008-107 by changing the More at Four yearly review. The annual review shall also include a test of the feasibility of conducting a quasi-experimental research design with a representative sample or samples of children who complete the More at Four program every year and children of comparable demographics and grade levels that do not participate in the More at Four program.

Effective Date: 8/4/08

HB 2437 – CONTINUING APPROPRIATIONS (SL 2008-34)

This bill authorized the Director of the Budget to make continuing appropriations set out in S.L. 2007-323 (Section 1). The Director of the Budget is not required to allocate any funds for the purposes set out in budget reductions that are not in controversy (Section 1). Vacant positions subject to proposed budget reductions are not to be filled (Section 1). Specifically states that teachers and other school employees paid on a salary schedule are not authorized to move up a step (Section 2).

Effective Date: 6/30/08 and expired 7/15/08 at 11:59 P.M.

HB 2438 – BUDGET TECHNICAL CORRECTIONS (SL 2008-118)

Section 1.2 requires the Office of State Budget and Management to study lapsed salaries used by state agencies and report to the Joint Legislative Commission on Governmental Operations by February 1, 2009.

Section 1.3(c) deletes the requirement that DPI contract with an independent consultant to serve as staff to the Dropout Prevention Committee in Section 7.14 of S.L. 2008-107.

Section 1.4(b) clarifies that funds paid to the recipients of the scholarships are to be paid as scholarship funds and not stipends in section 9.4 of the S.L. 2008-107.

Section 2.1(c) amends Section 7.11 of S.L. 2008-107 and makes changes to the allocation of the lottery funds for public school capital construction.

The provision provides that if money appropriated to the Public School Capital Fund is \$154.2 million or more: (1) \$140 million dollars will be allocated with 65% of the fund based on ADM and the remaining 35% allocated based on the county's average effective tax rate. (2) The remainder (\$14.2 million plus) would be distributed on an ADM basis to those that did not qualify for funding pursuant to the 35% average effective tax rate distribution.

If the money appropriated to the Public School Capital Fund is less than \$154.2 million, \$14.2 million (\$2.5 million during the 1st and 2nd quarters and \$4.6 million during the 3rd and 4th quarters) is distributed first to counties that did not qualify for funding based on their average effective tax rate. The remainder would be distributed the traditional way.

Section 3.3 authorizes the Department of Public Instruction to use up to \$430,000 in funds appropriated for Learn and Earn Online for 14 planning grants for Learn and Earn sites in the 2008-2009 fiscal year (See Money Report F-2).

Section 3.4 authorizes the Office of State Budget and Management, upon request from the State Board of Education, to provide DPI funds available in any agency in the fiscal year 2008-2009 budget up to \$1,000,000. The funds are to be used to inform eighth and ninth-grade students about opportunities to gain access to college coursework. DPI shall report no later than January

1, 2009, and June 30, 2009 to the Joint Legislative Education Oversight Committee on the use of any funds provided under this section.

Effective Date: 7/28/08

Statutes: G.S. 115C-546.2

HB 2443 – STATE HEALTH PLAN (SL 2008-168)

The bill rewrites Article 3 of Chapter 135 to make certain policy, conforming and technical changes to the Article to reflect the elimination of the Indemnity plan benefit option effective July 1, 2008 as enacted in Sections 28.22 and 28.22A of Session Law 2007-323.

Section 2.1 enacts new G.S. 135-38.5A to create the three-member State Health Plan Administrative Commission. The three members are to be appointed by the General Assembly beginning in 2008 for specified terms. The Commission is given the power to set terms of employment and salary, removal of the Executive Administrator from Office, and the filling of vacancies.

Section 3 (c) establishes the authority of the Plan to offer comprehensive group health benefit coverage through one or more group health plans.

Under Section 3 (o), the Plan is authorized to offer an insured Medicare Advantage product to Medicare eligible plan members in lieu of other coverage offered under the Plan.

Effective Date: 8/4/08

Statutes: G.S. 135-38.5A, -39.12, -39.22

HB 2509 – SALES TAX REFUND FOR NONPROFITS (SL 2008-154)

This bill expands the list of nonprofit organizations allowed a semi-annual refund of sales and use taxes to include nonprofit organizations that procure, design, construct, or provide facilities to a constituent institution of the University of North Carolina.

Effective Date: The bill applies the semi-annual refund to these institutions retroactively to January 1, 2004.

