

The Daily Bulletin: 2016-05-25

PUBLIC/HOUSE BILLS

H 959 (2015-2016) [DOT PROPOSED LEGISLATIVE CHANGES](#). Filed Apr 25 2016, *AN ACT TO MAKE VARIOUS CHANGES TO THE TRANSPORTATION LAWS OF THE STATE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE*.

House committee substitute makes the following changes to the 1st edition.

Further amends GS 136-18(2)c to allow the Department of Transportation (DOT) to also use exiting rights-of-way, in addition to acquiring additional rights-of-way, for specified utilities, including broadband. Also deletes the proposed language that would have allowed DOT to charge a one-time fee to defray administrative costs of reviewing encroachment submittals. Adds the requirement that DOT study the issue of administrative fees for encroachments under GS 136-18(2)c. Requires a report to the Joint Legislative Transportation Oversight Committee by December 1, 2016. Effective July 1, 2016.

Adds a new section which does the following. Amends GS 20-118(c) to create an exception to the weight limitations that apply to vehicles operating on the highways of the State for a vehicle that: (1) is transporting metal commodities; (2) does not operate on an interstate highway, a posted light traffic road, or exceed any posted bridge weight limit; and (3) does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds. Specifies that any additional weight allowance authorized by 23 USC 127, and applicable to all interstate highways, also applies to all State roads, unless the road is a posted road or posted bridge, or unless specifically prohibited by State law or a Department ordinance applicable to a specific road. Amends GS 20-119 to add that one, two, or three steel coils, transported on the same vehicle, are to be considered a non-divisible load for the purposes of issuing a special permit that allows the applicant to operate or move a vehicle, on a highway, of a size or weight exceeding the allowed maximum. Effective October 1, 2016.

Adds a new section amending GS 20-129(e) to require that every bicycle be equipped with the specified front and rear lights when the bicycle is being operated at night on any public street, public vehicular area, or public greenway. Removes the requirement that the bicycle have a reflex mirror. Amends the requirements for the rear light to now require that it be visible from 300 (was, 200) feet; in lieu of the rear light, allows the operator to wear clothing or a vest that is bright and visible from at least 300 feet to the rear of the bicycle. Applies to offenses committed on or after December 1, 2016.

Adds a section amending GS 20-150(e) to add that the prohibition on a driver overtaking and passing another vehicle on a portion of the highway marked as no passing does not apply when: (1) the slower moving vehicle is a bicycle or moped; (2) the slower moving vehicle is moving in the same direction as the faster moving vehicle; (3) the driver of the faster moving vehicle either provides a minimum of four feet between the faster moving vehicle and the slower one, or completely enters the left lane; (4) the operator of the slower moving vehicle is not making a left turn or signaling that he or she intends to make a left turn; and (5) the driver of the faster moving vehicle complies with all other applicable requirements of this statute. Makes conforming changes to GS 20-149, concerning overtaking a vehicle. Amends GS 20-154 to make a violation that causes a bicycle operator to change travel lanes or leave the travel lane punishable by a fine of no less than \$200; when the result is a crash causing property damage or personal injury to the bicycle operator or passenger, the person is responsible for an infraction and will be assessed a fine of no less than \$500. Also makes clarifying changes to how a driver is to make hand signals for right turns and stop. When the unsafe movement results in a crash causing property damage in excess of \$5,000 or a serious bodily injury to a bicycle operator or passenger, the violation is an infraction with a fine of no less than \$750 and the violation is to be treated as a failure to yield right-of-

way to a bicycle for the purpose of assessing points. Adds that a bicycle operator may signal a right turn by extending his or her hand and arm horizontally with the forefinger pointing, from beyond the right side of the bicycle, instead of following the requirements for drivers. Applies to offenses committed on or after October 1, 2016.

Adds the requirement that, by October 1, 2016, DOT develop and implement a program to educate bicyclists, motorists, and other highway users on: (1) best practices by bicyclists for safe riding; (2) best practices for motorists that encounter bicyclists on the road; and (3) the dangers of riding a bicycle while distracted. Requires a report on the program to the Joint Legislative Transportation Oversight Committee by December 1, 2016.

Amends proposed language in GS 20-7(c) to require that the Division of Motor Vehicles require vision testing as a part of *required* in-person, in-office driver's license renewals.

Adds a section that amends GS 20-52 to require that an application for a certificate of title, registration plate, and a registration card include a preprinted option that co-owners may use to title the vehicle as a joint tenancy with right of survivorship, which would be valid notwithstanding whether this designation appears on the assignment of title. Effective January 1, 2017.

Amends the definition for *autocycle* found in GS 20-4.01(27), deleting language that required air bag protection for the vehicle to be considered an autocycle. Also provides that the three-wheeled motorcycle can have complete or partially enclosed seating and be considered an autocycle (previously, seating had to be completely enclosed). Also amends GS 20-140.4(a)(2) concerning helmet requirements, providing that the helmet provisions do not apply to operators or passengers in an autocycle that has completely enclosed seating.

Amends GS 20-135.3(c) concerning seat belt anchorages, making a technical correction.

Amends GS 20-4.01, the definitions section for the Article on Motor Vehicles, adding and defining the term *electric assisted bicycle* as a bicycle with two or three wheels, equipped with a seat or saddle for use by the rider, fully operable pedals, an electric motor of no more than 750 watts whose maximum speed is no greater than 20 miles per hour. Also exempts an electric assisted bicycle from being considered a motor vehicle. Moves the definition of *moped* as defined in GS 105-164.3 to GS 20-4.01(27)d1, and clarifies that the definition includes mopeds powered by electricity, alternative fuel, or motor fuel but does not include electric assisted bicycles. Also provides that the definition for a *motor-driven bicycle* excludes electric assisted bicycles. Adds clarifying language that electric assisted bicycles are considered vehicles for the purpose of this chapter but excludes personal assistive mobility devices as defined in GS 20-4.01(7b). Makes conforming changes to several statutes due to the relocation of the definition for moped and the addition of new terms, including 20-10.1 (mopeds), GS 20-175.6 (electric personal assistive mobility devices), GS 58-36-3 (concerning motorcycle and moped endorsements), GS 58-37-1 (concerning the definition for *motor vehicle*), and GS 58-40-10 (concerning certain insurance statutes). Makes additional conforming changes. Effective December 1, 2016, applying to offenses committed on or after that date.

Amends GS 20-4.01(2), the definition for *canceled* as that term applies to driver's licenses and permits, providing that it now also includes cancellation because (1) the licensee was not entitled to the issuance of the license under this Chapter and (2) the licensee failed to give the required or correct information on the license application (previously, only referred to cancellation only because the licensee is no longer authorized under federal law to be legally present in the United States). Also amends GS 20-7(e) concerning the DMV's medical evaluation program, providing that applicants that suffer from a mental disability that affects motor vehicle operation can be required to file a certificate of the condition signed by a medical authority designated by the DMV. Provides that such a certificate, whether filed because of a physical or mental disability, can be requested even after a license or renewal has been issued based on an applicant's road test. Provides for a review of licensing decisions for physical or mental disabilities or diseases as provided in GS 20-9(g)(4), which allows a review upon written request within 10 days after receipt of such a notice. Also sets out the make-up of the reviewing board, including two medical professionals as specified. Further amends GS 20-9 to make various changes and updates to the DMV's medical evaluation program for determining who should be licensed. Provides that while the DMV cannot issue any license to a person that is unable to exercise reasonable and ordinary control over a motor vehicle, a restricted license can be issued under certain conditions for individuals otherwise eligible,

