



P.O. Box 28068 / 224 S. Dawson St.  
Raleigh, NC / 27611-8068  
919/856-2570 voice / 919/856-2175 fax  
info@ncjustice.org / www.ncjustice.org

## **2007 NC LEGISLATIVE SESSION OVERVIEW**

### **SUMMARY**

The 2007 long session of the NC General Assembly adjourned on August 2, 2007 and re-convened on September 10, 2007 to consider the Governor's veto of HB 1761, an incentive bill for the Goodyear plant in Fayetteville (See p. 20 for more information).

Even though a number of important issues including the death penalty, juvenile justice, affordable housing, and tax reform were not adequately addressed this session, North Carolina's lawmakers did take action that will have a profoundly positive impact on the lives of thousands North Carolinians. On several fronts the General Assembly embraced positive change and made significant investments that will help to increase opportunity and prosperity across the state. Some of the highlights include:

§ **A tax break for working families** through a refundable state earned income tax credit

§ **Increased access to health care** through a high-risk insurance pool for chronically ill people and the Kids Care insurance program for low- and moderate-income children

§ **Improved educational opportunities** with more money for low-wealth school districts and the education of low-income students, drop-out prevention grants, and the Governor's new EARN Scholars program

§ **Fiscal relief for counties** by freeing counties of paying for Medicaid and by providing counties with new options to pay for needed infrastructure

§ **Foreclosure prevention** by curbing loan servicing abuses, making the foreclosure process fairer, and enabling borrowers to sue for illegal lending practices

§ **Migrant housing improvements** through better enforcement and standards

## BUDGET SUMMARY

**Bill:** [HB 1473](#), 2007 Appropriations Act. To View the Budget Money Report, click [here](#).

**Status:** Ratified, S.L. 2007-323

The General Assembly passed and the Governor signed a \$20.7 billion per year budget for 2007-08 and 2008-09. The final agreement represented an affordable step in the right direction on tax policy and adequate funding for public services. In the first year of the two-year budget, spending will grow by nearly 10% compared to the previous fiscal year. With this increase the state will return North Carolina to the real per capita budget level of fiscal year 2000. Compared to the 2000 budget, the current state budget has grown by an inflation-adjusted \$162 per person, from \$2,209 in 2000 to \$2,333 in 2008 – a mere 7.3% growth rate over nine years. Virtually all of the programs and services supported by the Justice Center will receive additional resources under the plan.

More than half of the \$1.8 billion spending increase is for education. The remainder of the spending increase was used primarily for pay raises for state employees plus a handful of expansions, such as a new health insurance program for children in low-income families, operating funds for a new mental health hospital, and funding to help local governments rehab aging water and sewer systems – all of which are sound investments in the future.

SIDEBAR: All bills, their vote histories and information about your representatives and the legislature can be found at the NC General Assembly web site [www.ncleg.net](http://www.ncleg.net).

## HOUSING

Items 1 through 5 are from the 2007-2009 budget ([HB 1473](#)):

- 1. North Carolina Housing Trust Fund-** \$5 million recurring increase which brings the annual appropriation to \$8 million. An additional \$7.5 million in non-recurring money was included to fund housing for people with disabilities.
- 2. Operating Subsidy for Housing for People with Disabilities-** Received a \$3.5 million recurring appropriation in 2007-2008 and a \$4.5 million recurring appropriation in 2008-2009.
- 3. Home Protection Pilot Program-** Received the same non-recurring appropriation of \$1.5 million from 2006-2007
- 4. Migrant Housing-** Two migrant housing inspectors were added (\$124,000 recurring appropriation). These additional agricultural safety

officers will conduct migrant housing inspections, search for unregistered migrant housing, and train farmers and farm workers on safety issues.

- 5. Housing and Homelessness work-** Three positions were added to Health and Human Services to support housing and homelessness work (\$248,341 recurring appropriation).

Items 6 through 8 are bills that were heard this session, but were not passed, and may be eligible for consideration in the 2008 Short Session.

**6. Housing Conditions/Inspections**

**Bill:** [S 1507](#)

**Sponsor:** Boseman (D New Hanover)

**Status:** Passed the Senate and referred to House Commerce Committee

Establishes statewide standards for rental housing and targeted procedures for housing inspections by local governments.

**7. Prevent Displacement of Manufactured Homes**

**Bill:** [H 1700](#)

**Sponsor:** Fisher (D Buncombe)

**Status:** Referred to the House Committee on Judiciary II and if favorable to Finance Committee

Requires that residents of manufactured home parks be given a "right of first refusal" to make an offer to buy a park that is about to be sold. Also provides a tax credit to an owner who sells a manufactured home park to the residents.

**8. Fair Housing Act Amendment**

**Bill:** [S 334](#)

**Sponsor:** Kinnaird (D Orange)

**Status:** Favorable report from Senate Commerce Committee; In Senate Committee on Appropriations/Base Budget

Amends NC's Fair Housing statute to prohibit discrimination against households with family members who are disabled or over age 62 solely because they receive Section 8 rental assistance.

**WORKFORCE ISSUES**

Item 1 was included in the 2007-2008 budget:

- 1. Increased Child Care Subsidies-** The 07-08 budget provided \$8.4 million in recurring funding to implement rate adjustments for child care providers. The funds will also take an additional 643 children off the waiting list for child care subsidies.

Item 2 is a substantive bill passed that will enhance North Carolina's workforce:

- 2. Migrant Housing Health/Safety**

**Bill:** [S 1466](#)

**Sponsor:** Albertson (D Duplin)

**Status:** Ratified, S.L. 2007-548

Improves the Department of Labor's inspection and enforcement processes to ensure that farm workers have safe housing and clean mattresses on which to sleep.