Statute: G.S. 105-164.14(b)

HB 2542 – CLARIFY ETHICS AND LOBBYING LAWS (SL 2008-214)

This bill makes changes to the State Government Ethics Act, the Legislative Ethics Act, and the Lobbying Law.

Section 7 rewrites G.S. 120C-100(a)(10) to clarify that where a lobbyist is retained by a governmental unit, the principal is the governmental unit whose interests the lobbyist represents in lobbying.

Section 14 amends G.S. 120C-206(a) to require a person or governmental unit retaining a lobbyist to register within one business day of retaining that lobbyist, unless exempt under the Chapter.

Section 44 amends G.S. 138A-3 and defines "governmental unit" to mean "a political subdivision of the State, and any other entity or organization created by a political subdivision of the State."

Section 79 amends G.S. 138A-32(e)(1) providing an exemption to the gift ban for public servants, legislators, or legislative employees receiving food and beverages. This section specifies the particular types of gatherings and events to which the exemption applies.

Section 85 permits a legislator to take legislative action on behalf of a governmental unit when the legislator is employed by a governmental unit and the legislator is the only member of the house elected from the district where the governmental unit is located.

Effective Date: 8/15/08

Statutes: G.S. 120C-100, -206; 138A-3, -32, -38

HB 2728 – SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES (SL 2008-132)

This bill consolidates the Board of Trustees for the North Carolina 401(K) Plan and the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan into the Supplemental Retirement Board of Trustees (Section 1).

Effective Date: Section 1 is effective July 1, 2009.

Statutes: G.S. 135-91

SENATE

SB 845 – AMEND ENVIRONMENTAL LAW/ENVIRONMENTAL TECHNICAL CORRECTIONS (SL 2008-108)

Section 8 repeals Section 6.22 of S.L. 2007-323, which amended G.S. 143-214.7 to impose limits on the amount of impervious surface of vehicular surface areas.

The bill enacts a new Article 4A of GS Chapter 113A to define key terms such as impervious surface and vehicular surface areas.

The bill requires any new parking lot that results in an increase in vehicular surface of more than one acre of land to either:

(a) limit the amount of impervious surface to 80% or

(b) require that stormwater runoff generated by the first two inches of rain on at least 20% of the vehicular surface area flow to an appropriately sized bioretention area in accordance with DENR standards.

This requirement does not apply to any area in the State with stormwater rules.

The bill prohibits cities and counties from issuing building permits to any development that does not meet that standard.

Effective Date: Section 8 applies to building permits issued pursuant to G.S. 153A-357 and G.S. 160A-417 for which applications are received on or after April 1, 2009.

Statutes: G.S. 113A-71, 153A-357, 160A-417

SB 1358 – STREET GANG/PREVENTION AND INTERVENTION
(SL 2008-56)

This bill adopts a strategic approach to prevent youth involvement in street gang activity. The primary intent is to develop community-based alternatives to youth development centers and to provide community-based delinquency, substance abuse, and gang prevention strategies and programs. These planning efforts shall include appropriate representation from various groups within the community, including local government (Section 1).

The Department of Public Instruction and Department of Juvenile Justice and Delinquency Prevention are directed to report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Joint Legislative Education Oversight Committee by December 1, 2008 on:

- (1) the prevalence of school violence and gang activity;
- (2) the use of Department Juvenile Crime Prevention Council programs for out-of school suspension alternative learning programs for students who are identified as being associated with gangs;
- (3) current programs that are designed to educate school personnel and parents on signs that a student may be involved or associated with a gang;
- (4) effective practices for reducing school violence and gang activity that have been successfully implemented in other states; and
- (5) any findings and recommendations for further implementation and coordination between the Department of Juvenile Justice and Delinquency Prevention and the Department of Public Instruction to address issues related to prevention and intervention of youth gang activity (Section 5).

See Section 44.5(b) of SB 1632. See also SL 2008-214 Street Gang Prevention Act that creates additional criminal penalties and procedures for persons involved in street gang activity.

Effective Date: 7/6/08

Statutes: G.S. 143B-543, -549, -557

SB 1541 – INTERSTATE COMPACT/EDUCATION OF MILITARY CHILDREN (SL 2008-185)

This bill creates a new Article 29B in Chapter 115C-407.5 to enact the Interstate Compact on Educational Opportunity for Military Children. The Compact includes the following provisions:

Purpose

The Compact removes educational barriers for children of military families due to frequent moves and parental deployment by facilitating enrollment, record transfer, student placements, eligibility for extracurricular activities, and on-time graduation.