but who suffer from a physical or mental disability or disease (previously, provisions did not provide for the issuing of a restricted license in these cases). For those applicants or licensees suffering from such physical or mental disability or disease, the DMV can request a medical certificate to be submitted, this request can come at the initial application, any time following the issuance of a license, or both. Makes various clarifying and conforming changes to the requirements of the certificate, providing that the DMV now requires the submitted certificate to be signed by a health care provider duly licensed to practice medicine in the United States, after the applicant or licensee has submitted to a physical examination. The certificate must also contain a recommendation as to whether the applicant or licensee can safely operate a motor vehicle. Makes various conforming changes and technical updates to language, making language gender neutral. Further amends the statute, making various changes to the review process for applicants or licensees whose license has been restricted, cancelled, or denied, providing that the required notice of denial of such a decision must be given in accordance with the provisions of GS 20-48, Giving of notice, which sets out required steps for any notice given by the DMV. Further amends the provisions concerning the member make-up of the reviewing board, now requiring at a minimum that the Commissioner or representative and at least two medical professionals licensed to practice be appointed to the reviewing board and provides that the Commissioner or representative plus any two medical professionals selected by the Commissioner make a quorum of the board (previously, in addition to the Commissioner, board was constituted of four persons designated by the chairman of the Commission for Public Health). Amends review process further by providing that for reviews contesting a restriction on a license, the restriction will be stayed, unless the DMV determines there is an imminent threat to public safety if unrestricted driving is permitted. Provides that stays are not granted for contested reviews of denials or cancellations of licenses. Also includes open records provisions, allowing an applicant or licensee to obtain, without a court order, a copy of the records and evidence collected and compiled pursuant to this review process upon the submittal of a written request to the DMV, signing of any release forms, and payment of any required fee. Makes various other conforming and clarifying changes to the section. Amends the catchline of GS 20-9.1, now titled Physicians, psychologists, and other medical providers providing medical information on drivers with physical or mental disabilities or diseases. (was, Physicians and psychologists providing medical information on drivers with physical and mental disabilities). Also specifies a new immunity from liability for physicians, psychologists, and other medical providers making recommendations concerning abilities to operate a motor vehicle. Further amends the section to update and provide that other medical providers licensed to practice can issue opinions about a patient's ability to safely operate a motor vehicle. Makes additional conforming changes to include physical and mental diseases and disabilities in regards to the applicability of these sections (previously, these sections comprising the DMV medical review program included references to physical disabilities only, or only physical and mental disabilities and not diseases; these conforming changes bring these specified sections into compliance with each other now being applicable to physical and mental disabilities or diseases). Amends GS 20-15(a) concerning the DMV's authority to cancel any driver's license, enacting two new subdivisions for when the DMV is authorized to cancel a driver's license: (1) when the licensee suffers from a physical or mental disability or disease that affects ability to safely operate a motor vehicle and (2) when the licensee fails to submit the certificate required pursuant to GS 20-7(a) and GS 20-9(g) (concerning medical certificates requested to certify ability to safely drive a car due to current physical or mental disability or disease). Effective July 1, 2016, applying to driver licenses issued or renewed on or after that date, and hearings requested on or after that date.

Amends GS 20-79(d)(5) concerning the use of dealer license plates, adding language that allows employees and the immediate family members of employees of an independent motor vehicle dealer to use the dealer plates for the operation of motor vehicles as specified.

Amends GS 20-58.4A concerning the electronic lien system, delaying the mandatory participation date for one year from July 1, 2016, to July 1, 2017.

Amends GS 20-166.1(e), concerning the officer investigation in the event of an accident, providing that at the request of the driver in the accident or insurance agent, law enforcement can provide uncertified accident reports to an insurance agent or company identified by the driver, if a certified copy has been requested and specified fees have been paid.

PUBLIC/SENATE BILLS

S 71 (2015-2016) **COMM'N APPOINTMENT MODIFICATIONS (NEW)**. Filed Feb 11 2015, *AN ACT TO: (1) REQUIRE A COAL COMBUSTION RESIDUALS IMPOUNDMENT OWNER TO PROVIDE PERMANENT ALTERNATIVE WATER SUPPLIES FOR RESIDENTS IN AREAS SURROUNDING COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (2) EXTEND THE PERIOD FOR PUBLIC COMMENT AND REVIEW OF PROPOSED RISK CLASSIFICATIONS FOR COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; AND (3) MODIFY APPOINTMENTS TO THE COAL ASH MANAGEMENT COMMISSION, THE MINING COMMISSION, AND THE OIL AND GAS COMMISSION, IN ACCORD WITH THE HOLDING OF MCCRORY V. BERGER.*

House amendments make the following changes to the 2nd edition.

Amendment 1 amends GS 130A-309.202(b1)(6), GS 143B-291(a1)(7) and (8), and GS 143B-293.2(a1)(3) and (5), concerning the appointment of specific members to each respective commission, by replacing "member" with "representative" of a nongovernmental conservation interest in the descriptions of each individual to be appointed pursuant to those statutes. Makes conforming changes to the same statutes.

Amendment 2 enacts new subsection (g) to GS 130A-309.214, concerning closure of coal combustion residuals surface impoundments, to establish that, notwithstanding any other requirement for closure under the statute or Part IV of Article 9 of GS Chapter 130A (Coal Ash Management), no later than December 1, 2016, an impoundment owner must submit plans to the Department of Environmental Quality (DEQ) to make at least 2.5 million tons of coal combustion residuals per year available for beneficial use for addition to concrete. Also establishes that at least 50% of the coal combustion residuals made available for beneficial use must be removed from the current inventory of coal combustion residuals. Establishes that facilities that are or have received coal combustion residuals from other sites will be the sites from which coal combustion residuals inventory will be used first. Provides that, no later than June 1, 2018, an impoundment owner must begin to supply these coal combustion residuals for beneficial use in accordance with the new subsection (g).

Amendment 4, as amended by Amendment 6, makes the following changes to the language of the previous edition amending GS 130A-309.211(c1).

Changes the date that the owner of a coal combustion residuals surface impoundment must execute a memorandum of agreement or other binding agreement with the DEQ to establish permanent drinking water supplies for households, as specified, from June 1, 2017, to October 1, 2017. Specifies the households for which permanent drinking water supplies are to be established pursuant to subsection (c1) are (1) each household with a drinking water supply well for which sampling and water quality analysis indicates that the well exceeds federal drinking water standards or groundwater quality standards for constituents associated with the presence of the impoundment and (2) each household with a drinking water supply well that is located in an area in which contamination resulting from constituents associated with the presence of a coal combustion residuals impoundment is expected to migrate, as demonstrated by groundwater modeling, and hydrogeologic, geologic, and geotechnical investigations of the site, conducted pursuant to subsections (c) and (d) of GS 130A-309.214.

Adds that for a household for which a filtration system is installed pursuant to subsection (c1), the impoundment owner is responsible for periodic required maintenance of the filtration system. Changes the date by which an impoundment owner must submit the specified information on permanent replacement water supplies proposed to be provided to each household to the State Water Infrastructure Authority, from August 1, 2016, to September 1, 2017.

Establishes that projects involving permanent replacement water supplies in connection to public water supplies are to be deemed approved for that purpose. Establishes that nothing in the statute is to be construed to obviate the need for other

federal, State, and local permits and approvals. Directs the DEQ to expedite any State permits and approvals required for the projects.

Amendment 5 makes changes to GS 130A-309.211(c1) as previously described in Amendments 4 and 6.

Amendment 5 also establishes that the funds appropriated to the Coal Ash Management Commission in Section 2(g) of the act is for the purpose of (1) funding the five receipt-supported positions created in the Division of Emergency Management of the Department of Public Safety, as created by the act; (2) executing contractual arrangements for engineering or other consulting services the Commission determines are necessary or advisable to render requisite information and expertise on coal ash management issues; or (3) otherwise supporting the Commission's work. Makes a technical change.

Intro. by Lee.