Items 3 through 6 are bills that were heard this session, but were not passed. They will be eligible for consideration in the 2008 Short Session:

- 3. Collective Bargaining for Government Workers**

**Bill:** [H 1583](#)

**Sponsors:** Blue (D Wake); Coates (D Rowan); Goforth (D Buncombe); and Brown, L. (R Davidson)

**Status:** Re-referred to House Committee on Appropriations. Bill made it further this session than in any previous one

State Law NCGS 95-98 prevents any government agency—state, county, or local—from negotiating with an organized group representing its employees. This prevents these agencies from engaging in business practices as they see fit, and it prevents workers from joining forces to protect their rights. This bill would repeal NCGS 95-98.

- 4. Establish Paid Sick Days**

**Bill:** [H 1711](#)

**Sponsors:** Adams (D Guilford); Weiss (D Wake); Ross (D Wake); Coleman (D Wake)

**Status:** Pending in House Commerce Committee

42% of NC's workforce lacks paid sick days and may be fired for missing work to care for their sick child or elderly parent. No state or federal law exists that provides a right to sick days. This bill will require employers to allow employees to earn up to 7 sick days a year that may be taken by employees to care for themselves, sick children, spouses, and parents. In addition, employees could not be fired or otherwise retaliated against for taking sick days.

## 5. Eliminate Unemployment Insurance Waiting Period

**Bill:** [S 741](#)

**Sponsor:** Clodfelter (D Mecklenburg)

**Status:** Passed Senate, pending in House Judiciary I Committee

People eligible for unemployment insurance benefits have to wait a week before receiving their first payments. This bill will make up for the missed first week by giving an insured individual two payments in the sixth week.

## 6. Pesticides Bill

**Bill:** [H 1818, Agricultural Family Protection Act](#)

**Sponsors:** Blue (D Wake); Martin (D Wake)

**Status:** Pending in House Committee on Agribusiness and Agricultural Economy

The AgMart pesticide investigation revealed problems with North Carolina's pesticide laws, including loopholes in record-keeping provisions, a lack of protection for workers who complain, and fines that are not adequate to deter noncompliance. This bill will require farm operators to maintain more complete records about the application of pesticides. It also prohibits discrimination or retaliation against any employee who issues a complaint or files a claim regarding the application of pesticides and allows for confidential complaints. Lastly, it removes the special provision that allows larger agricultural operators to pay lower fines.

## CONSUMER RIGHTS AND PROTECTIONS

Items 1 through 5 are substantive bills passed that will increase consumer protections and rights:

### 1. Identify Loan Originator on Deed of Trust

**Bill:** [H 313](#)

**Sponsors:** Church (D Burke); Carney (D Mecklenburg)

**Status:** Ratified, S.L. 2007-176

Requires the name of the loan originator, if any, to appear on the deed of trust. The rationale behind the legislation was that it should make it easier to discover bad actors in the market if the originator's name is on the deed of trust.

### 2. Residential Mortgage Fraud Act

**Bill:** [H 817](#)

**Sponsor:** Blue (D Wake)

**Status:** Ratified, S.L. 2007-163

Creates a new definition of Residential Mortgage Fraud intended to make it easier to bring cases for fraud related to home mortgages.

### **3. North Carolina Foreclosure/Landlord Tenant Laws**

**Bill:** [H 947](#)

**Sponsors:** Glazier (D Cumberland); Blue (D Wake)

**Status:** Ratified, S.L. 2007-353

This legislation protects tenants who live in a property going through foreclosure. Currently, there is no requirement that tenants be informed that a foreclosure is pending. HB 947 requires that the tenants in rental properties of 15 or more units receive the notice of a foreclosure sale, which will describe the "order for possession" process and inform the tenant that he/she may terminate his/her rental agreement. For tenants in properties with less than 15 rental units, the notice period before they can be evicted is increased from 10 to 30 days.

### **4. Protect Homeowners/Reduce Foreclosures**

**Bill:** [H 1374](#)

**Sponsors:** Weiss (D Wake); Dickson (D Cumberland); Glazier (D Cumberland); Blue (D Wake)

**Status:** Ratified, S.L. 2007-351

This legislation is designed to help North Carolina homeowners avoid foreclosure by making the foreclosure process fairer and by helping protect homeowners from abusive mortgage loan servicing companies that misapply mortgage payments, charge illegal fees, and mishandle escrow accounts on home loans. The legislation requires loan servicers to notify homeowners of any fees charged on the loan and provide a full accounting of how payments are handled and fees accessed. HB 1374 also makes the foreclosure process fairer by requiring servicers to give a detailed accounting of the sums claimed to be owed at foreclosure and by giving homeowners better information about their rights in the foreclosure process. Finally, the legislation reverses two recent NC Supreme Court decisions that make it harder for borrowers to sue for illegal lending practices.

### **5. Protect Consumers/Covered Loans**

**Bill:** [H 1817](#)

**Sponsor:** Blue (D Wake)

**Status:** Ratified, S.L. 2007-352

This legislation is designed to protect North Carolinians from predatory mortgage lending practices that increase foreclosure. The legislation improves existing NC predatory lending laws by limiting broker fees that encourage brokers to "steer" borrowers into more expensive, higher rate

home loans and improves the duties mortgage brokers owe their clients. The legislation creates new borrower protections intended to protect borrowers from abusive adjustable rate mortgage loans and other lending practices that have contributed to the number of loans being foreclosed on today. These additional protections include a prohibition on pre-payment penalties and a requirement that lenders determine that the borrower has the ability to repay the loan. Finally, the legislation strengthens the powers of the Commissioner of Banks.