Applicability

The Compact shall apply to children of the following: (1) Active duty members of the uniformed services; (2) Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; (3) Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

Enrollment

Educational Records - Schools must share records in a timely manner in order to expedite the proper enrollment and placement of students. If the sending school cannot provide the parent a copy of the official record, an unofficial copy can be used for preliminary placement while the school sends for the official record. Once requested, the sending school has 10 days to provide the official record to the receiving school (Note: Current law in North Carolina is 30 days).

Immunizations – 30 days from the date of enrollment, students are required to obtain required immunizations in the receiving state.

Age of Enrollment/Course Continuation – Absent a new enrollment in Kindergarten, a student shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level from the sending state.

Placement and Attendance

Course placement / Educational Program placement - A receiving state school shall initially honor placement of the student in educational courses based on enrollment or testing placement from a sending state. Receiving states are not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

Special education services – In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA) and the Americans with Disabilities Act (ADA), receiving states shall make reasonable

accommodations and modifications for students with disabilities subject to existing plans established in sending states.

Placement flexibility – LEAs shall have flexibility in waiving course/program prerequisites for placement offered in the LEA's jurisdiction.

Absence as related to deployment activities – A student whose parent or legal guardian is on active duty and has been called to duty, is on leave, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences in the local superintendent's discretion to visit with an active duty parent.

Eligibility

Enrollment – G.S. 115C-366, as amended, would provide that students covered under the Compact would be eligible to enroll tuition free in a district where they are not a domiciliary, if the student has not been expelled or suspended and the appropriate affidavit has been completed and filed by the parent or adult caregiver.

Extracurricular activities - State and local education agencies shall facilitate the opportunity for military children's inclusion in extracurricular activities to the extent that they are otherwise qualified.

Graduation

Waiver requirements – local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on-time.

Exit exams - States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; 2) national norm-referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state

Transfers during Senior year – If a child of a military family transferring in his or her Senior year is ineligible to graduate from the receiving LEA after all alternatives have been considered, the sending and receiving LEAs shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending LEA.

State Coordination

State Council – The State Board of Education shall create a State Council consisting of the following minimum membership: Superintendent of Public Instruction, Superintendent of an LEA with a high concentration of military children, representative from a military installation, representative from the executive branch of government, representative of the NC School Boards

Association, representative of the NC Association of School Administrators, member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, and member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

Compact Commissioner – The Governor shall appoint as compact commissioner a licensed North Carolina attorney who represents at least one local board of education, with preference given to an attorney representing a local board of education with a high concentration of military children or an attorney familiar with military issues. The compact commissioner shall be responsible for the administration and management of the State's participation in the compact.

Military Family Education Liaison - The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

Unless already a full voting member, the Compact Commissioner and military family education liaison are ex-officio members of the State Council.

National Coordination

Interstate Commission – Creates an Interstate Commission, consisting of one voting member from each state (Compact Commissioner) and ex-officio, non-voting representative members of interested organizations. The Interstate Commission meets yearly and creates an executive committee to oversee day-to-day administration. A process is created for informing the Commission of alleged violations, but does not create a private right of action against the Commission, member states, or LEAs.

Rulemaking – The Interstate Commission, through its member states, will draft and enforce rules for the operation of the compact. Any person is permitted to file a petition for judicial review of the rule within 30 days of promulgation. A rule has no force if a majority of legislatures in compacting states reject a rule by enactment of statute or resolution in the same manner used to adopt the Compact.

Enforcement – All branches of state government shall enforce the Compact, the courts shall take judicial notice of the Compact, and service must be provided to the Commission in any proceedings related to the Compact. The Commission is authorized to initiate legal action against member states.

Binding Effect of Compact

Withdrawal and Dissolution – Any state may withdraw by specifically repealing the enacted statute. The withdrawal will not be effective until 1 year after the effective date of the withdrawal statute. The Compact is dissolved upon withdrawal of all member states but 1.

Amendments and Other Laws – The Commission may propose amendments to the Compact, which shall become effective only upon enactment and

unanimous consent of all member states. In addition, member state laws in conflict with the Compact are superseded to the extent of the Compact.