[GS 130A, GS 143B](#)

[View summary](#)

[Environment, Environment/Natural Resources, Government, State Agencies, Department of Environmental Quality \(formerly DENR\), Department of Public Safety](#)

S 71 (2015-2016) [COMM'N APPOINTMENT MODIFICATIONS \(NEW\)](#). Filed Feb 11 2015, *AN ACT TO: (1) REQUIRE A COAL COMBUSTION RESIDUALS IMPOUNDMENT OWNER TO PROVIDE PERMANENT ALTERNATIVE WATER SUPPLIES FOR RESIDENTS IN AREAS SURROUNDING COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (2) EXTEND THE PERIOD FOR PUBLIC COMMENT AND REVIEW OF PROPOSED RISK CLASSIFICATIONS FOR COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; AND (3) MODIFY APPOINTMENTS TO THE COAL ASH MANAGEMENT COMMISSION, THE MINING COMMISSION, AND THE OIL AND GAS COMMISSION, IN ACCORD WITH THE HOLDING OF MCCRORY V. BERGER.*

House committee substitute makes the following changes to the 1st edition.

Deletes the contents of the previous edition and replaces it with AN ACT TO: (1) REQUIRE A COAL COMBUSTION RESIDUALS IMPOUNDMENT OWNER TO PROVIDE PERMANENT ALTERNATIVE WATER SUPPLIES FOR RESIDENTS IN AREAS SURROUNDING COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (2) EXTEND THE PERIOD FOR PUBLIC COMMENT AND REVIEW OF PROPOSED RISK CLASSIFICATIONS FOR COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; AND (3) MODIFY APPOINTMENTS TO THE COAL ASH MANAGEMENT COMMISSION, THE MINING COMMISSION, AND THE OIL AND GAS COMMISSION, IN ACCORD WITH THE HOLDING OF MCCRORY V. BERGER, which contains the following.

Includes numerous whereas clauses.

Section 1

Amends GS 130A-309.211 to require, as soon as practicable, but no later than June 1, 2017, the owner of a coal combustion residuals surface impoundment to execute a memorandum of agreement or other binding agreement with the Department of Environmental Quality (DEQ) to establish permanent replacement water supplies for each household with a drinking water supply well sampled and analyzed pursuant to subsection (c) of the statute. Gives preference to permanent replacement water supplies by connection to public water supplies; however, provides that if the State Water Infrastructure Authority (Authority) determines that connection to a public water supply to a particular household would be cost-prohibitive, the Authority must authorize provision of a permanent replacement water supply to that household through installation of a filtration system. Requires, by August 1, 2016, an impoundment owner to submit information on permanent replacement water supplies proposed to be provided to each household to the State Water Infrastructure

Authority, including, at a minimum, specified types of information. Deems projects involving permanent replacement water supplies by connection to public water supplies as approved by the Authority for this purpose, but provides that the need for other State and local permits and approvals is not obviated by such approval. Requires the Authority, for projects involving installation of a filtration system, to evaluate information submitted by the impoundment owner to determine whether connection to a public water supply is cost-prohibitive, and render a decision to approve or disapprove the plan, including written findings of fact, no later than December 1, 2016.

This section is effective when it becomes law.

Section 2

Amends GS 130A-309.202 by removing the membership requirements for the Coal Ash Management Commission (Commission), reducing the membership from seven to nine. Requires five of the members to meet specified expertise requirements and be appointed by the Governor, subject to confirmation by the General Assembly. One member, who is a member of a nongovernmental conservation interest, is to be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and the final member, who must be a State resident at the time of appointment is to be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate. Requires that the Governor transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution; if an appointment is required when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. Requires that the Commission Chair be named by July 1, 2016. Amends the process for filling vacancies on the Commission. Provides that four members of the Commission, at least three of whom must be gubernatorial appointees, constitute a quorum. Provides that the Commission is to be administratively located in the Division of Emergency Management of the Department of Public Safety, the head of which is the Secretary of Public Safety, who has powers and duties as delegated to the Secretary by the Governor and conferred on the Secretary by the Constitution and laws of this State. No longer states that the Commission is to exercise all of its powers and duties independently and not be subject to the supervision, direction, or control of the Division or Department. Decreases membership terms from six to four years, with terms beginning on January 1. Establishes overlapping terms, with initial appointments effective June 1, 2016, or as soon as feasible thereafter, and expiring on specified dates.

Amends GS 130A-309.213, Prioritization of coal combustion residuals surface impoundments, to require after receipt (was, within 30 days after receipt) of all written comment on the written declaration of the proposed classification for the coal combustion residuals surface impoundment, that DEQ submit a proposed classification for a coal combustion residuals surface impoundment to the Coal Ash Management Commission as soon as legally practicable, but no later than 10 days after all appointments have been made. Expands upon the information that the Commission must evaluate related to the proposed classification. Specifies that the Commission's written determination constitutes a final decision of the Commission for purposes of an appeal under Article 3 of GS Chapter 150B. Provides that if the Commission fails to act on a proposed classification within 120 days (was, 60 days), the classification is deemed disapproved (was, deemed approved). Provides that if a proposed classification is deemed disapproved on the basis that a final decision, including a written determination with findings of facts, has not been issued by the Commission prior to expiration of the 120-day period, the Commission may extend the deadline for no more than 120 days if necessary for adequate review. A classification deemed disapproved as a result of the Commission's failure to act within the 120-day review period, and, if applicable, a subsequent 120-day review period resulting from an extension issued by the Commission to allow additional review, does not constitute a final decision of the Commission for purposes of an appeal under Article 3 of GS Chapter 150B.

Requires the Governor, no later than 30 days after the date this act becomes law, to transmit to the presiding officers of the Senate and the House of Representatives, the names of the persons nominated by the Governor for appointment to the Commission.

Requires that the Environmental Management Commission assume all powers and duties for review and approval of

proposed classifications for all coal combustion residuals surface impoundments and closure plans for all coal combustion residuals surface impoundments if: (1) upon expiration of the period established for public comment, the Commission has not been appointed as provided by GS 130A-309.202(b1), as enacted by Section 2(a) of this act or (2) if at any point a court of competent jurisdiction issues a temporary or permanent order enjoining the authority, operation, or activities of the Commission appointed as provided by GS 130A-309.202(b1), as enacted by Section 2(a) of this act, or issues any other decision or order that prevents the Commission from carrying out its statutory duties.

Provides that no classification for any coal combustion residuals surface impoundment, regardless of when such classification was issued, is construed to be deemed approved or final, or implemented as such by DEQ, until the classification is approved by the (1) Coal Ash Management Commission or (2) the Environmental Management Commission, if applicable, pursuant to Section 2(d) of this Act.

Requires DEQ to: (1) extend the period for receipt of public comment on the written declarations for proposed classifications for all coal combustion residuals surface impoundments until August 1, 2016; consider any comments, information, and data received during this period, including memorandums of agreement or other binding agreements to provide permanent replacement water supplies in accordance with the requirements of GS 130A-309.211, as amended by this act, to reduce risk to public health, safety, and welfare; and incorporate any comments, information, and data necessary for issuance of a classification that accurately reflects the level of risk posed by the coal combustion residuals surface impoundment. (2) No later than September 1, 2016, submit a proposed classification for review and approval to the: (1) Coal Ash Management Commission or (2) the Environmental Management Commission, if applicable, pursuant to Section 2(d) of this Act.

Creates up to five receipt-supported positions in the Division of Emergency Management of the Department of Public Safety to carry out the duties in GS 130A-309.202. Appropriates up to \$400,000 to the Coal Ash Management Commission from the Coal Combustion Residuals Management Fund cash balance on June 30, 2016. Specifies the duties of these positions. Requires the Division of Emergency Management to consult with the Chair of the Commission in hiring the staff for the Commission. Requires the Division of Emergency Management to provide support to the Commission until the staff of the Commission is hired; however, if the Environmental Management Commission assumes all powers and duties for review and approval of proposed classifications for all coal combustion residuals surface impoundments and closure plans for all coal combustion residuals surface impoundments under Section 2(d) of this act, then funds to be appropriated pursuant to this Section are appropriated to the Environmental Management Commission instead.

