Note: Except as otherwise provided, these changes become effective when the Governor signs the bill into law.

Sections 5.(a) –(c). Amends G.S. 58-36-10(3), G.S. 58-40-25(4), and G.S. 58-87-1(b) to update the name of the State Planning Office to the State Budget Office within the statutes and to clarify reference to a subdivision.

Section 36. Amends G.S. 58-64-33(a), as amended by Section 8 of S.L. 2003-193, to correct a mistake in the Department’s Continuing Care Retirement/Technical Changes bill enacted in 2003 dealing with allowable forms of cash and securities for operating reserves. This provision returns the language to its original form before the mistake occurred.

Sections 49. (a) – (c). Amends the title of Article 6 of Chapter 120 and creates a new statute G.S. 120-29.5 which specifies that when a State agency is required by law or resolution to report to the General Assembly, the agency must deliver two copies of the report to the Legislative Library and one copy to each of the following officers: the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the House Principal Clerk, and the Senate Principal Clerk. The statute also “encourages” each reporting agency to inform General Assembly members that an electronic copy is available. This provision becomes effective October 1, 2004.

Section 74.(a). Corrects a typo in the introductory language of Section 26.(e) of S.L. 2003-212, last year’s Insurance Financial Amendments Omnibus bill put forth by the Department. The effective date of this provision is January 1, 2004.

Section 74.(b). Section 27 of S.L. 2003-212 created a new statute, G.S. 58-31-66 to prohibit the State, a county, a city, or any other political subdivision of the State from requiring a contractor, bidder or procurer on a public construction contract from using a specific surety, agent, producer, or broker. This section of the technical corrections bill removes subsections (b) and (c) of that statute. These provisions had stated, respectively, that 1) the prohibition in the first part of the statute neither affected the ability of said contracting entities to approve the form, sufficiency or manner of execution of the surety bonds submitted nor to disapprove, on a non-discriminatory basis, the surety selected by the bidder because of the surety’s financial conditions; and 2) violation of the statute renders the public building or construction contract void from the outset. These provisions were removed as it was subsequently determined that the first removed provision was unnecessary and that the second removed provision would create
uncertainty and generate excessive civil litigation over such contracts. This provision becomes effective October 1, 2004.

SESSION LAW-166 -- HOUSE BILL 1107
FORTIFY AGAINST UNAUTHORIZED INSURANCE

This legislation strengthens efforts to prevent the sale of unauthorized insurance in this State. A harmful consequence of the sale of unauthorized insurance is that North Carolina citizens, consumers and businesses alike, are left without the protection for which they bargained and paid money and on which they counted. The Department works diligently to prevent such transactions, and when such sales are discovered, often when legitimate claims begin to go unpaid, to recover monies to pay those claims. This Act is designed to prevent such sales from happening at the outset by strengthening the laws prohibiting agents from selling for an unauthorized insurer and by limiting direct procurement of insurance, without an agent, only with an authorized insurer.

Specifically, the Act:

- Clarifies that an agent is strictly liable for any losses or claims unpaid if the agent sells or offers to sell insurance for an unauthorized insurer and the insurer fails to pay, in full or in part, any valid claim or loss.
- Specifically provides that selling or offering to sell insurance for an unauthorized insurer is grounds for revocation of the agent’s license.
- Increases to a Class H felony the criminal penalty for an agent who knowingly sells or has reason to know that the agent is selling insurance for an unauthorized insurer. Under existing law, it is a Class 1 misdemeanor to sell insurance for an unauthorized insurer, regardless of the agent’s knowledge.
- Makes a conforming change to G.S. 58-28-45(h).
- More strictly limits which entities may directly sell insurance to a person in this State. In general, an insurance company cannot sell insurance in this State without a license. However, an unlicensed insurer may sell insurance in this State as a surplus lines insurer if it meets certain eligibility requirements. Even then, such insurers may only sell coverage for a risk if the applicant is unable to procure coverage from a licensed insurer. One exception to these laws involves the sale of insurance without the use of an agent or broker (“direct procurement”). Currently, a person can directly procure from any “unauthorized insurer”. Under this exception, a person can directly buy “insurance” from an entity that does not even have to meet any statutory requirements. The opportunity for rogue entities to
enter this arena is substantial. This Act shuts down this avenue for possible fraud by limiting direct procurement only to eligible surplus lines insurers, which must, at least, meet financial and other standards in Article 21 of Chapter 58.

The Act becomes effective December 1, 2004.

SESSION LAW 2004-124 -- HOUSE BILL 1414
2004 APPROPRIATIONS ACT

Note: Except as otherwise provided, the provisions of this Act became effective July 1, 2004.