Effective Date: 8/7/08

Statutes: G.S. 115C-366, -407.5 (new)

SB 1632 – 2008 TECHNICAL CORRECTIONS ACT (SL 2008-187)

Section 19 amends G.S 115C-366(a3)(1) by moving “or” in the list of exceptions for student enrollment.

Section 24 amends G.S 143A-44.1 to make a technical change to indicate language regarding the appointment to the State Board of Education is in Article IX of the State Constitution and not Article IV.

Section 43 adds a subsection to G.S. 115C-284 to restore requirements for school administrator certification that were inadvertently deleted when the Article for defunct Standards Board for Public School Administrators was repealed.

Section 44.5(a) repeals Section 4 of S.L. 2008-56 that outlines the State Council’s duty to assess the progress and accomplishments of the State and local governments in preventing gang activity.

Section 44.5(b) amends S.L. 2008-56 to direct the Governor’s Crime Commission to assess the progress and accomplishments of the State and local governments in preventing the gang activity. This section also directs the Governor’s Crime Commission to develop recommendations concerning the establishment of priorities and needed improvements with respect to gang prevention and present to the General Assembly on or before March 1 of each year (See S.L. 2008-56).

Section 47.5(b) amends G.S. 159-84 to allow a preliminary assessment roll to be prepared based on the estimated cost of the project (See House Bill 1770).

Effective Date: 8/7/08

Statute: G.S. 115C-284, -366(a3)(1); 143A-44.1, 159-84

SB 1652 – PROGRAM EVALUATION DIVISION/TECHNICAL AMENDMENTS (SL-2008-196)

This bill clarifies the confidentiality of the Program Evaluation Division (PED) documents prepared by legislative and agency employees such that when a legislative employee of the PED requests assistance from an *agency employee* in preparing an evaluation report or fiscal note, the requested information and any accompanying materials are not *public records* and are confidential. Agency employees who receive such a request may reveal the existence of the request to other agency employees only to the extent necessary to respond to the request.

The bill also authorizes the PED to receive reports alleging improper activities or matters of public concern (G.S. 126-84) and such reports are not public record.

Agency employee is defined as every agency of state government and its subdivisions, which include school boards and personnel.

Effective Date: Section 1 is effective 6/14/07. The remainder of the act is effective 8/8/08. Violations of Section 1 of this act prior to the date this act becomes law may not be grounds for disciplinary action.

Statutes: G.S. 120-131, -36; G.S. 126-84; G.S. 132-1

SB 1704 – REVENUE LAWS TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES (SL 2008-134)

Section 13 amends G.S. 105-102 which is the Article 42 sales tax under which schools receive 60% of the county share for school construction. The distribution of this tax will change October 1, 2009. This section requires counties to hold school districts harmless if the counties receive less under the new distribution method than the old one.

Section 15 (a) amends G.S. 105-523 to provide that the amount a county is required to pay its cities is considered in calculating the Medicaid swap.

Effective Date: Section 13 is effective October 1, 2009, and applies to distributions for months beginning on or after that date. Section 15(a) is effective 7/28/08.

Statutes: G.S. 105-102, -523

SB 1797 – STATE TIRE CONTRACT (SL 2008-201)

This bill directs the Division of Purchase and Contract to make the following changes to its Request for Proposal criteria for a statewide tire retread contract:

- (1) Require the bids remain closed until a designated bid-opening day, when they are opened and made publicly available.
- (2) No longer allow separate charges for spot repairs.
- (3) Contract to specify that all casings receive a state-of-the-art inspection.
- (4) Include threshold for the number of times a casing may be retreaded.
- (5) Include threshold for the age of casing that may be retreaded.
- (6) Include the number of nail hole repairs permissible for casing to be retreaded.
- (7) Require assurance that a fleet will receive its own casings back after retreading.
- (8) Set minimum tread depths.
- (9) Consider a multiword contract structure with several vendors.
- (10) Provide for any method of tire to be bid separately.

Effective Date: 8/8/08

SB 1967 – IMPROVE COASTAL STORMWATER MANAGEMENT

(SL 2008-211)

This bill replaces rules adopted earlier this year by the State Environmental Management Commission designed to control pollution caused by runoff in 20 Coastal Counties and supercedes Rule 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties). The rules were set to take effect August 1, 2008.

Section 2(b) sets the threshold for the stormwater management permit. This section requires the management of stormwater for non-residential development activities that add more than 10,000 square feet of built upon area or require a Sedimentation and Erosion Control Plan (required if more than one acre is disturbed) or a Coastal Area Management Act Major Development Permit. "Built upon area" means the portion of a project covered by impervious surface, such as the building, pavement, gravel, or athletic courts (Section 2(a)).