## **ACCESS TO HEALTH CARE**

Items 1 through 7 are from the 2007-2008 budget:

- 1. NC Kids Care-** The budget established the framework for an affordable health insurance program for kids in families between 200% and 300% federal poverty level. Planning will commence in the first year (\$368,000) and full funding will be provided next year (\$7 million). 10,000 more children will likely qualify for new affordable coverage.
- 2. NC Health Choice-** \$7.5 million to allow enrollment to increase 6 percent annually.
- 3. County Costs of Medicaid Shifted to the State-** This is an important move. As health costs continue to rise in both government and private insurance and more people lose coverage, Medicaid is increasingly important. Solutions to lower costs and broadened coverage must be tackled at the state level. Health care has become too expensive and complex for counties to play a substantial role in funding Medicaid. The state will spend \$86.2 million in 2007-2008 and will increase spending to \$271.2 million in 2008-2009.
- 4. Medicaid for Foster Care Children-** \$200,000 in ongoing funding to expand Medicaid coverage to foster care adolescents.
- 5. Post-Secondary Support Program for Foster Children-** Funds a new program to provide tuition, fees, room and board, and books for foster care children who have aged out of the system and attend a NC public higher education institution. \$2 million ongoing plus an additional \$3.1 million from the Escheat Fund.
- 6. Cap-MR/DD Slots-** \$4.5 million for 300 additional Community Alternatives Program for Mental Retardation/Developmental Disability.
- 7. HIV Prevention- Counseling and Training-** \$2 million in ongoing funding to support HIV prevention programs.

Items 8 through 12 are substantive bills passed that will increase access to and the quality of health care:

**8. Mental Health Parity**

**Bill:** [H 973, Mental Health Equitable Coverage](#)

**Sponsors:** Alexander (D Mecklenburg); Insko (D Orange); Wainwright (D Craven); Holliman (D Davidson)

**Status:** Ratified, S.L. 2007-268

Requires insurers to provide benefits for the necessary care and treatment of mental illness that are no less favorable than benefits for physical illness generally. Creates mental health parity for nine major mental diseases.

**9. Establish a High-Risk Pool**

**Bill:** [H 265, Establish Health Insurance Risk Pool](#)

**Sponsors:** Insko (D Orange); Holliman (D Davidson); England (D Rutherford); Underhill (D Craven)

**Status:** Ratified, S.L. 2007- 532

Establishes a health insurance high risk pool so people with serious illnesses can buy more affordable health insurance.

**10. Medicaid Hardship/Estate Recovery**

**Bill:** [H 1537](#)

**Sponsor:** Ross (D Wake)

**Status:** Ratified, S.L. 2007-442

Clarifies that NC Medicaid will not move to place liens low-income people's homes and makes clear hardship exemptions for NC Medicaid to recover money from estates after someone has died.

**11. Ratings for Adult Care**

**Bill:** [S 56](#)

**Sponsor:** Bingham (R Davidson)

**Status:** Ratified, S.L. 2007-544

Sets up system of rest home ratings to let family members know about care options for older family members.

**12. Schools Provide Info on Cervical Cancer**

**Bill:** [S 260](#)

**Sponsor:** Dorsett (D Guilford)

**Status:** Ratified, S.L. 2007-59

Ensures parents are aware of cervical cancer risk and immunization options.

## **TAX FAIRNESS AND ADEQUACY**

Items 1 through 6 are from the 2007-2008 budget:

- 1. 3.5% Refundable State Earned Income Tax Credit-** The final budget enacts a 3.5 percent refundable state Earned Income Tax Credit (EITC) beginning in 2008-2009. The state EITC is a targeted tax break that will help more than 800,000 North Carolina low- and moderate-income families. Taxpayers who qualify for the federal EITC will be able to claim 3.5 percent of their federal credit on their North Carolina state income tax forms. The average taxpayer benefit is \$57 and the maximum benefit is \$165.
- 2. Reinstatement of Long-Term Care Insurance Credit-** Under this provision of the budget bill, taxpayers who are income-eligible (married with incomes below \$100,000 or singles with incomes below \$60,000) can receive a credit against their personal income tax bill of up to 15%, with a maximum of \$350, on their insurance premium payments.
- 3. Sales Tax change-** The budget agreement permanently sets the state sales tax rate at 4.25%. The rate was scheduled to fall to 4% if no action was taken. This action will generate more than \$250 million in revenue per year. The combined state and local sales tax rate is now 7.25% (with the exception of Mecklenburg County where the combined rate is 7.75%). Taxpayers in the bottom 20 percent (incomes under \$18,000) will pay on average \$16 in additional sales taxes. Enacting a refundable state EITC simultaneously with the permanent extension of the additional .25 cent on the state sales tax will help balance the impact of the sales tax on low-income taxpayers.
- 4. Top Income Tax Bracket/ Rate eliminated-** The temporary income tax bracket of 8.25% on household income above \$200,000 per year was allowed to expire as scheduled. The tax rate on this income is now 7.75%. Only 60,000, or just 2 percent, of taxpayers will benefit from the elimination of the top bracket, yet the tax cut will cost the state \$94 million in lost revenue 2008-2009. A quarter of the tax cut will benefit those with average incomes of more than one million, or just .2 percent of taxpayers. Not only will this cut make North Carolina's tax system less fair, but more importantly, it could have a serious impact on the state's ability to collect adequate revenues in the future.

- 5. Local Tax Options-** In addition to assuming county Medicaid costs, the state budget also allows county governments to increase local sales taxes OR real estate transfer taxes. Increases must be approved by a majority of the voters via referendum. The sales tax can be increased by 0.25% (or one quarter of one percent) or the real estate transfer tax may be increased by up to 0.4% (or four tenths of one percent) of a property's sale price (equivalent to \$400 for each \$100,000 of property value).
- 6. Work Opportunity Tax Credit:** Provides a state tax credit of 6% of the federal Work Opportunity Tax Credit to employers who hire: (1) TANF recipient; (2) 18-39 year old or veteran receiving Food Stamps; (3) 18-24 year old resident of a Federal Empowerment Zone, Enterprise Community or Renewal Community; (4) Referral from Voc Rehab; (5) Recipient of SSI; or (6) Ex-felon.