Section 2 is effective when it becomes law.

Section 3

Amends GS 143B-291, concerning the membership of the North Carolina Mining Commission, to make the Governor's four appointments subject to confirmation by the General Assembly. Requires that the Governor transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution; if an appointment is required when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. Decreases membership terms from six to four years, with terms beginning on January 1. Establishes overlapping terms, with initial appointments effective June 1, 2016, or as soon as feasible thereafter, and expiring on specified dates. Amends the process for filling vacancies.

Requires the Governor, no later than 30 days after the date this act becomes law, to transmit to the presiding officers of the Senate and the House of Representatives, the names of the persons nominated by the Governor for appointment to the Mining Commission pursuant to GS 143B-291(a1), as enacted by Section 3(a) of this act, for confirmation by the General Assembly by joint resolution. Upon failure of the Governor to submit names as provided herein by December 1, 2016, the Lieutenant Governor must make such appointments, and if such appointments made by the Lieutenant Governor occur when the General Assembly is not in session, the member may be appointed and serve on an interim

basis pending confirmation by the General Assembly.

Section 3 is effective when it becomes law.

Section 4

Amends GS 143B-239.2, concerning the North Carolina Oil and Gas Commission, by making the Governor's five appointments subject to confirmation by the General Assembly. Requires that the Governor transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution; if an appointment is required when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. Increases membership terms from three to four years, with terms beginning on January 1. Establishes overlapping terms, with initial appointments effective June 1, 2016, or as soon as feasible thereafter, and expiring on specified dates. Amends the process for filling vacancies.

Requires the Governor, no later than 30 days after the date this act becomes law, to transmit to the presiding officers of the Senate and the House of Representatives the names of the persons nominated by the Governor for appointment to the Oil and Gas Commission, for confirmation by the General Assembly by joint resolution. Provides that upon failure of the Governor to submit names as provided herein by December 1, 2016, the Lieutenant Governor must make such appointments, and if such appointments made by the Lieutenant Governor occur when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly.

Provides that for purposes of the rules set forth in 15A NCAC 05H (Oil and Gas Conservation Rules), modifications made to the Oil and Gas Commission under Section 4(a) of 45 this act are to be construed to have: (1) repealed authority to adopt such rules given to previously constituted commissions and (2) transferred the authority to adopt such rules to the Oil and Gas Commission as modified by Section 4(a) of this act. Rules set forth in 15A NCAC 05H (Oil and Gas Conservation Rules) are effective until the Oil and Gas Commission, as modified by Section 4(a) of this act, amends or repeals the rules.

Section 4 is effective when it becomes law.

Section 5

Includes a severability clause.

Amends the act's short and long titles.

Intro. by Lee.

GS 130A, GS 143B

[View summary](#)

**Environment, Environment/Natural Resources,
Government, State Agencies, Department of
Environmental Quality (formerly DENR), Department of
Public Safety**

S 363 (2015-2016) [WAGE & HOUR/LOCAL GOV'T ASSESSMENTS/PARKS \(NEW\)](#). Filed Mar 23 2015, *AN ACT PROVIDING THAT EMPLOYEES OF SEASONAL AMUSEMENT OR RECREATIONAL FACILITIES ARE EXEMPT FROM MINIMUM WAGE, OVERTIME, AND RECORD-KEEPING REQUIREMENTS OF THE NORTH CAROLINA WAGE AND HOUR ACT, AUTHORIZING AND CITIES AND COUNTIES TO PROVIDE FOR THE PAYMENT OF ALL OR A PORTION OF*

THE COST OF CRITICAL INFRASTRUCTURE PROJECTS BY USING FUNDS FROM PRIVATE PARTIES AND REPAYING THE FUNDS BY MAKING SPECIAL ASSESSMENTS ON BENEFITED PROPERTY, REMOVING CERTAIN PROPERTY FROM THE STATE NATURE AND HISTORIC PRESERVE, AND AUTHORIZING THE DELETION OF VARIOUS PROPERTIES FROM THE STATE PARKS SYSTEM.

House committee substitute deletes all provisions of the 2nd edition and replaces it with AN ACT PROVIDING THAT EMPLOYEES OF SEASONAL AMUSEMENT OR RECREATIONAL FACILITIES ARE EXEMPT FROM MINIMUM WAGE, OVERTIME, AND RECORD KEEPING REQUIREMENTS OF THE NORTH CAROLINA WAGE AND HOUR ACT, AUTHORIZING CITIES AND COUNTIES TO PROVIDE FOR THE PAYMENT OF ALL OR A PORTION OF THE COST OF CRITICAL INFRASTRUCTURE PROJECTS BY USING FUNDS FROM PRIVATE PARTIES AND REPAYING THE FUNDS BY MAKING SPECIAL ASSESSMENTS ON BENEFITED PROPERTY, REMOVING CERTAIN PROPERTY FROM THE STATE NATURE AND HISTORIC PRESERVE, AND AUTHORIZING THE DELETION OF VARIOUS PROPERTIES FROM THE STATE PARKS SYSTEM.

Now provides the following.

Section 1

Amends GS 95-25.14(b), which lists eight exemptions to the provisions of GS 95-25.3 (minimum wage), GS 95-25.4 (overtime), and GS 95-25.15(b) (record keeping), by eliminating from the first exemption, for any employee of a boys' or girls' summer camp any employee of a seasonal religious or nonprofit educational conference center. Adds new exemption for any employee of a seasonal religious or nonprofit educational conference center or a seasonal amusement or recreational establishment. Makes technical changes.

Amends GS 95-25.3(e) by removing employees of a seasonal amusement or recreational establishment from the application of the Commissioner's regulation establishing a wage rate of not less than 85% of the otherwise applicable wage rate under GS 95-25.3(a).

Amends GS 95-25.4, which requires employers to pay overtime, by removing the provision requiring employers of seasonal amusement or recreational establishment employees to pay the overtime rate only for hours in excess of 45 hours per workweek.

Section 2

Amends the statement of purpose in GS 153A-210.1(a), establishing that Article 9A of GS Chapter 153A, Special Assessment for Critical Infrastructure Needs, enables counties that face increased demands for infrastructure improvements as a result of rapid growth and development to impose special assessments as provided in the Article (previously, to issue revenue bonds payable from special assessments imposed under the Article) on benefited property, and to use the resulting revenue as provided in the Article (previously, no provision providing for the use of resulting revenue). Amends the sunset provision set out in GS 153A-210.1(b) to specify that the Article expires July 1, 2020, for projects that have not been approved under a final assessment resolution under new GS 153A-210.3(a2) as enacted by this act, as existing language provides that for projects authorized under GS 153A-210.2(a1), the Article expires July 1, 2019. Provides that the expiration does not affect the validity of assessments imposed or to be imposed or bonds issued or authorized or to be issued or authorized (previously, only assessments imposed, or bonds issued or authorized) under the provisions of the Article if a final assessment resolution has been adopted, prior to the effective date of the expiration (previously, no requirement that a final assessment resolution is to have been adopted).

Amends GS 160A-239.1 of Article 10A of GS Chapter 160A, Special Assessments for Critical Infrastructure Needs for Cities and Towns, to make identical changes as those made in GS 153A-210.1, as amended by the act.