Section 2(b)(1)(b) and 2(b)(2) require developments with impervious surface that cover more than 12 percent of the land within 575 feet of Outstanding Resource Waters (ORW) or a half-mile of shellfish water (SA) to install stormwater controls. These controls include but are not limited to bioretention systems, sand filters, rain barrels, cisterns, and rain gardens. Developers are required to treat the runoff from all surfaces generated by 1.5 inches of rainfall.

Section 2(b)(3) requires developments other than those near ORW and SA waters that cover more than 24 percent of the land to install stormwater controls.

Section 2(d) lists a number of exclusions, including projects that have already obtained a State or local permit or authorization.

Effective Date: Sections 2 and 3 are effective October 1, 2008. All other sections are effective 8/9/08.

SB 2172 – SINE DIE ADJOURNMENT (Res 2008-31)

A joint resolution providing for the adjournment Sine Die of the 2007 Regular Session of the General Assembly.

Effective Date: 7/18/08

HB 2436 – MODIFY APPROPRIATIONS ACT OF 2007
Money Report (SL 2008-107)

2008-2009 Fiscal Year Education Budget	
Budget Items	Final Budget
A. Technical Adjustments	
Revised Average Daily Membership (ADM)	(\$1,463,191)
Projection Budgeted Average Salary	(\$43,615,839) R
Over-Realized Civil Penalties	(\$36,538,000) R

Transportation Fuel	\$35,000,000 NR
Class-Size Reductions	\$19,750,000 (Lottery)
Transportation Budget Revised for ADM	(\$4,000,000)
B. State Public School Fund	
Average Daily Membership (ADM) Reserve	(\$3,000,000) R
Replacement School Buses	(\$4,500,000) NR
State-Funded Tests	(\$3,343,412) R
Group Homes and Residential Centers	(\$2,000,000) R
Inflationary Increases for Instructional Supplies	(\$396,052)
Inflationary Increases for Textbooks	(\$1,039,128)
Learn and Earn Online	(\$3,600,000) R (\$5,000,000) NR
At Risk Funding	(\$500,000) R
Children with Disabilities Head Count Adjustment	(\$7,135,129) R
School Based Incentives Under ABC Program	\$90,000,000 NR
School Connectivity	\$10,000,000 R
Learn and Earn	\$3,459,461 R \$110,000 NR
More at Four	\$30,000,000 R
Dropout Prevention	\$15,000,000 NR
Mentoring	\$3,000,000 R
Children with Disabilities	\$6,200,000 R
Academically and Intellectually Gifted Students	\$3,200,000 R
Disadvantaged Student Supplemental Funding	\$6,000,000 R
Low Wealth Supplemental Funding	\$2,904,043 NR
NC 1:1 Learning Project	\$1,500,000 NR
Learn and Earn Virtual Schools	\$1,000,000 R
Child Obesity Pilot Programs	\$500,000 NR
C. Department of Public Instruction	
Teacher Academy	(\$500,000)
Teacher Working Conditions Study	(\$90,000)
D. Pass-Through Funds	
Teacher Cadet Program	\$278,500 R
Teach for America	\$750,000 R
Communities in Schools	\$500,000 R
PTA Parental Involvement Initiative	\$300,000 NR
Literacy Connection Program	\$200,000 R
ExplorNet	\$100,000 NR
Kids Voting	\$250,000 NR
North Carolina Science, Math, Tech Ed Ctr.	\$100,000 NR
NC Humanities Council Teacher Inst. Program	\$100,000 NR
E. UNC System	
Coaching Scholarships Elimination	(\$72,000) R
Principal Fellows Program Trust Fund Reversion	(\$1,000,000) to General Fund
Principal Fellows Program - Class 10 Payments	\$1,740,000 from reserves
A+ Schools	\$100,000 NR
Math and Science Education Network Programs	\$400,000 NR
F. Community Colleges	

Tuition Waiver Non-Certified School Employees	\$80,000 R
G. Health and Human Services	
Expand Adolescent School Health Centers	\$250,000 NR
Eliminate Vision Care Program	(\$500,000) R
Teen Pregnancy Initiative	\$400,000 NR
H. Natural and Economic Resources	
Farm to School Program	\$200,000 NR
I. Cultural Resources	
cARTwheels	\$1,000,000 NR
J. Transportation	
Driver Education Program	\$616,491 R
K. Reserve and Debt Service	
No Penalty for Teachers Taking Personal Leave	\$5,000,000 NR
Gang Prevention	\$10,000,000 NR

SUMMARY OF 2008 BUDGET BILL – HB 2436 (SL 2008-107)
Special Provisions

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

Section 2.1 Current Operation and Expansion/General Fund

This section allocates \$93,731,253 to the Department of Public Instruction for current operations and maintenance of the Department.