Section 17.6B. APPLICABLE STATE BUILDING CODE FOR PROPOSED COLUMBUS COUNTY PRISON. This provision of the budget bill provides that the proposed Columbus County Prison will be constructed under the North Carolina State Building Code, 1996 Edition through 1999 Revisions, the same as the prisons in Scotland, Anson, Alexander, Greene, and Bertie counties were built, if construction starts before July 1, 2005.

PART XXI. DEPARTMENT OF INSURANCE

Section 21.1 REMOVE THE SUNSET FOR FUNDING CERTAIN OPERATIONS OF THE DEPARTMENT OF INSURANCE THROUGH THE INSURANCE REGULATORY FUND. The 2002 Session of the 2001 General Assembly produced an Act, S.L. 2002-144 (House Bill 1105), that among other things, directed that proceeds collected from the sale of copies of the North Carolina State Building Code, fees collected for continuing education for agents, and fees collected by the Manufactured Housing Board be credited to the Insurance Regulatory Fund, and allowed money in that fund to pay for the staffing of State boards and commissions, for continuing education programs for agents, and for the sale of copies of the State Building Code. The original bill had a sunset of June 30, 2003 for those provisions (Sections 1 through 8). That sunset was extended by Section 22.2 of S.L. 2003-284 for an additional year, until June 30, 2004.

This section of the 2004 Appropriations Act makes permanent those sections, Sections 1 through 8, of S.L. 2002-144. This special provision is in lockstep with the 2004 adjustments to the Department’s budget, which included shoring up the funding for these three activities consistent with their funding in S.L. 2002-144.

Section 21.2. HANDBOOK ON BUILDING CODE NOT REQUIRED. This provision removes the requirement that the Building Code Council produce for distribution a handbook explaining the Code provisions, updated at least as frequently as every revision of the Code. This provision was supported by the assertion that such handbooks are an unnecessary burden on the Council, particularly as the Code is now written to be readable and understandable without such a handbook.
Section 21.3. **CONTINUING EDUCATION REQUIREMENTS FOR BAIL BONDSMAN.** This provision reduces the minimum number of continuing education hours required annually of bail bondsmen under G.S. 58-71-71(b) to be eligible for license renewal from six hours to three hours.

Section 31.24.(a) **TRICARE SUPPLEMENTAL HEALTH INSURANCE.** This provision allows an employer to contribute monthly up to $63.50 on behalf of and at the election of each covered or retired employee to sponsors of TRICARE Supplemental Health Insurance programs to be covered by that plan’s standard benefit option, instead of making the maximum annual employer contributions to the Teachers' and State Employees' Comprehensive Major Medical Plan authorized in Section 30.16(e) of S.L. 2003-284, employers and being covered thereby. This section becomes effective January 1, 2005.

**PART XXXII-F. INSURABLE INTEREST OF CHARITABLE ORGANIZATIONS Sections 32.F1 and 32.F2.** This provision, which enacts new G.S. 58-58-86(b), expands North Carolina’s “insurable interest” law to allow arrangements in which investors work through charities to purchase life insurance policies on unrelated third parties. The Part provides an additional fundraising tool for nonprofits and other entities, including the university system.

Specifically, for an entity to be entitled to obtain an insurable interest in the life of an insured under this Act, the entity (trust, business trust, partnership, corporation, limited liability company, or similar entity) must be approved in writing by the insured as a beneficiary of the life insurance policy and annuity contract on the life of the insured and the arrangement must satisfy the following:

- The entity must be formed to fund, in part, a 501(c)(3) charitable organization designated in writing by the insured before the purchase of the insurable interest by the entity
- The annuity payments must be reasonably expected to fund the premiums on the insurance policies after the first year
- By affidavit, either the charitable organization must prove that it has existed at least 3 years and has at least $5 million in assets or the insured must prove that he or she is an accredited investor pursuant to Rule 501 of Regulation D under the Securities Act of 1933, as amended
- By affidavit, the consenting insured must establish that neither the insured nor any related party or related entity other than a 501(c)(3) charitable organization received any money or other consideration in connection with the insured's consent to the arrangement
- Before the entity can obtain an insurable interest in the life of the insured, each insured and 501(c)(3) charitable organization must be provided a written description of the minimum percentage or amount of the life insurance proceeds that is reasonably expected to be paid to the charitable organization.