Amends GS 153A-210.2(a), which authorizes the board of commissioners of a county to make special assessments against benefited property within a county, providing that the assessments are made for the purpose of assisting in arranging for payment of (previously, for the purpose of financing) the capital costs of the projects, as specified. Makes

a conforming change. Amends GS 153A-210.2(b) to require the board of commissioners to determine the amount of costs to be paid from the assessments for a project in addition to determining a project's total estimated costs. Allows the costs to include expenses for the administration of assessments, in addition to costs allowed under GS 143A-193 (allowing construction costs, the cost of necessary legal services, the amount of interest paid during construction, the cost of rights-of-way, and the cost of publishing and mailing notices and resolutions) and GS 159-84 (authorization and provision of revenue bonds). Amends GS 153A-210.2(c) to provide that the board of commissioners are to establish an assessment method that will, in the board's judgment (previously, no language clarifying the board's judgment to determine the method chosen), accurately assess each lot or parcel of land subject to the assessments according to the benefits conferred upon it by the project for which the assessment is made. Provides that in selecting a method, the board may provide that the benefits conferred are measured on the basis of use being made on the lot or parcel of land and provide for adjustments of assessments upon a change in use, provided that the total amount of all assessments is sufficient to pay the portion of the costs of the projects to be funded from assessments after the adjustments have been made (previously, sufficient to pay the costs of the project after the adjustments have been made).

Amends GS 160A-239.2 of Article 10A of GS Chapter 160A to make identical changes as those made in GS 153A-210.2, as amended by the act, except that in subsection (b) the act changes the costs allowed to be included in the project's total estimated cost by replacing costs allowed under GS 153A-193 with GS 160A-226 (determination of costs of special assessments under Article 10 of GS Chapter 160A). Makes language applicable to city councils.

Amends GS 153A-210.3, which requires a petition for the project to be financed by special assessments to be received, as specified, before the board of commissioners may impose a special assessment, by enacting two new subsections as follows. Enacts subsection (a1) to require the board of commissioners, upon receipt of a petition pursuant to subsection (a), to adopt a preliminary assessment resolution containing a statement of intent, a general description of the nature and location of the project, a statement of the proposed terms of payment of the assessment, and an order setting a time and place for a public hearing, to be no earlier than three weeks and no later than ten weeks from the day on which the preliminary resolution is adopted. Enacts subsection (a2) to require the board of commissioners to hear all interested persons who appear with respect to any matter covered by the preliminary assessment resolution at the public hearing. Allows the board to adopt a final assessment resolution directing that the project or portions of the project be undertaken, and requires the final assessment resolution to include the information required to be contained in the preliminary assessment resolution under new subsection (a1).

Amends GS 160A-239.3 of Article 10A of GS Chapter 160A to make identical changes as those made in GS 153A-210.3, as amended by the act. Makes language applicable to city councils.

Amends GS 153A-210.4 by changing the section title to Funding (was, Financing) a project for which an assessment is imposed. Replaces "financing" with "funding" throughout the statute. Amends subsection (a) to specify that, in addition to funding from sources otherwise authorized for use by the board of commissioners in connection with a project, a board may provide for the payment of all or a portion of the cost (previously, payment of the cost) of a project for which an assessment may be imposed from one or more of the funding sources listed in subsection (a). Requires the assessment resolution to include the estimated cost of the project to be funded by the assessment (previously, estimated costs) and the amount for the cost estimated (previously amount of cost) to be derived from each respective funding source. Adds funds from private parties to funding sources listed in subsection (a). Enacts new subsection (c) to establish that, if a board of commissioners contracts with a private party to construct a project on behalf of the county as provided in GS 153A-210.7 (project implementation), the board of commissioners is authorized to agree to impose one or more special assessments pursuant to Article 9A in order to reimburse the private party for costs incurred by the private party related to the project, including an inflationary factor applicable during any period of abeyance provided by GS 153A-210.5 (payment of assessments by installments). Establishes that the board of commissioners is not obligated to reimburse a private party any amount in excess of assessment revenues actually collected less the county's related administrative costs.

Amends GS 160A-239.4 of Article 10A of GS Chapter 160A to make identical changes as those made in GS 153A-210.4, as amended by the act. Makes language applicable to city councils.

Amends GS 153A-210.5, concerning payment of assessments in installments, by placing the existing language into a new subsection (a) and clarifying that the installments, as specified, are due on the date that real property taxes are due (previously, on the date that property taxes are due). Enacts new subsection (b) to authorize the board of commissioners to provide for the abeyance of assessments authorized by Article 9 of GS Chapter 153A (special assessments), and authorizes the abeyance to apply to any assessed property. Provides that annual installments are to be deferred until the period of abeyance ends. Provides the assessment to be payable on the first annual installment payment date after the period of abeyance ends.

Amends GS 160A-239.5 of Article 10A of GS Chapter 160A to make identical changes as those made in GS 153A-210.5, as amended by the act. Makes language applicable to city councils.

Amends GS 153A-210.7, concerning project implementation, by providing that initial funding for the project may be provided by the public or private agencies. Sets out that, if no more than 25% of the estimated cost of a project is to be funded from the proceeds of general obligation bonds or general revenue, excluding assessments imposed pursuant to Article 9A (previously, does not exclude Article 9A assessments from the estimated cost for this provision to apply), a private agency that enters into a contract with a county for the implementation of all or part of the project is subject to the provisions of Article 8 of GS Chapter 143 (concerning public contracts) to the extent specified in the contract.

Amends GS 160A-239.7 of Article 10A of GS Chapter 160A to make identical changes as those made in GS 153A-210.7, as amended by the act.

Effective June 30, 2016.

Section 3

Enacts GS 143-260.10H to remove the parcel specified in Gorges State Park from the State Nature and Historic Preserve, and delete the specified parcel from the State Parks System pursuant to GS 143B-135.54. Establishes that the State may only exchange the specified parcel for other property for the expansion of Gorges State Park or sell the land and use the proceeds for that purpose. Prohibits the State from otherwise selling or exchanging the specified parcel.

Enacts GS 143-260.10I to remove the parcel specified in Jockey's Ridge State Park from the State Nature and Historic Preserve.

Enacts GS 143-260-10J to remove the parcel specified in Mitchells Millpond State Natural Area from the State Nature and Historic Preserve and delete the specified parcel from the State Parks System pursuant to GS 143B-135.54. Establishes that the State may only exchange the specified parcel for other property for the expansion of Mitchells Millpond State Natural Area or sell the land and use the proceeds for that purpose. Prohibits the State from otherwise selling or exchanging the specified parcel.

Authorizes the deletion of three parcels, as specified in Section 3(b) of the act, from the State Parks System, pursuant to GS 143B-135.54. Establishes that the State may only exchange the specified parcel for other property for the expansion of Hanging Rock State Park or sell the land and use the proceeds for that purpose. Prohibits the State from otherwise selling or exchanging the specified parcel.

Intro. by Hartsell.

[GS 95, GS 143, GS 153A, GS 160A](#)

[View summary](#)

[Employment and Retirement, Environment, Environment/Natural Resources, Government, State Agencies, Department of Natural and Cultural Resources \(formerly Dept. of Cultural Resources\), State Government, State Property, Local Government](#)

Senate committee substitute makes the following changes to the 1st edition:

Amends the act's short and long titles.

Makes technical and clarifying changes to the newly enacted five sections to Article 4H of GS Chapter 106 which provide provisions for the enforcement by the Department of Agriculture and Consumer Services (DACS) of bedding laws governing improperly made, sanitized or tagged bedding.

Enacts new GS Chapter 106, Article 85, or the Agricultural Emergency Response Act, to authorize DACS to aid and assist agricultural operations and landowners in the preparedness, response, and recovery from agricultural emergencies. These DACS power and duties are not contingent on the declaration of a state of emergency in NC. Sets out and defines four terms for use in this Article, including Commissioner, Department, Agricultural Emergency Response Team (AERT), and Agricultural emergency. Provides that upon the determination of an imminent threat of an agricultural emergency or that one already exists, DACS is authorized to appoint and deploy AERTS to respond to agricultural emergencies, by way of aiding in prevention measures or recovery efforts on the premises of agricultural landowners throughout the State. Per the definition of AERTS, all members of the team would be DACS employees or personnel operating under agreement as a contracted service. Provides that AERTS and other entities attempting to comply with this act benefit from immunity from liability for death or injury to persons or for damage to property, except in cases of willful misconduct, gross negligence, or bad faith. Also extends immunity from liability to private parties and entities that allows the use of real or personal property for the purposes of activities related to an agricultural emergency response. Provides that DACS is authorized to use unrestricted funds available to it by way of appropriation by the General Assembly from the General Fund. Sets out general nondiscrimination clause in regards to extending relief and assistance activities. Enacts new GS 166A-19.77A in the NC Emergency Management Act, designating DACS as an emergency response agency for the purposes specified.