PART V. OTHER AVAILABILITY AND APPROPRIATIONS

Section 5.1(b) Civil Penalties and Forfeitures/Fund Availability and Appropriation

This section appropriates funds from civil penalties and forfeitures to the School Technology Fund (\$18,000,000) and the State Public School Fund (\$114,038,000).

Section 5.2 Education Lottery

This section allocates the funds from the lottery to class size reduction, Pre-K programs, public school building capital fund and scholarships for needy students. This section also directs \$19,750,000 from the Education Lottery Reserve Fund to the Education Lottery Fund to be used for class size reduction.

PART VI. GENERAL PROVISIONS

Section 6.8 State Support of Our Military Personnel

The General Assembly provides funding for "More at Four" for children of deployed military personnel.

PART VII. PUBLIC SCHOOLS

Section 7.1 Children with Disabilities

This provision allocates the funds for children with disabilities at \$3,386.84 per child for a maximum of 172,079 children for the 2008-2009 school year. This is an increase of \$36.03 per student. The 12.5% funding cap of the LEA's ADM remains in place.

Section 7.2 Funds for Academically Gifted Children

This provision allocated funds for academically gifted children at \$1,137.19 per child, not to exceed 59,063 children for the 2008-2009 school year. This is an increase of \$94.66 per student. The 4% funding cap of the LEA's ADM remains in place.

Section 7.3 Funds to Implement the ABCs of Public Education

The ABC bonuses remain the same and apply to higher than expected improvements: \$1,500 for teachers and \$500 for teacher assistants. Expected improvements continue to be up to \$750 for teachers and \$375 for teacher assistants. The State Board of Education is directed to limit the amount expended for this program to the average expenditure over the last 11 years, which is \$94.3 million.

The State Board of Education may also use funds appropriated to the State Public School Fund to implement the consolidated assistance program, as directed in the 2006 budget.

Section 7.4 North Carolina Virtual Public School

This provision allows the State Board of Education to implement their allotment formula for funding e-learning, effective in the 2009-2010 fiscal year. NCVPS shall be available at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs. The State Board of Education may use funds appropriated for NCVPS to create up to 15 full-time positions to support the continued implementation of NCVPS if the Board finds it appropriate to do so.

Section 7.5 Learn and Earn Online Carry Forward

This provision allows appropriated funds for Learn and Earn Online that are not expended or encumbered to remain available for utilization in the following fiscal year.

Section 7.6 School Connectivity Initiative

This section appropriates up to \$600,000 per year to the Friday Institute at NC State University to evaluate effectiveness of using technology and its impact on 21st Century Teaching and Learning outcomes. \$250,000 of these funds will be used to sustain the Education E-Learning Portal. Funds will be carried over each fiscal year until the project is completed on June 30, 2010.

Section 7.8 Allotment for Mentoring Services

Local school administrative units will use these funds to provide mentoring support for eligible employees consistent with the plan approved by the State Board of Education.

Section 7.9 Disadvantaged Student Supplemental Funding

This section sets the allotment of disadvantaged student supplemental funding (DSSF) to LEAs based on 1) the LEA's eligible DSSF population and 2) the difference between a teacher-to-student ration of 1:21 and the following teacher-to-student ratios:

- A. For LEAs with wealth greater than 90 percent of the statewide average, a ratio of 1:19.9 (previously 1:20.1).
- B. For LEAs with wealth not less than 80 percent and not greater than 90 percent of the statewide average, a ratio of 1:19.4 (previously 1:19.5).
- C. For LEAs with wealth less than 80 percent of the statewide average, a ratio of 1:19.1 (previously 1:19.3); and
- D. For LEAs receiving DSSF funds in 2005-06, a ratio of 1:16.