Item 7 is a substantive bill passed that will increase tax fairness:

**7. Increase Homestead Exemption Income Limit to \$25,000 and add a Circuit Break Tax Deferral program**

**Bill:** [H 1499, Property Tax and PUV Changes and Studies](#)

**Sponsors:** Martin (D Wake); Holliman (D Davidson); R. Warren (D Alexander); Braxton (D Lenoir)

**Status:** Ratified S.L. 2007-497

Increases eligibility for NC's property tax homestead exclusion from \$18,000 to \$25,000 annual income and creates a "circuit breaker" for eligible tax payers where they can defer taxes greater than 4% of their income or 5% of their income if they have incomes between \$25,000 and \$37,500.

Items 8 & 9 are bills that were either filed or heard this session, but were not passed. They will be eligible for consideration during the 2008 short session:

**8. Combined Reporting**

**Bills:** [S 244/H 462, Modernize Corporate Income Tax Filing](#)

**Sponsors:** House- Luebke (D Durham), Senate- Hoyle (D Gaston)

**Status:** Referred to Finance Committees in both chambers

Would require corporations to file combined reports for the purpose of calculating the amount of corporate income tax due to North Carolina. This would raise revenues and close several types of corporate tax loopholes.

**9. Increase Frequency of Property Tax Assessments**

**Bill:** [S 1309, Increase Fairness in PT Values/Lien on Mobile Home](#)

**Sponsor:** Clodfelter (D Mecklenburg)

**Status:** Passed Senate and sent to House Committee on Finance at the end of the session

Would reduce the discrepancy between the property tax value and market value.

## **BUILDING A BETTER PUBLIC EDUCATION SYSTEM**

Items 1 through 17 are from the 2007-2008 budget:

- 1. Disadvantaged Student Supplement Fund (DSSF)-** \$17,563,000 recurring in both years to expand the DSSF allotment for all Local Education Authorities (LEAs). This will increase each LEA's capacity to meet the needs of all of its students.
- 2. Low Wealth Schools-**\$5,445,081 in one-time funding to LEAs that experienced decreases in Low Wealth Counties Supplemental Funding in 2007-08.
- 3. Small County Supplemental Funding-** \$2 million in one-time funding which will provide an additional \$45, 000 to small counties and holds the districts harmless for up to seven years if it loses its status.
- 4. Children with Disabilities-** \$5,000,000 in ongoing funding to increase the amount of funds allotted to LEAs to support special education and related services for students with identified disabilities. The funding formula was increased by \$24 per student to \$3,199.57 per disabled student.
- 5. 21<sup>st</sup> Century Literacy Coaches-** \$5.7 million in ongoing funding will support the addition of 100 literacy coaches for 8<sup>th</sup> grade students.
- 6. Drop-Out Prevention Grants-** \$7 million in one-time funding to establish a new grant program that will distribute funding on a competitive basis to support innovative LEA programs that address dropout prevention
- 7. Increased Funding for More at Four-** \$56,000,000 in ongoing funding to expand the More at Four program by 10,000 slots in 2007-08 and increase the per slot amount by \$400. Funds support operating costs and start-up costs associated with new slots.
- 8. Learn and Earn Initiative-** Almost \$10 million in ongoing funding and \$5.7 million in one-time funding to expand the Governor's Learn and Earn program.

- 9. Class-Size Reduction-** \$37,500,000 in one-time funding for K-3 teachers to maintain K-3 student/teacher ratios at 18:1. General fund appropriations were used to make-up for the shortfall from projected Lottery revenues that would have supported this initiative.
- 10. High Priority Elementary Schools-** \$520,067 in ongoing funding that will allow the State Board of Education to address phase-out of special supplementary funding for the two remaining of thirty-seven original low-performing, high priority elementary schools.
- 11. Focused Education Reform Pilot Program-** \$4 million in ongoing funding to support initiatives addressing improving education in 5 low performing schools districts (Mitchell, Greene, Warren, Washington, & Caswell).
- 12. School Connectivity-** \$12 million in ongoing funding to support partial implementation for new IT infrastructure in schools.
- 13. Special Provision: Summer School and Other Remediation**  
**Activities:** LEAs are prohibited from charging tuition or fees to students who are at risk of academic failure. Courses necessary for graduation or required for remediation must be free of charge for at risk students. LEAs cannot charge for participation or transportation in intervention programs.
- 14. EARN Scholarships-** A new scholarship program that will award up to \$4,000 in grants over 2 years to students at 200% or below federal poverty level. \$27.6 million was set aside for the first year of the program. \$100 million will be available in 08-09 with \$60 million from the general fund and \$40 million from the Escheats fund.
- 15. Need-Based Financial Aid-** \$35.6 million to fund inflationary costs associated with the 41,143 students who currently receive UNC need-based grants. The new budget directs this funding to come from the Escheat Fund annually instead of the General Fund.
- 16. Investments in University Infrastructure-** Highlights include: The establishment of the University Cancer Fund with total funds of \$25 million available in 07-08 and \$40 million in 08-09; \$3 million for a competitiveness fund to support investments in emerging technologies; and \$8.5 million in ongoing funding and a one-time \$8 million payment to provide operating funds for UNC programs located at the NC Research Campus in Kannapolis.
- 17. Investments in Community College Allied Health Program and Equipment-** \$5.6 million in ongoing money will be used to provide additional funds to support the community colleges' growing allied health

programs. \$10 million in one-time funding was included to help community colleges purchase much needed instructional equipment.