This Part became effective July 20, 2004, and will expire October 1, 2007.
PART 3. INSURANCE REGULATORY CHARGE
Sections 3.1 and 3.2. G.S. 58-6-25 establishes that annually a charge is levied on each insurance company to be deposited in the Insurance Regulatory Fund, out of which the expenses of operating the Department of Insurance are ultimately paid. The charge is based on a designated percentage of the premium tax liability for the company for the taxable year or, in the case of HMOs, what the premium tax liability would be if a tax were imposed on HMOs pursuant to G.S. 105-228.5(d)(2). G.S. 58-6-25(b) provides that the General Assembly establish annually the percentage of the actual or imputed premium tax liability which will charged as the fee to be deposited in the Insurance Regulatory Fund. This Part established the insurance regulatory surcharge for the 2004 calendar year to be 5%. The surcharge for the 2003 calendar year was also 5%. For the 2002 calendar year, the surcharge was 6.5%.

This Part became effective July 17, 2004.

SESSION LAW 2004-156 – HOUSE BILL 1449
APA TECHNICAL/CLARIFYING CHANGES

In pertinent part, this Act clarifies that:

- When an agency subject to the Administrative Procedure Act (Chapter 150B of the General Statutes) proposes the adoption of a temporary rule establishing a new fee, the agency must include a statement of compliance with G.S. 12-3.1, governing fees and charges by agencies, in the written statement of finding of need for a temporary rule prepared pursuant to newly designated G.S. 150B-21.1(a3).

- The effective date for a permanent rule approved by the Rules Review Commission, that is not otherwise the subject of a written objection under G.S. 150B-21.3(b2), does not have to be the first day of the month following the month the rule is approved by the Rules Review Commission but rather can be at a later date specified in the rule.

- The deadline for post Rules Review Commission written objections by 10 or more persons requesting legislative review to trigger the delayed effective date/potential for legislative disapproval provisions of G.S. 150B-21.3(b2) is 5:00 p.m. on the day following the Commission’s approval of the rule; and the Commission must notify the agency that a rule is subject to legislative disapproval on the day following the day it receives 10 or more written objections.

- An agency can have the delayed effective date provisions applied to a group of related rules adopted at the same time when the Commission receives objections from 10 or more persons on one of the rules in that group if the agency submits such a request in writing to the Commission before the other rules become effective.
This Act also provides, via amendment to G.S. 150B-33(b), that, except as provided in G.S. 150B-36(d) in which an administrative law judge (ALJ) has granted judgment on the pleadings, an ALJ can accept a remanded case from an agency only when the petition raises a claim for relief, the ALJ’s decision makes no findings of fact or conclusions of law regarding the claim, and the agency requests that the ALJ make such findings and conclusions as to the specific claim, but the provision allows the ALJ to refuse to accept a remand if there is a sufficient record to allow the agency to make a final decision.

This section regarding acceptance of remanded cases by an ALJ becomes effective October 1, 2004, and applies to contested cases begun on or after that date. The remainder of this Act is effective August 2, 2004.

**SESSION LAW 2004-175 -- HOUSE BILL 1463**
**HEALTH INSURANCE INNOVATIONS COMMISSION**

This legislation arose from one of several legislative recommendations made by the House Select Committee on the Rising Cost of Health Care which met in the interim between the 2003 Session of the General Assembly and the 2004 Session of the 2003 General Assembly. This Act establishes the North Carolina Health Insurance Innovations Commission (hereinafter “Commission”) for the purpose of addressing the problem of the availability and affordability of adequate health insurance coverage for small business owners and employees in North Carolina. The Commission will consist of 28 members appointed by the General Assembly upon recommendations of the Speaker of the House and the President Pro Tempore of the Senate, and will represent physicians, insurers, hospitals, small businesses, the uninsured, insurance agents or brokers, health researchers and policy experts, nurses, and the Health and Wellness Trust Fund Commission.

The Commission must:

- Adopt and implement procedures to carry out its charges
- Identify and evaluate the problems small employers confront in purchasing coverage and the impact of these problems on large employers and their communities
- Initiate regional demonstration projects to pilot innovative health care plans and products to address the problems identified, all subject to the approval of the Commissioner of Insurance
- Develop clear and substantive recommendations for insurers, providers, government, employers (small and large), consumers, and consumer groups to improve the availability and affordability of small employer coverage within the next three years
- Report to the 2005 General Assembly, 2006 Regular Session on its activities, including legislative recommendations.

The Commission must consider the following issues and strategies in developing regional demonstration projects and other approaches to address the problem:
• Feasibility of establishing chronic disease management programs
• Cost-effectiveness of current and proposed health insurance coverage mandates
• Promoting multi-party collaboration to improve health care affordability
• Promoting consumer and small business education about insurance products and health insurance-related tax benefits
• Value of “consumer driven” benefit plans
• Enhancing appropriate consumer use of health care resources
• Rewarding technological innovations based in quality and evidence based outcomes
• Encourage case management of high utilizers
• Promoting evidence-based medicine

The Commission will be funded privately and/or federally, and its funds will be administered through the Legislative Services Office. The Department of Insurance will, upon request, provide the Commission with technical assistance in preparing grant proposals, in preparing forms, and in other related matters.