Section 7.10 Modify Low-Wealth School Funding Formula

LEAs will receive the same funds for the 2008-09 fiscal year as in the 2007-08 fiscal year, consistent with legislative salary increments, retirement rate adjustments and health benefits adjustments.

Section 7.11 Additional Lottery Funds for School Buildings

Of the lottery funds allocated to the Public School Capital Fund, \$140,000,000 is dispersed to LEAs based on their average daily membership and the remaining \$14.2 million of the funds is transferred to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the State average effective tax rate is greater than one hundred percent (100%) (See Section 2.1 of House Bill 2438).

Section 7.12 Study of Students with Disabilities

This section directs DPI to conduct an analysis of the enrollment, graduation and dropout rates for students with disabilities participating in the Learn and Earn Early College High Schools, Redesigned High Schools, the North Carolina Virtual Public School and North Carolina public high schools.

Section 7.13 Focused Education Reform Pilot Program

Funds appropriated to this program do not revert and remain available for the duration of the pilot program.

Section 7.14 Reestablish Committee on Dropout Prevention

The sum of \$5,500,000 is appropriated and the Committee on Dropout Prevention is reestablished to determine which LEAs, schools, agencies and nonprofits will receive dropout prevention grants, the amount of the grants and the eligible uses of the grants. Grants are to be awarded up to a maximum amount of \$150,000 (See Section 1.3(c) of House Bill 2438).

Section 7.14 (a) Dropout Prevention Technical Correction

Makes technical changes to the appointment process for the Committee on Dropout Prevention.

Section 7.15 Use of Learn and Earn Online for Hybrid Courses

This provision permits LEAs to use Learn and Earn Online funds for college-level courses taught partially online by university instructors at public schools.

Section 7.16 Comprehensive Support for School Systems and Schools

This section permits the State Board's authorized support team to authorize funding flexibility regarding allotments to address reform requirements for LEAs designated for comprehensive support. It also allows the State Board to allocate time-limited funds to the implementation of strategies identified by the State Board's support and the LEAs leadership.

Section 7.17 More at Four Program

This section establishes an appeal route for those LEAs unable to increase the number of slots because of a documented lack of resources. The Office of School Readiness may grant an exception and pay up to 90 percent of the cost of the additional slots. The section also directs DPI to contract with an independent research organization to produce an annual report on the sustained progress of a sample of children completing the More at Four program until the end of grade nine (See Section 49.1 of House Bill 2431).

Section 7.18 Plant Operation Funding

The State Board of Education may allocate up to \$1,000,000 each year to the Department of Public Instruction for the Plant Operation Section of the School Support Division to effect efficient energy and environmental management.

Section 7.19 Report on the Use of Funds for Agricultural Education Programs

This section directs DPI to report on its use of federal funds supporting career and technical education to the Joint Legislative Education Oversight Committee prior to the convening of the 2009 General Assembly.

Section 7.20 Allotments of Teachers for Small Schools

In its allotment of funding for small schools, the State Board is directed to define small schools as those with fewer than 110 students and to give priority to small, geographically isolated schools.

Section 7.21 Math and Science Teachers Pilot Program

This program provides salary supplements for both newly hired as well as highly qualified mathematics and science teachers.

Section 7.23 Increases in Student Population Due to BRAC Activity

This provision directs the State Board of Education to allot additional teacher positions to LEAs if heavier than expected enrollment caused by Base Realignment and Closure (BRAC) relocations require more teachers. The teacher slots will be allotted based on the first month's enrollment, or half of future, expected enrollment.

Section 7.24 Report on Use of Teacher Academy Funds

This section directs the NC Teacher Academy to report by March 15, 2009 to the Joint Legislative Education Oversight Committee, the Fiscal Research Division, and the Office of State Budget and Management line item expenditures for the 2007-08 fiscal year and for the first two quarters of the 2008-09 fiscal year. The Academy is also to report total budget requirements for both fiscal years and those activities supported by the funds.

Section 7.25 Child Nutrition

The implementation of the child nutrition standards in elementary school has been delayed one year until the end of the 2009-10 school year. Implementation in middle schools and then by high schools will follow.

PART VIII. COMMUNITY COLLEGES

Section 8.17 No Fees for First Aid Courses Taken by School Employees

This section waives fees for first aid and CPR courses taken by elementary and secondary school employees.