Enacts new GS 113-299, Aerial management of feral swine, to allow employees of the Wildlife Resources Commission and employees of federal agencies whose responsibilities include fisheries and wildlife management, to cull feral swine from aircraft, with the written permission of the landowner. Prohibits such activities from taking place in coastal counties during waterfowl season.

Repeals GS 106-168.5, Duties of Commissioner upon receipt of application; inspection committee, which provided for the establishment of the rendering plant inspection committee. Amends GS 106-168.6, GS 106-168.7, GS 106-168.10, GS 106-168.12, and GS 106-168.13, all sections dealing with the operation of rendering plants, making conforming changes as a result of the repealment of the rendering committee, transitioning previous responsibilities of the rendering committee to the Commissioner of Agriculture. Makes various other technical and clarifying changes.

Amends GS 139-4(d) concerning the powers and duties of the Soil and Water Conservation Commission, adding the duty to establish a required training program for all district supervisors. Enacts new GS 139-7.2, to require both elected and appointed soil and water district supervisors to complete at least six hours of annual training, which must include topics of soil, water, and resource conservation and duties of district supervisors.

Amends GS 19A-67, concerning the Animal Shelter Support Fund, providing that the Board of Agriculture (was, Animal Welfare Section) must issue rules concerning eligible expenses and guidelines for the administration of the Animal Shelter Support Fund. Also gives the Board of Agriculture temporary rulemaking authority to administer the Fund.

Amends GS 150B-1(d) to exempt the Board of Agriculture from rulemaking requirements specifically in regards to the fee schedule for the preparation of forest management plans. Amends GS 106-1004, fees for forest management plans, making conforming changes reflecting the exemption from rulemaking for the schedule of fees for the preparation of forest management plans.

Enacts new GS 115C-264.4, Local preference for produce in schools, allowing local school boards to develop policies and procedures for the maximization of the purchasing of food grown or raised in North Carolina, including policies that allow a percentage price preference for the purpose of procuring food grown or manufactured in North Carolina.

Amends GS 90-91, concerning Schedule III controlled substances, to create an exemption for chorionic gonadotropin from the definition of anabolic steroids, which is on the list of Schedule III, but the exemption from being considered a controlled substance applies only when administered by injection for veterinary use by or upon the order of a licensed veterinarian.

Amends GS 105-129.16D(b), concerning tax credits for constructing renewable fuel facilities, to extend the sunset for the production credit for commercial facilities for processing renewable fuel from January 1, 2017, to January 1, 2020.

Enacts new GS Chapte 106, Article 86, Farmed Cervide Industry Promotion Act, setting out five definitions for use in the act, including association, cervid farmer, department, farmed cervid, and farmed cervid feed. Provides for the voluntary assessment through the referendum process conducted by the NC Deer and Elk Farmers Association (Association). Provides duties and responsibilities for the Association concerning the assessment and referendum, including amount of the assessment, not to exceed \$4 per ton of farmed cervid feed and the time and place of the referendum. Requires a majority vote for the assessment to be levied. Further sets out procedures and processes for the assessment, including to whom the assessment is to be remitted, permissible refunds of the assessment, and that the funds must be used to promote the interests of the farmed cervid industry.

Amends GS 143-215.15, permits for water use within capacity use areas - Procedures, enacting new subsection (a1) to exempt water uses for agricultural purposes on bona fide farms or silviculture operations from water permitting requirements for capacity use areas. Requires registration of the agricultural water withdrawals use as specified. Directs the Environmental Management Commission to revise its rules to be consistent with the above.

Amends GS 143-138, North Carolina State Building Code, concerning activities which do not require permits, making various changes and providing that no permit is needed to conduct any construction, installation, repair, replacement, or alteration activities costing \$15,000 or less in residential and farm structures if it involves the following: (1) replacements of windows; doors; exterior siding; or pickets, railings, stair treads, and decking of porches and exterior decks, (2) plumbing replacements that do not change size or capacity, or (3) replacement of roofing. Deletes language that limited the exclusions from permit requirements for electrical lighting devices and fixtures and water heaters only to work performed on one or two family dwellings. Further amends the section to provide that no permit is required for the replacement of water heaters in one- or two-family dwellings, if (1) the energy use rate or thermal input does not exceed that of the water heater being replaced and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and (2) the work is performed by a person licensed pursuant to GS 87-21, meaning by the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors. Enacts new subsection (b16) providing an exclusion from permitting for electrical devices and lighting fixtures, such as the repair or replacement of dishwashers, disposals, electrical devices, or lighting fixtures in residential or commercial structures, if (1) the repair or replacement does not require addition or relocation of additional electrical wiring, and (2) the work is performed by a person licensed by the State Board of Examiners of Electrical Contractors, pursuant to GS 87-43. Makes clarifying changes concerning the exclusions from permits for the routine maintenance of fuel dispensing pumps and other dispensing devices. Amends GS 153A-357 (county permit regulations) and GS 160A-417 (city permit regulations) to bring the local government regulations in compliance with the changes made to State regulations and permit requirements in GS 143-138 as described above. Makes organizational changes. Effective October 1, 2016.

Amends GS 113A-52.01 concerning the applicability of the Sedimentation Pollution Control Act, providing for an exemption for any activity that constitutes a bona fide farm use as specified under GS 153A-340(b)(2). Also specifically excludes activities involving the production of mulch, ornamental plants, sod, and other horticultural products from the Sedimentation Pollution Control Act.

Amends GS 143B-437.020, concerning the definition for an eligible project under the Expanded Gas Products Service to Agriculture Fund, modifying the definition to provide that an eligible project is a project for an agricultural operation

or agricultural processing facility that requests natural gas or propane gas service (previously, definition required an eligible project to expand the agricultural or processing capabilities of the facility).

Amends GS 75-41 concerning automatic renewal clauses in contracts, making organizational changes and setting new requirements and providing that an automatic contract renewal for the sale, lease of products or services for a term exceeding 30 days is void and unenforceable unless the consumer is given written notice of the automatic renewal if it is not canceled. Further requires the notice to be given at least 15 days but no earlier than 30 days before the date the contract is to be automatically renewed. Adds additional language limiting the liability of the contract provisions, excluding entities regulated by the Federal Communications Commission under federal law or by the NC Utilities Commission under State law, or entities doing business under authorization issued by a political subdivision of the State or any agency thereof. Effective when bill becomes law, applying to contracts entered into on or after that date.

Amends GS 105-277.4 concerning deferred taxes of agricultural, horticultural, and forest land, deleting language which provided that if a property lost its eligibility for present-use value classification because it was conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base, then no deferred taxes were due and the lien for deferred taxes was extinguished.

Adds new provision to GS 105-277.4 concerning the conveyance of property eligible for present-use value classification to a nonprofit, providing that if the property qualifies for exclusion from the tax base then deferred taxes are due as follows: (1) if the property is conveyed at or below present-use value, then no deferred taxes are due and the lien for the deferred taxes is extinguished, or (2) if the property is conveyed for more than the present-use value, then a portion of the deferred tax for the preceding three fiscal years of deferred taxes will be due in accordance to the provisions in GS 105-277.1F. Sets out how to calculate the amount owed, either being equal to or lesser of the full amount deferred or the deferred amount multiplied by a fraction as specified.

Effective for taxes imposed for taxable years beginning on or after July 1, 2016.