Items 18 through 21 are substantive bills passed that will help build a better public education system in North Carolina:

### **18. Homebound Instruction for Disabled Students**

**Bill:** [H 14](#)

**Sponsors:** Bell (D Sampson); Glazier (D Cumberland); Farmer-Butterfield (D Wilson); Wiley (R Guilford)

**Status:** Ratified, S.L. 2007- 425

Prohibits a school from assigning a student to homebound instruction without a determination by the student's IEP team that this is the least restrictive alternative environment.

### **19. Homebound Instruction Standards**

**Bill:** [H 20](#)

**Sponsors:** Warren (D Pitt); Johnson (R Cabarrus); Bell (D Sampson); Glazier (D Cumberland)

**Status:** Ratified, S.L. 2007-429

Establishes standards for homebound instruction. The form, format, and hours of instruction will be determined by the student's IEP team and be delivered by a qualified teacher. If the student is homebound because of behavior problems, behavior intervention services must be implemented.

### **20. Every Child Ready to Learn**

**Bill:** [H 150](#)

**Sponsors:** Folwell (R Forsyth); Parmon (D Forsyth); Pate (R Wayne); Glazier (D Cumberland)

**Status:** Ratified, S.L. 2007-173

Modifies the school admission requirements to ensure that every child is ready to enter kindergarten and thereby reduce student dropout rates in later grades. Changes 5-year old birth date cutoff from Oct. 16 to Aug. 31 starting in 2009-10 school year.

### **21. Notice and Rights for School Suspensions and Expulsions**

**Bill:** [H 1739](#)

**Sponsor:** Glazier (D Cumberland)

**Status:** Ratified, S.L. 2007- 466

Requires schools to allow students placed on short-term suspensions to take their textbooks home for the duration of the short-term suspension

and to have access to homework assignments and to ensure that parents receive actual notice of a student's expulsion or suspension from school.

Items 22 through 24 are bills that were heard this session, but were not passed:

## **22. Anti-Bullying Bill**

**Bill:** [H 1366, School Violence Prevention Act](#)

**Sponsors:** Glazier (D Cumberland); Justice (R Pender); Stiller (R Brunswick); Fisher (D Buncombe)

**Status:** Passed the House; Amended version passed the Senate; House did not concur and re-referred to the House Committee on Judiciary I

Requires each district to adopt a policy defining bullying and harassment and outlining consequences for such behavior.

## **23. Students Ineligible for Special Education Protections**

**Bill:** [H 12](#)

**Sponsors:** Glazier (D Cumberland); Jeffus (D Guilford); Bell (D Sampson); Wiley (R Guilford)

**Status:** Passed House; Referred to Senate Committee on Education/Public Instruction

Provides additional protections in the disciplinary process for students with special needs who have not been identified and have not received special education services. A school shall be deemed to have knowledge that a student has a disability if that disability is clearly established by the student's performance or behavior.

## **24. Students with Disabilities/No Long-term Suspensions**

**Bill:** [H 1428](#)

**Sponsor:** Fisher (D Buncombe)

**Status:** In House Education Committee

Prohibits a school from suspending a disabled student who has been suspended 10 or more days in the past 12 months when the school has failed to do a functional behavioral assessment and implement a functional behavioral intervention plan when required by federal law.

## **GOVERNMENT, ETHICS, AND ELECTIONS REFORMS**

Items 1 through 3 are substantive bills passed that will clean up government and put elections back into the hands of voters:

### **1. Same Day Voter Registration**

**Bill:** [H91](#)

**Sponsors:** Ross (D Wake); Holliman (D Davidson); Parmon (D Forsyth); Tolson (D Edgecombe)

**Status:** Ratified, S.L. 2007-253

Allows a person who misses the cut-off for voter registration (25 days before the election) to go to a One-Stop voting site, show proper ID, register and vote. One Stop sites are open from 19 to 3 days before Election Day – the “early voting” period.

## **2. Voter-Owned Elections**

**Bill:** [H 1517](#)

**Sponsors:** Glazier (D Cumberland); Ross (D Wake); Rapp (D Madison); Martin (D Wake)

**Status:** Ratified, S.L. 2007-540

Beginning in 2008, candidates for Commissioner of Insurance, State Auditor, and Superintendent of Public Instruction (3 of 10 Council of State offices) will have a voluntary option to finance their campaigns using a publicly supported fund. Candidates must meet a number of qualifications, including gathering at least \$29,000 in small donations (\$10 to \$200) from at least 750 voters, terminate fundraising after becoming a “Voter-Owned Elections” candidate, and refuse donations from PACs.

## **3. Opening the Ethics Process**

**Bill:** [H 1111, Clarify State Government Ethics Act](#)

**Sponsor:** Howard (R Davie); Ross (D Wake)

**Status:** Ratified, S.L. 2007-348

Last year’s omnibus ethics and lobbying reform law was amended with some additional improvements including a provision that will make investigative hearings of the State’s Ethics Commission and the Legislative Ethics Committee open when executive branch officials and General Assembly members are accused in credible complaints of ethics violations.

## **ACCESS TO AND FAIRNESS IN THE COURTS**

Items 1 and 2 were included in the 2007-2008 budget:

- 1. Court fees were increased** and \$1 of the increase was dedicated for funding for legal services.
- 2. Family court expansion-** funding for 8 new family court positions in 2 new Districts to be chosen by the Administrative Office of the Courts.