The Commissioner of Insurance must review all proposed pilot programs and innovative plans and products, and may approve them if the Commissioner determines that they are in the interest of North Carolina citizens and not contrary to public policy. If the approved programs, plans, or products conflict with or are contrary to rules adopted by the Commissioner, the Commissioner may adopt temporary rules to allow implementation of the programs, plans, or products. Any new program, plan, or product must be reported to the Joint Legislative Commission on Governmental Operations 30 days prior to implementation.

This Act became effective July 1, 2004.

SESSION LAW 2004-162 -- SENATE BILL 20
REGULATE PROFESSIONAL EMPLOYER ORGANIZATIONS

This bill is intended to enhance the regulatory oversight over professional employer organizations (PEOs). It supplants the current registration scheme found in Article 89 of Chapter 58 (G.S. 58-89-1 through 58-89-30).

Section 1. Includes the entire newly-created statutory structure for licensing and regulation of PEOs as a rewrite of Article 89. It restructures the Article into four (4) parts.

Part 1. In General
§58-89-5. Creates new definitions in addition to existing definitions.
§58-89-10. Establishes an 11-member council, chaired by the Commissioner of Insurance, to advise, consult and make recommendations to the Commissioner on the regulation of PEOs.
§58-89-15 Grants the Commissioner rulemaking authority to carry out the Article’s provisions and subjects PEOs to the Article and rules adopted thereunder.
§58-89-20. Requires interagency cooperation in the regulation of PEOs.
§58-89-25. Clarifies that the Article does not exempt any client company or any assigned employee from any other license requirement; an assigned employee licensed, certified or register is considered an employee of the client company for purposes of the license, certification, or registration; the existence of a PEO agreement does not affect or alter the client company’s contractual abilities and relationship with the State or any other entity or any other labor related rights, obligations or agreements.
§58-89-30. Sets forth the Chapter 58 statutes applicable to PEOs.
§ 58-89-31. Provides that, for purposes of determination of tax credits and other economic incentives provided by the State and based on employment, covered employees are considered employees solely of the client company, and the client company will be entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of covered employees of the client. Upon request by the client company, each PEO has to provide employment information necessary to support a request, claim, application, or other action by a client company seeking the tax credit or economic incentive.

Part 2. License Requirements and Limitations
§58-89-35. Requires licensure of any person providing professional employer services in this State, and authorizes the licensure of PEO groups.
§58-89-40. Requires each controlling person be 18; be of good moral character; and have the requisite education or experience to operate or serve as a controlling person of a PEO. Exempts alternative licensees from this statute.
§58-89-50. Requires each applicant for licensure to file a $100,000 surety bond with the Commissioner or submit an irrevocable letter of credit to or deposit cash or securities with the Commissioner in the same amount. Exempts alternative licensees from this statute.
§58-89-60. Sets forth what must be submitted in the application for licensure, including attestation by the CFO and CEO of the applicant for licensure it is current in all its obligations for payroll, payroll-related taxes, workers’ compensation insurance, and employee benefits; evidence of financial responsibility, an application fee of $500 for alternative licensing and $1000 for all others; and fingerprints and photos for officers, directors and controlling persons. Application for a PEO group must contain required submissions and information for each member of the group. Alternative licensees are exempt from this statute. Also sets forth the specific grounds for which and administrative procedures by which the Commissioner may deny an applicant licensure, including any reason which is grounds for suspending or terminating an existing license pursuant to G.S. 58-89-155.
§58-89-65 Requires an annual license continuation fee of $500 for alternative licensees (pursuant to G.S. 58-89-70) and $1000 for all other licensees; and allows the Department to charge a licensee for reasonable fees and costs incurred in investigating, inspecting, examining and enforcing the Article when ruling of a violation of the Article by the licensee is final.
§58-89-70. Sets forth procedural requirements governing licensure and maintenance of a license.

§58-89-75. Requires the Commissioner adopt rules for limited licensure.

§58-89-76. Authorizes the Commissioner to adopt rules for accepting an affidavit by a qualified assurance organization approved by the Commissioner certifying qualifications of a PEO for licensure in lieu of compliance with the general requirements for licensure under 58-89-40 through 58-89-60.

§58-89-80. Prohibits the misleading use of names by a licensee; limits licensee name changes; requires notice of change in business office and business record locations; and prohibits the misleading use of names in advertising.

§58-89-85. Authorizes the Commissioner upon the requisite determination to commence a supervision proceeding or seek an order to rehabilitate or liquidate a licensee.