Amends GS 87-97 concerning permitting, inspection and testing of private drinking water wells, expanding the activities that are authorized per the permit, including authorizing certified well contractors to install, construct, maintain, or repair water pipes when running water pipes from the well to the water tank, and the installation of both water pipes and electrical wiring in a single ditch when running electrical wires from the well pump to the pressure switch and water pipes from the well to the water tank. Sets out requirements for the ditch as well and places the local health department in charge of inspecting the ditch and contents of the ditch. Also provides that when permits are issued under this section then the local health department is responsible for notifying the appropriate building inspector of such issuance. Further directs the Building Code Council to amend the State Electrical Code and the State Plumbing Code to be consistent with this section. Effective October 1, 2016.

Amends GS 105-164.13E to lower the amount of income from farming operations (from \$10,000 to \$5,000) that is required in order for farmers to qualify for the sales tax exemption. Effective for taxes imposed for taxable years beginning on or after July 1, 2016.

Includes a severability clause.

Intro. by B. Jackson, Brock, Cook.

[GS 19A](#), [GS 75](#), [GS 87](#), [GS 90](#), [GS 105](#), [GS 106](#), [GS 113](#), [GS 113A](#), [GS 115C](#), [GS 139](#), [GS 143](#), [GS 143B](#), [GS 150B](#), [GS 153A](#), [GS 160A](#), [GS 166A](#)

[Agriculture, Animals, Business and Commerce, Development, Land Use and Housing, Building and Construction, Education, Elementary and Secondary Education, Environment, Environment/Natural Resources, Government, APA/Rule Making, State Agencies, Department of Agriculture and Consumer](#)

[View summary](#)

S 792 (2015-2016) [STATE IT CONTRACTS/CONTRACTOR LIABILITY](#). Filed Apr 28 2016, *AN ACT SETTING THE LIMITS OF CONTRACTOR LIABILITY UNDER STATE INFORMATION TECHNOLOGY PROCUREMENT CONTRACTS*.

Senate committee substitute deletes the previous language of the 1st edition and provides the following.

Amends GS 143B-1350(h1) to require that all contracts subject to Part 4 of Article 15 of GS Chapter 143B (Information Technology Procurement) include a limitation on the contractor's liability to the State for damages. Requires that the limitation of liability be for damages arising from any cause whatsoever, regardless of the form of action, except as otherwise provided in subsection (h1). Establishes that the amount of liability is to be determined based on the nature of the goods or services covered by the contract, but that there is to be a presumptive limitation of no more than two times the value of the contract. Sets out the specific limitations of liability to be included.

Sets out three circumstances that must be true for the amount of liability for damages and any other losses relating to the loss of, unauthorized access to, or unauthorized disclosure of data to be raised to no more than five times the value of the contract.

Directs the State Chief Information Officer to report annually, no later than March 1, regarding the contracts containing liability amounts of more than two times the value of the contract to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology.

Requires the Department of Information Technology or a separate agency to reasonably determine that the contractor has sufficient financial resources to satisfy the agreed upon limitation of liability before entering into any contract subject to Part 5.

Establishes that subsection (h1) requirements do not apply to liability of the contractor for intentional or willful misconduct, damage to tangible personal property, or physical injuries to persons.

Establishes that nothing in subsection (h1) limits the contractor's liability directly to third parties, or affects the rights and obligations related to contribution among joint tortfeasors under GS Chapter 1B or other applicable law.

Intro. by Tarte, Hise.

[GS 143B](#)

[View summary](#)

[Government, State Agencies, Office of Information
Technology Services, State Government](#)

S 838 (2015-2016) [MEDICAID TRANSFORMATION MODIFICATIONS](#). Filed May 10 2016, *AN ACT TO REQUIRE FURTHER REPORTING FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES RELATED TO TRANSFORMATION OF THE MEDICAID AND NC HEALTH CHOICE PROGRAMS AND TO MODIFY CERTAIN PROVISIONS OF THE MEDICAID TRANSFORMATION LEGISLATION*.

House committee substitute makes the following changes to the 2nd edition.

Amends Section 4 of SL 2015-245 to provide that the required capitated contracts will not cover: (1) services provided directly by a Children's Developmental Services Agency (CDSA) or by a provider under contract with a CDSA if the service is authorized through the CDSA and is included on the child's Individualized Family Service Plan (was, services provided pursuant to a contract with Children's Developmental Services Agencies only) and (2) services for Medicaid program applicants during the period of time prior to eligibility determination (was, services for Medicaid program applicants during the three-month retroactive eligibility period, with services provided during a prospective 12-month

continuous enrollment period covered by the capitated contracts). Amends the categories that do not have to be covered by capitated PHP contracts to also exclude recipients who participate in the North Carolina Health Insurance Premium Payment program. Amends the existing exclusions to remove language that required presumptively eligible recipients who submit a full Medicaid application and are determined eligible for the Medicaid program to be covered by capitated contracts during the prospective 12-month continuous enrollment period after they have been determined eligible.

Amends SL 2015-245 by adding a new section that authorizes the Department of Health and Human Services (DHHS) to seek approval from the Centers for Medicare and Medicaid Services (CMS) through the 1115 waiver to allow parents to retain Medicaid eligibility while their child is being served temporarily by the foster care program. States the General Assembly's intent to expand Medicaid eligibility to cover this population upon implementation of the 1115 waiver, if CMS approves this coverage in the waiver.

Amends the powers of the Secretary of the Department of Health and Human Services in GS 108A-54 to clarify that in administering and operating the Medicaid and NC Health Choice programs, the total expenditures must not exceed the authorized budget for the Medicaid program and NC Health Choice program.

Intro. by Hise.

GS 108A, GS 143B

[View summary](#)

Government, State Agencies, Department of Health and Human Services, Health and Human Services, Health, Health Insurance, Social Services, Public Assistance

S 873 (2015-2016) [ACCESS TO AFFORDABLE COLLEGE ED. ACT](#). Filed May 10 2016, *AN ACT TO IMPLEMENT VARIOUS POLICY CHANGES DESIGNED TO MAKE PUBLIC HIGHER EDUCATION MORE AFFORDABLE IN ACCORDANCE WITH THE STATE CONSTITUTIONAL MANDATE THAT THE BENEFITS OF PUBLIC HIGHER EDUCATION, AS FAR AS PRACTICABLE, BE EXTENDED TO THE PEOPLE OF THE STATE FREE OF EXPENSE.*

Senate committee substitute makes the following changes to the 1st edition.

Amends GS 116-143.9(b) by changing "fixed tuition and fee payment program" to "tuition period" that is to be tolled if the student demonstrates a substantial disruption or interruption in the student's pursuit of a degree.

Adds GS 116-11(7), which requires the Board of Governors to set tuition and required fees at the institutions, not inconsistent with actions of the General Assembly, to the notwithstanding provision of Section 2 that precedes the directive to the Board of Governors and Board of Trustees to reduce student fees as specified.

Deletes the previous language of Section 3(a) and 3(b) and replaces it as follows. Enacts GS 116-143.9 and codifies the previous language of Section 3(a) into subsection (a) of the statute. Codifies the previous language of Section 3(b) into subsection (c) of the statute. Provides new language for subsection (b) to provide that, notwithstanding any other provision of law, beginning with the 2018-19 fiscal year, the Director of the Budget may authorize an increase in the base budget for UNC of up to \$70 million, upon the recommendation of the Board of Governors, to cover the cost of lost tuition revenue for that fiscal year. Provides that any increase in the base budget authorized pursuant to subsection (b) is not to be included in the calculations of projected enrollment growth under GS 116-30.7. Establishes that the authorization provided in subsection (b) is only effective as long as tuition continues at the rate established by subsection (a) of the statute.

Deletes previous Part V of the act that directed the University of North Carolina General Administration to evaluate the effect of University names based on enrollment, academic strength, and diversity, and allowed the Board of Governors to rename institutions. Makes conforming changes to section numbering of the act.