Items 3 through 8 are bills that were passed this session:

### 3. State Tort Claims Increased

**Bill:** [HB 22](#), Tort Claims Limit Increased

**Sponsor:** Walend (R Transylvania)

**Status:** Ratified, S.L. 2007-452

Increases the State Tort Claims Limit from \$500,000 to \$1,000,000.

### 4. Juror Selection

**Bill:** [HB 24](#) Civil Jury Selection/Equal Challenges

**Sponsors:** Faison (D Orange); Glazier (D Cumberland); Stam (R Wake); Moore (R Cleveland)

**Status:** Ratified, S.L. 2007- 210

Gives Judges the discretion to grant multiple plaintiffs additional preemptory challenges.

### 5. Trial Exhibits

**Bill:** [SB 1117 Civil Trial Exhibits](#)

**Sponsor:** Hagan (D Guilford)

**Status:** Ratified, S.L. 2007 – 407

Gives judges in civil actions the discretion to allow jurors to take trial exhibits into the jury room that have been passed to them after jurors request to do so.

### 6. Court Costs

**Bill:** [HB 21](#), Clarify the Court's Discretion to Allow Court Costs

**Sponsors:** Glazier (D Cumberland); Ross (Wake); Jones (D Guilford); Spear (D Chowan)

**Status:** Ratified, S.L. 2007- 212

Clarifies judges' discretion to award costs in certain matters and adds the following costs to the list of expenses that may be awarded: (1) mediators, (2) stenographic and videographic assistance associated with depositions and deposition transcripts, (3) expert witnesses.

### 7. Restraint of Juveniles in Court

**Bill:** [HB 1243](#), Courtroom Procedures/Juvenile Proceedings

**Sponsors:** Bryant (D Nash); Bordsen (D Alamance); Wainwright (D Craven); Mobley (D Bertie)

**Status:** Ratified, S.L. 2007-100

Allows physical restraint of a juvenile in court only when the judge finds it reasonably necessary to maintain order; prevent escape; or provide for safety in the courtroom.

## **8. Amendment to Rule 45**

**Bill:** [HB 316](#)

**Sponsor:** Daughtry (R Johnston)

**Status:** Ratified, S.L. 2007-514

Amends Rule 45 of the NC Rules of Civil Procedure to require a party responsible for issuing a subpoena to serve all parties with notice of receipt of the material produced and allow an opportunity for inspection.

Items 9 through 11 are bills that did not pass and are eligible for consideration during the 2008 short session:

## **9. Juvenile Jurisdiction to Age 18 years**

**Bill:** [HB 492](#) & [SB 1445](#)

**Sponsors:** Senate: Kinnaird (D Orange) & Snow (D Cherokee); House: Bordsen (D Alamance); Bryant (D ); Love (D Lee); Wainwright (Craven)

**Status:** Neither bill passed out of their respective chambers. HB 492 was amended at the end of the session to be a study of the issue, which may occur between sessions in 2008.

Increase the age for adult criminal prosecution to 18 years old. North Carolina is the only state that automatically prosecutes 16 and 17 year olds as adults.

## **10. North Carolina Racial Justice Act**

**Bill:** [H 1291](#)

**Sponsor:** Womble (D Forsyth) & Parmon (D Forsyth)

**Status:** Passed House and pending in Senate Judiciary II Committee

Establishes a procedure that a death sentence shall be overturned if the basis for the sentence is based on race. Evidence may include statistical evidence of racial disparities in seeking death sentences at the judicial district, county or state levels.

## **11. Study Commission on State Civil Rights Enforcement**

**Bill:** [SB 657](#)

**Sponsor:** Dannelly (D Mecklenburg)

**Status:** Favorable Report in Senate Judiciary II Committee; Referred to Committee on Rules and Operations of the Senate

Initially introduced as the "Omnibus Civil Rights Act" that created the "NC Agency for Civil Rights," the bill was later amended to be a study of the state's civil rights enforcement efforts.

## DOMESTIC VIOLENCE

### 1. Amend DV Laws/Homicide Reporting

**Bill:** [H 42](#)

**Sponsors:** McLawhorn (D Pitt); Ross (D Wake); Farmer-Butterfield (D Wilson); Pierce (D Scotland)

**Status:** Ratified, S.L. 2007-14

Adds stalking to the crimes covered by the domestic violence bond law and requires the Attorney General's office to develop a reporting system and a database that reflects the number of homicides in the state where the offender and the victim had a personal relationship as defined in Chapter 50B.

### 2. DV Victims/Security

**Bill:** [H 46](#)

**Sponsors:** McLawhorn (D Pitt); Ross (D Wake); Farmer-Butterfield (D Wilson); Pierce (D Scotland)

**Status:** Ratified, S.L. 2007-15

(1) Requires the Council for Women/Domestic Violence Commission to review with the NC Coalition Against Domestic Violence the guidelines for receiving money from the Commission and to consider whether there should be specific guidelines designed to ensure safety at domestic violence shelters. (2) Makes a secure area available in each courthouse, when practical and upon the request of the victim, for domestic violence victims to wait until they are needed in court.

### 3. Violate Order/Possess Deadly Weapon Felony

**Bill:** [H 47](#)

**Sponsors:** McLawhorn (D Pitt); Ross (D Wake); Farmer-Butterfield (D Wilson); Jeffus (D Guilford)

**Status:** Ratified, S.L. 2007-190

Creates a *Class H* felony for violation of a domestic violence protective order if the offender is in possession of a deadly weapon and violates the protective order by failing to stay away from a place or a person as directed under the terms of the order. "Possession" is defined as on or about his or her person or within close proximity to his or her person.