Part 3. Licensee Duties and Responsibilities

§58-89-95. Provides that terms of a PEO agreement must be in writing and that the licensee give written notice of the agreement as it affects assigned employees to each employee assigned to a client company work site no later than the first payday after the date the individual became an assigned employee.

§58-89-100. Sets forth the required provisions of the contract between the PEO and the client company, including the PEOs responsibility regarding payment of wages, payment of payroll taxes, collection of taxes from payroll, and the specific allocation or designation of responsibility to obtain workers compensation coverage from an entity authorized to do business in this State.

§58-89-105. Authorizes a licensed PEO and client company, each, to sponsor and maintain employee benefit plans for assigned employees and requires any health benefit plan not fully insured by an authorized insurer, be administered by a TPA licensed or registered to do business in N.C., all plan assets be held in a trust account, and actuarially sound reserves be provided for the plan.

§58-89-110. Requires that either the licensed PEO or the client company provide workers comp insurance coverage through a licensed insurer or as a licensed self-insurer and, in the case of the licensed PEO providing coverage, allows the use of either a multiple coordinated policy method or a single policy method of coverage. This statute sets forth the requirements when using each type of methodology.

§58-89-112. Provides for default allocation of liability, subject to contrary contractual provisions and dictates the default rule for who’s covered under certain liability insurance and bonds.

§58-89-115. Sets forth insurance and health benefit plans disclosures that must be made by the PEO to the Commissioner and each client company. Also sets forth cancellation notice requirements and related matters.

§58-89-120. Establishes the licensed PEO as the employer for purposes of Chapters 95, 96, and 105 of the General Statutes and requires ESC cooperation in investigating applicants and licensees.

§58-89-125. Requires each licensee to post its license in a conspicuous place in its principal place of business and notice in each client company that the location is licensed by the Commissioner, with contact information.
§58-89-130. Requires each licensee to manage, maintain, collect and make timely payments for all its contractual responsibilities and statutory duties.

§58-89-135. Requires licensee compliance with all appropriate State and federal laws for reporting, sponsoring, filing, and maintaining benefit/welfare plans.

§58-89-140. Requires each licensee maintain adequate business records regarding its duties and responsibilities for at least 3 years and maintain and make available to the Commissioner at all times client company contact information, PEO agreements, and a listing of each client company by classification code.

§58-89-145. Authorizes the Commissioner to examine any licensee, in accordance with the Examination Law (G.S. 58-2-131 through 58-2-134) and to accept a foreign examination report in lieu of conducting an in-State examination.

§58-89-150. Requires each licensee maintain a N.C. registered agent for service of process but makes the Commissioner the agent for nonresidents.

Part 4. Penalties and Sanctions

§58-89-155. Authorizes the Commissioner to take disciplinary action against a PEO for grounds including: convictions for certain crimes by its controlling persons, acting as an unlicensed PEO; and failure to meet notice requirements.

§58-89-160. Authorizes the Commissioner, upon the requisite determination, to suspend or terminate the license, impose a civil penalty, seek an order of restitution under 58-2-70, or utilize any combination of sanctions against a PEO.

§58-89-165. Authorizes the Commissioner to seek injunctive relief against any person violating the Article or any rule implementing the Article; issue a cease and desist order against a violator of the Article, applicable rule or order; issue an emergency cease and desist order when the violation presents an immediate danger to the public. Any violator is subject to enforcement provisions of 58-2-70.

§58-89-170. Prohibits any person from acting as a PEO without a license; any PEO from misrepresenting itself; or any PEO from providing false or forged evidence in connection with licensure; or any PEO from using a terminated or suspended license.

§58-89-175. Subjects violators of 58-89-170 to a Class H felony criminal penalty and specifies that any officer or controlling person willfully violating any Article provision may be subject to any and all criminal penalties available under State law.

§58-89-180. Provides that notwithstanding any other provision, the provisions of the Article apply to any PEO and any other person subject to licensure under the Article, whether licensed or not.

Section 2. Requires the Department of Insurance to report to the 2005 General Assembly on the implementation, administration, and enforcement of the newly rewritten Article in Section 1 of the bill and recommend any statutory changes needed to regulate PEOs and enforce the Article.

Section 3. Allows for continued operation for PEOs registered as of the effective date of the Act pending approval of the application as long the application for licensure is filed by April 1, 2005.

Section 4. Is a severability clause provision.
Section 5. Makes the Act effective January 1, 2005, and applicable to contracts entered into, any business conducted, and any actions taken on or after that date.