PART IX. UNIVERSITIES

Section 9.4 Optional Scholarship for Certain Graduates of the Principal Fellows Program

The General Assembly directs the NC Principal Fellows Commission and the State Education Assistance Authority to make an optional, six-month, \$20,000 scholarship available to anyone who:

- 1) was in Class 10 of the Principal Fellows Program for the 2003-2004 academic year,
- 2) completed the Principal Fellows Program, and
- 3) has either served as a school administrator for four years at a NC public school or at a school operated by the United States or has had a loan forgiven by the State Education Assistance Authority (See Section 1.4(b) of House Bill 2438).

Section 9.7 UNC-NCCCS 2+2 E-Learning Initiative

Funds are appropriated in this section to the UNC System and the NC Community College System for the UNC-NCCCS 2+2 E-Learning Initiative to continue development of online courses for 2+2 programs. The provision requires a report to the Joint Legislative Oversight Commission, the State Board of Education, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly by September 1, 2008 and annually thereafter on the implementation of the E-Learning Initiative.

Section 9.14 Study of the Structure and Organization of the Department of Public Instruction

This section directs the Joint Legislative Program Evaluation Oversight Committee to include in the 2008-2009 Work Plan for the Program Evaluation Division of the General Assembly a review and study of the structure and organization of the Department of Public Instruction and the State Board of Education.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section 10.7 (cc) and (dd) Maternal and Child Health Block Grant

This provision allocates \$100,000 in the 2008-2009 fiscal year of the Maternal and Child Health Block Grant to the Department of Health and Human Resources, Division of Public Health, to establish The Task Force on Preventing Childhood Obesity. The Task Force will be co-chaired by the State Health Director and the Chairman of the State Board of Education. The Chairman of the State Board of Education and the State Health Director will report to the House of Representatives Chairs of the Appropriations Subcommittees on Health and Human Services and Education, the Senate Chairs of the Appropriations Committees on Health and Human Services and Education/Public Instruction, the Joint Legislative Oversight Committee on Health, and the Fiscal Research Division on the Task Force on Preventing Childhood Obesity's strategic plan and recommendations by January 15, 2009, or upon the convening of the 2009 Session of the General Assembly, whichever comes first.

This section also indicates that if federal funds are received under the Maternal and Child Health Block Grant for abstinence education in the 2008-

2009 fiscal year, those funds are to be transferred to the State Board of Education to be administered by the Department of Public Instruction.

PART XXVI. SALARIES AND BENEFITS

Section 26.13 Most State Employees/Salary Increases, Section 26.14 All State-Supported Personnel/Salary Increases, Section 26.16 Teacher Salary Schedules, Section 26.17 School Based Administrator Salary Schedule, Section 26.18 Central Office Salaries, and 26.19 Non-certified Personnel Salaries

These sections implement teacher salary increases on the average of 3 percent with an additional bump in the first three steps of the schedule. Principals and assistant principals receive an average increase of 2.69 percent. State employees and other school employees receive the higher of a 2.75 percent increase or a \$1,100 bonus. Increases go into effect July 1, 2008.

Section 26.20 Bonus for Certified Personnel at the Top of Their Salary Schedules

This provision effects a 2 percent increase in salary for permanent personnel paid at the top of the principal and assistant principal salary schedule and a 1.8 percent increase for permanent personnel paid on the teacher salary schedule and with more than 31 years experience.

Section 26.21 No Penalty for Teachers Taking One Day of Personal Leave

This section permits teachers to use one day of personal leave a year and receive their full salary. Teachers taking more than one day per year will have the \$50 cost of a substitute teacher deducted from their salary for those additional days (See House Bill 15).

Section 26.22 Salary-Related Contributions/Employer

This section increases the State's employer contribution rate budgeted for retirement and related benefits as a percentage of covered salaries for teachers and state employees from 7.83 percent to 8.14 percent.

Section 26.23 Provide Cost-of-Living Increases for Retirees of the Teachers' and State Employees' Retirement System, the Judicial Retirement System, and the Legislative Retirement System

As of July 1, 2008, the retirement allowance of beneficiaries of the system is increased by 2.2 percent.

2008 Summary of Local Bills

SENATE

SB 1631 – ELECTRONIC VOTING/OPEN MEETINGS (SL 2008-111)

This bill clarifies how public bodies in Hyde County may conduct business during meetings involving simultaneous communication.

*Effective Date: Effective October 1, 2008, and any vote taken by a public body that included a member voting by simultaneous communication by conference telephone or other electronic means before that date is ratified.
Statute: G.S. 143-318.13*