### 4. DV Victims/Add Protections

**Bill:** [S 30](#)

**Sponsor:** Boseman (D New Hanover)

**Status:** Ratified, S.L. 2007-116

- Amends the name change statute so that a public posting is not required for victims of domestic violence, sexual offense, or stalking who provide appropriate documentation.
- Amends the Crime Victims' Rights Act so that a violation of a domestic violence protective order is included as a "crime" for the purposes of the Act.
- Requires the clerk of court to provide an informational sheet to the Plaintiff when a protective order is issued that contains the following:
  - Domestic violence /sexual assault services & agencies;
  - Victims' compensation services;
  - Legal aid services;
  - Address confidentiality program services;
  - Plaintiff's right to apply for a permit under GS 14-415.15 (concealed handgun).

## **5. VAWA 2005 Compliance**

**Bill:** [H 1810](#)

**Sponsor:** Ross (D Wake)

**Status:** Ratified, S.L. 2007-294

Brings NC into compliance with the Violence Against Women Act of 2005 so that NC does not lose millions of dollars of federal funding by:

- not allowing criminal justice agencies to require polygraph examinations of sexual assault victims as a precondition to the agency conducting an investigation into the matter
- and notifying criminal defendants of federal firearms laws through the distribution of an AOC form.

## **PRISONER RE-ENTRY**

Item 1 was passed this session:

### **1. Rights of Ex-Offenders**

**Bill:** [H 1020](#)

**Sponsors:** Adams (D Guilford); Womble (D Forsyth); Farmer-Butterfield (D Wilson); Pierce (D Scotland)

**Status:** Added to [H 1743](#), a larger election laws bill.

Sets up a process to inform ex-offenders of their right to vote and to register to vote once their sentences are completed.

Items 2-4 did not pass but may be eligible for the 2008 session:

### **2. Expunge Nonviolent Felony/Youthful Offender**

**Bill:** [S 677](#) and [H 898](#)

**Sponsors:** Senate: Berger, D (D Franklin); House: Bordsen (D Alamance), Crawford (D Granville), Hall (D Durham), Jones (D Guilford)  
**Status:** S 677 – Favorable Report from Judiciary I Committee; referred to Finance Committee; HB 898 – Passed House; referred to Senate Finance.

Allows certain felonies committed by people under age 18 to be expunged if certain conditions are met.

### **3. Waive Community College Tuition for Ex-Offenders**

**Bill:** [H 314](#)

**Sponsor:**s Womble (D Forsyth); Parmon (D Forsyth); Jones (D Guilford); Hall (D Durham)

**Status:** Referred to House Education Committee

Provides that community college tuition be waived for juvenile offenders and prisoners during first three years after release from confinement.

### **4. Expunction Information/Dismissal or Not Guilty**

**Bill:** [H 1787](#)

**Sponsor:** Adams (D Guilford); Jones (D Guilford); Glazier (D Cumberland); Johnson (R Cabarrus)

**Status:** Passed House; Referred to Senate Judiciary II Committee

Directs Administrative Office of the Courts to provide information and forms for expunction when criminal charges are dismissed or a not guilty verdict is entered.

Item 5 was included in the 2007-2009 budget bill:

### **5. The Work Opportunity Tax Credit**

Provides a state tax credit for an employer who hires an ex-felon and the hiring date is not more than one year after the last date on which the ex-offender was convicted or released from prison.

## **IMMIGRANT ISSUES**

### **1. Protections for Victims of Human Trafficking**

**Bill:** [S 1079](#)

**Sponsor:** Kinnaird (D Orange)

**Status:** Ratified, S.L 2007- 547

Provides certain protections for victims of human trafficking. Budget bill provides \$50,000 in non-recurring funding for legal services for victims.

### **2. Check Citizenship Status of Prisoners**

**Bill:** [S 229](#), Legal Status of Prisoners

**Sponsor:** Boseman (D New Hanover)  
**Status:** Ratified, S.L. 2007 – 494

Directs law enforcement in NC to attempt to verify the citizenship status of people arrested for felonies or driving while impaired.

## **COMMUNITY ECONOMIC DEVELOPMENT/INFRASTRUCTURE**

Items 1 through 9 were included in the 2007 budget:

- 1. Land Loss Prevention-** \$350,000 in ongoing funding that will help to expand the legal representation to financially distressed rural landowners.
- 2. North Carolina Community Development Initiative-** Provides \$3 million in ongoing funding for grants, loans, technical assistance and administration for community economic development projects.
- 3. North Carolina Association of Community Development Corporations (CDCs)-** \$750,000 to strengthen the state's economy through community development initiatives.
- 4. NC Institute for Minority Economic Development-** \$1.5 million in increased funding for technical assistance, training, loans and grants in economic development projects.
- 5. NC Minority Support Center-** \$3 million in increased funding for operating expenses, programs and financial support for products and services to credit unions.
- 6. e-NC Authority-** \$4,000,000 in one-time funding to increase the availability of internet access and connectivity in underserved areas of the state.
- 7. Expand Economic Infrastructure Fund-** \$19 million in one-time funding for the NC Rural Center's fund which provides grants and investments in distressed areas.
- 8. Water and Wastewater Grants-** \$100,000,000 in one-time funding for grants to local governments to help address critical water and wastewater needs.
- 9. Land for Tomorrow and Waterfront Access-** \$120,000,000 was authorized in certificates of participation to help Land for Tomorrow purchase state park lands and conservation areas, and promote waterfront access.

## OTHER NOTABLE BILLS

### 1. Renewable Energy Portfolio Standard

**Bill:** [S 3, Promote Renewable Energy/Baseload Generation](#)

**Sponsor:** Albertson (D Duplin)

**Status:** Ratified, S.L. 2007-397

Will require commercial utilities to generate 12.5% of their electricity through the use of renewable resources and increased efficiency by the year 2021. The bill also included a baseloading provision which will allow utility companies to bill rate payers upfront for development and production costs of new coal and nuclear power facilities.