SESSION LAW 2004-111 -- SENATE BILL 486
CUSTOMER INQUIRIES/INSURANCE COVERAGE

This Act prohibits insurers that write homeowners insurance and/or any other residential real property insurance from terminating an existing policy or any coverage under an existing policy, refusing to write or renew a policy, or increasing the premium on a policy beyond the filed maximum rate (using consent to rate provisions in G.S. 58-36-30(b)) solely in response either: (1) to an inquiry about policy provisions that does not result in a claim; or (2) to a claim that is closed without payment as long as the notice of loss that generated the claim was only an inquiry about policy provisions and neither the insured nor a third party requested payment. The Act becomes effective October 1, 2004, and applies to policies issued or renewed on or after that date.

SESSION LAW 2004-196 -- SENATE BILL 1008
NON-STATE ENTITIES REPORTING REQUIREMENTS.

This Act repeals the existing statute governing the reporting on the use of State funds by non-State entities, G.S. 143-6.1, and establishes in place a new statute, G.S. 143-6.2, Use of State funds by non-State entities. The new statute requires every non-State entity that receives, uses, or spends State money do so only for the purposes for which they were appropriated by the General Assembly. This applies also to federal funds that flow through the State. The statute authorizes the Office of State Budget and Management (OSBM), after consultation with the Office of the State Auditor and the Attorney General, to adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees but excludes from the definition of “grantee” any non-State entity subject to the audit and other requirements of the Local Government Commission. If the Director of the Budget finds that any non-State entity has improperly spent or encumbered State money for an unauthorized purpose, the Director must take the necessary administrative action to ensure that no additional irregularities occur and must report pertinent facts of any apparent criminal violation or misfeasance, nonfeasance, or malfeasance in the use of State funds to the Attorney General.

The statute also authorizes OSBM, after consultation with the administering agency, to suspend disbursement to any grantees or subgrantees to prevent further misuse of State funds and to recover State grant funds already disbursed for non-compliance with the rules adopted by OSBM under this statute. Additionally, the statute clarifies that the State Auditor has audit oversight regarding State grant funds received by the grantee or subgrantee and provides that all grantees and subgrantees must, upon request, furnish the State Auditor for audit all books, records, and all other information necessary for the State Auditor to account fully for the use and expenditure of State grant funds received.
by the grantee and subgrantee. The statute also requires OSBM by May 1, 2007, and by May 1 of each succeeding year to report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with the statute in the prior fiscal year, including details on the amount of disbursed and withheld. Under the statute, grantor State agencies must submit a list to the State Auditor by October 31 each year of every grantee for the previous year, the amount disbursed to each grantee, and other information require by the State Auditor to comply with the requirements of the statute. Finally, the statute provides that any civil action filed to recover State funds or to obtain other mandatory orders be filed in the General Court of Justice in Wake County.

The rulemaking provisions of this statute are effective when the Act become law. The remainder of the Act becomes effective January 1, 2005, and applies to appropriations and grants made for fiscal years beginning on or after that date.

SESSION LAW 2004-161 -- SENATE BILL 1152
2004 STUDIES ACT

Note: Except as otherwise provided, the provisions of this Act became effective August 2, 2004.

PART II. LEGISLATIVE RESEARCH COMMISSION
Section 2.1. This section authorizes the Legislative Research Commission (hereinafter “the Commission”) to study the following topics related to insurance and Departmental activities:

- Fire safety in local confinement facilities
- Legislative and executive branch lobbying
- State fire protection
- Debt collection practices
- Workers' compensation/agricultural employment
- Workers' compensation/trucking companies
- High-risk health insurance pools
- Health insurance mandates
- Reduce workers' compensation premiums

Section 2.1.(a) Size/Scope of Boards and Commissions. This section authorizes the Commission to study the size and scope of boards and commissions, and if such study is undertaken to establish a schedule in which approximately twenty-five percent (25%) of the total number of State boards and commissions are reviewed each year for the next four years. In any such study, the Commission must consider: consolidation, membership reduction, meeting reductions, scope and authority, and eliminations.
Section 2.1.(b) **Availability of Health Insurance for Small Businesses and Trade Associations.** This section authorizes the Commission to study the availability of health insurance for small employers, specifically examining:

- the Small Employer Group Health Insurance Reform Act to determine whether revision are needed to increase the availability of health insurance offered to small employers
- whether North Carolina laws conflict with federal law regarding the ability of a trade association to obtain health insurance through a commercial carrier.

Section 2.1.(c) **Availability of Health Insurance for Uninsurable Individuals.** This section authorizes the Commission to study ways to make insurance available to individuals who have difficulty obtaining health insurance coverage, specifically considering other states’ methods to meet this need, and possible administrative structures, funding mechanisms, and coverages.

Section 2.1.(g) **Availability and Delivery of Government Services to Hispanics.** This section authorizes the Commission to study current State and local policies regarding the availability and delivery of government services to the State's increasing Hispanic population, the issues confronted by governmental agencies in effectively delivering those services, and the issues confronted by members of the Hispanic community in obtaining those services. In any such study, the Commission must focus particularly on services in the areas of education, health, and public safety.