Amends GS 116-294 to direct that the University of North Carolina General Administration (General Administration) is to administer the Cheatham-White Scholarships, in consultation and collaboration with North Carolina Agriculture and

Technical State University and North Carolina Central University, pursuant to policies adopted by the Board of Trustees of both constituent institutions. Directs General Administration to also consult and collaborate with both constituent institutions in completing the nine administrative responsibilities listed.

Amends Section 5(b) to reduce the funds appropriated to \$300,000 from \$3,207,358 for the 2016-17 fiscal year, and to amend the purpose of the funds to provide that they be used to establish and administer the Cheatham-White Scholarships instead of they be used to award Cheatham-White Scholarships.

Makes conforming change to Section 6(a).

Changes the application of the act to the 2016 (previously, 2017) fall academic semester and each subsequent academic semester.

Intro. by Apodaca.

APPROP, GS 116

[View summary](#)

Education, Higher Education, Government, Budget/Appropriations, State Agencies, UNC System

S 873 (2015-2016) [ACCESS TO AFFORDABLE COLLEGE ED. ACT](#). Filed May 10 2016, *AN ACT TO IMPLEMENT VARIOUS POLICY CHANGES DESIGNED TO MAKE PUBLIC HIGHER EDUCATION MORE AFFORDABLE IN ACCORDANCE WITH THE STATE CONSTITUTIONAL MANDATE THAT THE BENEFITS OF PUBLIC HIGHER EDUCATION, AS FAR AS PRACTICABLE, BE EXTENDED TO THE PEOPLE OF THE STATE FREE OF EXPENSE.*

Senate committee substitute makes the following changes to the 2nd edition.

Amends Section 2 of the act to require that student fees be reduced, beginning wit the 2018 fall academic semester, by an amount that is 5% (was, 10% to 25%) less than the amount of the fees charged in the 2016 fall academic semester.

Makes conforming changes.

Deletes the appropriation to UNC for the Cheatham-White Scholarship Fund.

Intro. by Apodaca.

GS 116

[View summary](#)

Education, Higher Education, Government, State Agencies, UNC System

S 889 (2015-2016) [RIGHT TO HUNT AND FISH](#). Filed May 25 2016, *AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROTECT THE RIGHT TO HUNT, FISH, AND HARVEST WILDLIFE.*

Subject to approval by voters at the statewide election on November 8, 2016, adds new Section 38 to Article I of the North Carolina Constitution prohibiting the infringement upon the right of people to hunt, fish, and harvest wildlife, subject to laws and regulations to conserve and manage the State's natural resources. Makes public hunting and fishing the preferred means of managing and controlling wildlife. If approved, effective for taxable years beginning on or after January 1, 2017.

Intro. by Brock, Newton, J. Davis.

CONST

[View summary](#)

Animals, Constitution, Environment, Environment/Natural Resources

ACTIONS ON BILLS

PUBLIC BILLS

H 151: PROPERTY INSURANCE RATEMAKING REFORM.

Senate: Withdrawn From Com

Senate: Re-ref to Commerce. If fav, re-ref to Judiciary I

H 169: LIMIT MOTOR VEHICLE EMISSIONS INSPECTIONS.

Senate: Withdrawn From Com

Senate: Re-ref Com On Commerce

H 357: Chemical Analysis Reports/District Court

Senate: Regular Message Sent To House

House: Regular Message Received For Concurrence in S Com Sub

H 474: EXCLUDE YR. ROUND TRACK-OUT PROGRAM/CHILD CARE.

Ratified

Pres. To Gov. 5/25/2016

H 632: STUDENT ONLINE PROTECTION ACT. (NEW)

Senate: Withdrawn From Cal

Senate: Placed On Cal For 05/26/2016

H 959: DOT PROPOSED LEGISLATIVE CHANGES.

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

H 960: RETIREMENT CREDITABLE SERVICE CHARTER SCHOOLS.

House: Regular Message Sent To Senate

Senate: Regular Message Received From House

Senate: Passed 1st Reading

Senate: Ref To Com On Pensions & Retirement and Aging

H 995: MOTIONS FOR APPROPRIATE RELIEF.

Senate: Withdrawn From Com

Senate: Re-ref Com On Judiciary II

H 1011: RETIREMENT TECHNICAL CORRECTIONS ACT OF 2016.-AB

House: Passed 3rd Reading

H 1023: MUNICIPAL SERVICE DISTRICTS/STATUTORY CHANGES.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Ordered Enrolled

H 1027: STUDY UNFUNDED LIABILITY/RETIREE HEALTH FUND.

House: Regular Message Sent To Senate
Senate: Regular Message Received From House
Senate: Passed 1st Reading
Senate: Ref To Com On Pensions & Retirement and Aging

H 1050: DOT/NO DISCRIMINATION AGAINST MOTORCYCLISTS.

House: Reptd Fav
House: Cal Pursuant Rule 36(b)

H 1141: OBSERVANCE OF MEMORIAL DAY.

House: Passed 2nd Reading
House: Passed 3rd Reading
House: Special Message Sent To Senate

H 1144: DISAPPROVE WILDLIFE RESOURCES COMM. RULES.

House: Passed 1st Reading
House: Ref To Com On Wildlife Resources

S 71: COMM'N APPOINTMENT MODIFICATIONS (NEW).

House: Reptd Fav
House: Cal Pursuant Rule 36(b)
House: Added to Calendar
House: Amend Adopted A1
House: Amend Adopted A2
House: Amend Adopted A5
House: Amend Adopted A4
House: Amendment Withdrawn A3
House: Amend Adopted A6
House: Passed 2nd Reading
House: Passed 3rd Reading
House: Ordered Engrossed

S 363: WAGE & HOUR/LOCAL GOV'T ASSESSMENTS/PARKS (NEW).

House: Reptd Fav Com Substitute
House: Ruled Material
House: Cal Pursuant Rule 36(b)

S 575: NC/SC ORIGINAL BORDER CONFIRMATION.

Senate: Passed 2nd Reading

S 726: IRC UPDATE.

House: Conf Report Adopted
Senate: Conf Report Adopted
Senate: Ordered Enrolled

S 734: STATEWIDE STANDING ORDER/OPIOID ANTAGONIST.

House: Reptd Fav
House: Re-ref Com On Judiciary I

S 748: CHANGE REPORT - BUILD. & INFRASTRUCTURE COMM.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

S 770: NC FARM ACT OF 2016 (NEW)

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Judiciary II

S 792: STATE IT CONTRACTS/CONTRACTOR LIABILITY.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

S 814: DESIGNATE STATE CIO AS SECRETARY OF DEPT.

Senate: Reptd Fav

S 818: INCREASE THE ZERO TAX BRACKET.

Senate: Regular Message Sent To House

House: Regular Message Received From Senate

S 838: MEDICAID TRANSFORMATION MODIFICATIONS.

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

House: Added to Calendar

House: Passed 2nd Reading

House: Passed 3rd Reading

S 853: HONOR FORMER SENATOR PARMON.

Ratified

Ch. Res 2016-7

S 873: ACCESS TO AFFORDABLE COLLEGE ED. ACT.

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

Senate: Re-ref Com On Appropriations/Base Budget

Senate: Reptd Fav Com Substitute

Senate: Com Substitute Adopted

S 889: RIGHT TO HUNT AND FISH.

Senate: Filed

LOCAL BILLS

H 964: COMMISSION MEMBERSHIP WINSTON-SALEM RET. FUND.

House: Regular Message Sent To Senate

Senate: Regular Message Received From House

Senate: Passed 1st Reading

Senate: Ref To Com On Pensions & Retirement and Aging

S 739: TOWN OF ROLESVILLE/ANNEXATION.

Senate: Passed 2nd Reading

S 774: MARVIN AND ASHEBORO/DEANNEXATION (NEW).

Senate: Passed 2nd Reading

S 787: STOKES COUNTY/LOCAL ACTS - BY REQUEST.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

S 831: DUPLIN/SAMPSON/DETENTION CONTRACTS ANIMALS (NEW).

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

[Print Version](#)