### 2. Landfill Regulations

**Bill:** [S 1492, Solid Waste Management Act of 2007](#)

**Sponsor:** Clodfelter (D Mecklenburg)

**Status:** Ratified, S.L. 2007- 550

Replaces a recently expired moratorium and creates a \$2 per ton surcharge on trash. The proceeds will be aimed at funding cleanup of abandoned dumps and hazardous waste sites and provide funds to help local governments manage their garbage. The legislation also establishes buffers around environmentally sensitive areas protecting them from any future landfills.

### 3. Hog Waste

**Bill:** [S 1465](#)

**Sponsor:** Albertson (D Duplin)

**Status:** Ratified, S.L. 2007-523

(1) Makes permanent the swine farm animal waste management system performance standards that the General Assembly enacted in 1998, (2) provides for the replacement of a lagoon that is an imminent hazard, (3) assists farmers to voluntarily convert to innovative animal waste management systems, and (4) establishes the swine farm methane capture pilot program.

### 4. The "Goodyear Bill"

**Bill:** [H 1761](#), Job Maintenance and Capital Development Fund

**Sponsors:** Glazier (D Cumberland); Dickson (D Cumberland); Brubaker (R Randolph); Crawford (D Granville)

**Status:** Vetoed

The only bill vetoed by Governor Easley this year was House Bill 1761. The "Goodyear Bill" would have provided \$40 M to Goodyear Tire and

Rubber Co. in exchange for the company maintaining employment of 200 workers and investing \$200M into the company's plant in Fayetteville. The General Assembly reconvened in special session on September 9, 2007 to consider whether or not to override the governor's veto, but decided instead to pass a separate compromise bill (House Bill 4). See below.

## **5. Job Maintenance and Capital Development Fund**

**Bill:** [H 4, Job Maintenance and Capital Development Fund](#)

**Sponsors:** Dickson (D Cumberland); Glazier (D Cumberland); Lucas (D Cumberland); McAllister (D Cumberland)

**Status:** Ratified, S.L. 2007 – 552

The new bill creates a program under which the state will award cash grants to large manufacturing facilities that meet certain conditions, with the ultimate goal of keeping high-quality jobs in-state.

The primary elements of eligibility are a job threshold of 2000, investment of at least \$200 million into upgrading a manufacturing facility, and located in a Tier 1, or most distressed, county (of which there are 40). Under the grant, a handful of very large corporations (Goodyear in Fayetteville, Bridgestone-Firestone in Wilson, and potentially a few others) can get cash grants of up to \$4 million per year per company for ten years. The total cost of the program is capped at \$60 million cumulatively for 10 years. The grant awards are made by the Economic Investment Committee and consists of the Secretary of Commerce, Secretary of Revenue, the Director of the State Budget Office, and two legislative appointments.

Some aspects of HB4 are an improvement over the original bill, such as a wage standard for employees of the subsidized corporation and guidance to the Economic Investment Committee that would allow them to cap the grants using different formulas based on business taxes and various government fees as well as worker training costs. Capping the amount is at the discretion of the EIC, however, and can be arbitrarily set at the \$4 million per year cap amount if the committee so chooses. Some aspects of HB4 raise additional concerns, such as the fact that companies like Bridgestone-Firestone can receive cash awards for plant renovations that were begun (or even completed) in the past. This calls into question the entire notion of whether or not these grants are really causing any particular private sector activity to take place that wouldn't take place otherwise. HB4 would also allow companies receiving grants to reduce their workforce size by 20% and still receive grants. If they dip below that level they would not be required to repay grants from past years. The final bill does include language authorizing a much-anticipated study of all of the state's incentive programs.

## 6. **Wilmington 1898 Race Riot**

**Bill:** [SJR 1572](#)

**Sponsor:** Dorsett (D Forsyth)

**Status:** Ratified, Res. 2007-67

Nearly identical resolution to HB 751 that acknowledges the 1898 Wilmington race riot and "express(es) profound regret" for the violence, intimidation, and force used to replace a duly elected government.

## 7. **Sudan (Darfur) Divestment Act**

**Bill:** [H 291](#)

**Sponsor:** Luebke (D Durham); Coates (D Rowan); Harrison (D Guilford); Jones (D Guilford)

**Status:** Ratified, S.L, 2007- 486

Directs the state Treasurer to divest any financial holdings the state may have in businesses with certain investments in Sudan.

## 8. **Street Gangs**

**Bill:** [H 274](#) & [S 1358](#)

**Sponsor:** **HB 274** -Michaux (D Durham); Frye (R Avery); Carney (D Mecklenburg); **SB 1358** - (Graham (D Mecklenburg)

**Status:** HB 274 passed the House and was referred to Senate Appropriations and may be considered in the 2008 Short Session. SB 1358 is in Senate Appropriations Committee.

Both bills attempt to define "criminal street gang" and "criminal gang activity" and provide increased punishment for crimes committed as a gang member. The state budget [H 1473](#), has \$4.7 million for street gang prevention grants.

## 9. **Sterilization Compensation Study**

**Bill:** [H 296](#) and [S 1368](#)

**Sponsor:** **H 296**- Womble (D Forsyth); Parmon (D Forsyth); Jones (D Guilford); Adams (D Guilford); **S 1368** – Shaw (D Cumberland)

**Status:** **H 296** – Passed the House and referred to Senate Committee on Health Care; **S 1368** – Referred to Senate Appropriations Committee

Both bills as initially introduced, provided compensation of \$50,000 to victims of the state's "eugenic sterilization" program that sterilized more than 7600 mostly African American females as a "solution" to mental retardation and mental illness. No funding was provided in the state's \$20.7 billion budget this year. HB 296 was amended to be a study of the issue.