Section 2.1.(k) **Equity-Building Homes -** The Commission may study methods to substantially increase the number of North Carolinians who own equity-building homes. As part of the study, the Commission may, among other issues, identify State, federal, and local barriers to constructing equity-building homes in both high-demand locations and rural areas.

For each of the topics the Legislative Research Commission decides to study under this Part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

**PART X. NORTH CAROLINA BUILDING CODE COUNCIL STUDY**

**Sections 20.1 and 10.2.** This Part requires the North Carolina Building Code Council to study the Residential Building Code to determine which provisions, if any, are unnecessary, outdated, overly stringent, or otherwise unduly increase the cost of housing; and this Part authorizes the Council to submit a report of the findings of its study, including any recommendations for statutory changes, to the 2005 General Assembly upon its convening.

**PART XIV. REVENUE LAWS STUDY COMMITTEE**

**Section 14.15. Small Business Health Insurance Credit.** This section authorizes the Revenue Laws Study Committee to study allowing a tax credit for small businesses that provide employee health insurance and to report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.
PART XV. JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE
Sections 15.1 and 15.5. This Part authorizes the Joint Legislative Health Care Oversight Committee to study various topics, including:

- Alternative benefit plans for dependents of State employees.
- Whether a State entity should be established to purchase health care services provided with State funds and to administer data consolidation and claims processing systems in order to enhance quality of care, promote cost containment, and achieve administrative efficiency and effectiveness in the system of services provided by the State.
- Whether the State should establish a single State entity for negotiating the cost of prescription drugs paid for by the State.
- Medical errors
- Reducing prescription drug costs
- Bulk purchasing of pharmaceutical drugs
- Internet sale of prescription drugs

PART XVI. STUDY OF VARIOUS WAYS TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS IN STATE SPENDING
Sections 16.1 and 16.2. This Part directs the University of North Carolina, the Judicial Branch, the Executive Branch, the Legislative Branch, the Community College System, and the Department of Public Instruction to jointly study various ways to promote government efficiency and savings on State spending, including consolidating administrative functions, establishing a statewide benefit committee, and combining State safety programs. The Department of Administration must report the results of this study to the Legislative Research Commission by January 15, 2005.

PART XXXI. COMMITTEE ON EMPLOYEE HOSPITAL AND MEDICAL BENEFITS - STUDY NEWBORN COVERAGE
Section 31.1. This Part authorizes the Committee on Employee Hospital and Medical Benefits to study, regarding benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan ("Plan"):

- Whether to repeal or otherwise modify coverage limits that only allow examination and supervision of a normal newborn infant to be covered when the mother of the infant is receiving maternity benefits under the Plan.
- Whether to adopt a federally qualified health reimbursement arrangement as an additional component of the Plan.
- Whether deductibles and co-payment amounts applicable under the Plan should be based on income of the Plan member, with lower-income Plan members paying less than higher-income Plan members.

PART L. STUDY COMMISSION ON THE ORGANIZATION, POWERS, DUTIES, FUNCTIONS, FUNDING, AND POTENTIAL CONSOLIDATION OR ELIMINATION OF STATE BOARDS, COMMISSIONS, AND COUNCILS
This Part established the Study Commission on State Boards, Commissions, and Councils, consisting of 28 members appointed by the President Pro Tempore of the
Senate and the Speaker of the House of Representatives to examine the organization, powers, duties, functions, and funding of State boards, commissions, and councils. The Commission must specifically consider, with respect to these boards, commissions and councils:

- Elimination or consolidation
- Modifying membership or manner of selection of membership
- Modifying meetings number and frequency
- Costs associated with maintenance of each
- Productivity and effectiveness of each

The Study Commission must report its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening, and then the Commission will terminate at that time.

**SESSION LAW 2004-191 -- SENATE BILL 1218**

**CHILD RESTRAINT SYSTEMS MODIFIED**

This legislation raises the age and minimum weight of a child below which the child must be restrained by a child restraint system when riding in a motor vehicle. The change is from five years old and 40 pounds to eight years old and 80 pounds. The Act provides for an exemption from the requirement for those children less than 8 years old and weighing between 40 and 80 pounds, allowing such child to be restrained by a properly fitted lap belt if there are no available seating positions equipped with a lap and shoulder belt to secure the weight appropriate child passenger restraint system. The Act makes a conforming and clarifying change to an accompanying statute that makes a $25.00 fine for violating the requirement. This Act becomes effective January 1, 2005.

**SESSION LAW 2004-199 -- SENATE BILL 1225**

**2004 TECHNICAL CORRECTIONS ACT**

**PART II. OTHER CHANGES**

**SECTIONS 20, 21, 22, AND 24.**

**Section 20.(a)** This section of the 2004 Technical Corrections Acts amends G.S. 58-2-150, which governs the oath required of an insurance company’s president or other chief officer before a company can transact business in North Carolina. This conforming amendment was needed due to a statutory change last year in G.S. 58-6-15 from annual renewal licensing to perpetual licensing of insurance companies.

**Section 20.(b)** Eliminates an apparent internal conflict within Part 2 of Article 10 of Chapter 58. Under G.S. 58-10-45, the Commissioner has the discretion to order the transfer and novation of policies from an insurer that is in a hazardous financial condition or has had liquidation or rehabilitation proceedings instituted against it if the Commissioner, or the regulator for the jurisdiction in which the insurer is domiciled,
determines that a transfer of the policies of the troubled insurer is in the best interest of the policyholders. Under such circumstances, the Assumption Reinsurance provisions in Part 2 of Article 10 would necessarily apply to that transfer. The exclusion in subsection (4) that is the subject of the amendment was designed to exclude ordinary transactions that may involve some transfer of assets under a liquidation or rehabilitation, and not the actions governed by G.S. 58-10-45.

Section 20.(c) Repeals a statutory bond requirement that applies to resident surplus lines licensees but that cannot be applied to non-resident surplus lines licensees because of preemption by and application of the federal Gramm-Leach-Bliley Act (GLBA). This inconsistent applicability unfairly discriminates against resident licensees, and the requirement itself has not been utilized by the Department for many years. This change creates a level playing field for all surplus lines licensees, resident and non-resident, as contemplated by GLBA.

Section 20.(d) Corrects a typo in a statutory cross-reference in G.S. 58-22-20, governing requirements for risk retention groups (RRGs) not chartered in this State, by adding the applicable subsection letter that was inadvertently omitted in the cross reference. This change is purely technical and does not add new requirements for such RRGs.

Section 20.(e) Corrects a typo. The amended statute, 58-33-82(e)(3) incorrectly cited reference to 58-33-26(m) instead of the correct section 58-33-26(n). This section fixes that error.

Section 20.(f) and (g) Rectifies incorrect terminology inadvertently included in S.L. 2003-216 (Senate Bill 771), an Act which placed limits on the use of a person’s credit information in the underwriting and rating of certain lines of personal property insurance. This change is purely technical and results in the replacement of “insurance score” and its derivatives wherever they appear with the correct terminology “credit score” and its derivatives.

Section 20.(h) Corrects a recently discovered longstanding statutory error. The Department currently allows subsidiaries to be licensed as self-insurers under the parent company’s self-insurer license as long as the financial conditions of the parent company provide adequate protection for the subsidiary as well. The prior definition of self-insurer could be read strictly to subsidiaries and affiliates to be licensed as self-insurers under a parent company’s license, notwithstanding the applicant company’s ability to satisfy the financial requirements. This section clarifies that such a practice is permissible and is consistent with the original intent of the Department on this issue and longstanding Departmental policy.

Section 21. G.S. 58-3-33, which was enacted in 2003 (S.L. 2003-307, s. 1, Senate Bill 775), authorizes a person suffering injury or property damage in an accident in which auto insurance is involved and for which the insurer may be liable to request and receive
information from the insurer about the applicable policy limits if the requesting person submits to the insurer:

- The person’s medical records.
- The person’s written consent to participate in mediation of the claim.
- A copy of the accident report and a description of the events at issue sufficient to allow the insurer to make an initial determination of the potential liability of its insured.

This section amends G.S. 58-3-33 to clarify that an insurance company is entitled to all of a claimant’s medical records for the past three years and specifically including those related to the subject claim, from all providers, not just the claimant’s physician, when the provisions of that statute are being utilized by an injured claimant in conjunction with an auto insurance claim.

Section 22.(a) –(d). Amends various statutes in Article 85 of Chapter 58 to add county fire marshals to those persons eligible to participate in the Firemen’s Relief Fund. The Firemen’s Relief Fund provides financial relief for firemen, members of the State Firemen’s Association, who become injured or sick in carrying out duties as firemen, and for widows, children, and dependent mothers of firemen killed or dying from disease contracted in the discharge of their duty.

Section 24. Changes a statutory requirement applicable to enforcement of the North Carolina State Building Code. This provision amends G.S. 66-27.1(a) to exempt tankless water heaters from the general statutory requirement for water heaters to have manufacturer-installed pressure valves attached to them. This change apparently arose from complaints from installers of tankless water heaters who indicated that compliance with such a requirement for tankless water heaters, which were either non-existent or not prevalent when the subject statute was enacted, is either impossible or nearly cost prohibitive.