

The Daily Bulletin: 2018-02-08

PUBLIC/HOUSE BILLS

H 90 (2017-2018) [CHANGES TO EDUCATION AND ELECTION LAWS \(NEW\)](#). Filed Feb 14 2017, *AN ACT TO PROVIDE ADDITIONAL FUNDS TO SCHOOLS LOCATED IN COUNTIES THROUGH WHICH THE ATLANTIC COAST PIPELINE RUNS; TO PHASE IN CLASS SIZE REQUIREMENTS OVER FOUR YEARS; TO CREATE AN ALLOTMENT FOR PROGRAM ENHANCEMENT TEACHERS; TO MODIFY TRANSFER REQUIREMENTS FOR THE CLASSROOM TEACHER AND PROGRAM ENHANCEMENT TEACHERS STARTING IN 2018-2019; TO MAKE CHANGES TO PERSONAL EDUCATION SAVINGS ACCOUNTS; TO APPROPRIATE FUNDS FOR THE NC PRE-K PROGRAM IN FUTURE YEARS; AND TO IMPLEMENT THE NORTH CAROLINA SUPREME COURT'S HOLDING IN COOPER VS. BERGER BY GIVING THE GOVERNOR INCREASED CONTROL OVER THE BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT.*

Conference report makes the following changes to the 3rd edition. Amends the act's short and long titles.

Deletes all of the previous provisions and now provides the following.

Part I. ACP/MOU/Additional Funding for Public Schools

Establishes that the purpose of this Part is to ensure that local school administrative units located in whole or in part in the counties directly impacted by the placement of the Atlantic Coast Pipeline (ACP) within their respective jurisdictions must receive the benefit of any funds provided or gifted for the benefit of the State or the people of NC as a result of the ACP. Further establishes that compensatory mitigation payments for proposed impacts to streams, buffers, and wetlands in those area were assessed under the 401 certification issued by the Department of Environmental Quality (DEQ) to the ACP, LLC on January 26, 2018.

Describes the Mitigation Project Memorandum of Understanding by and between Governor Cooper and ACP, LLC, dated January 25, 2018 (MOU). States that the MOU purports to provide funding in the form of a gift, voluntary contribution, or otherwise to be used for: (1) mitigation for the unavoidable effects of the ACP on the environment and natural resources of the communities along the ACP's route; (2) support and funding for economic development in the counties that would be impacted by the ACP; and (3) extension of renewable energy projects into certain local communities which may stand to be affected by the ACP's operation. Establishes that the allocation of funds to the State and local entities, officers, or officials falls within the purview of the General Assembly. Authorizes the acceptance of these funds only if the following requirements of this Part are met.

Authorizes a state or local entity, officer, or official acting within an official capacity to accept, direct the use of, or otherwise participate in directing the disbursement of the funds received pursuant to the MOU, or any successive contract or document evidencing an intent to agree that funds be used for the benefit of the State or the people of NC for effects of the ACP, on the condition that schools located in whole or in part in counties through which the ACP runs are the sole recipients of the funds. Directs that one-half of the funds received be allocated among the school units based on the allotted average daily membership for the 2017-18 fiscal year as determined and certified by the State Board of Education (ADM) as provided. Further directs that the remaining funds received are to be allocated among the school units based on linear ACP miles as provided.

Requires each school unit receiving funds under this Part to report to the Department of Public Instruction (DPI) on funds received within 10 days of receipt of the funds. Directs DPI to collate all reports and remit the collated information to the Joint Legislative Commission on Governmental Operations quarterly, with the first collated information to be remitted no later than September 1, 2018. Requires the school units to continue to report and DPI to continue to remit the collated information until DPI certifies that all funds governed by the MOU have been received by the school units.

Provides statements concerning the legislative and executive powers of the State. Clarifies that nothing in this Part is to be construed, or is intended, to (1) be in conflict with the rights of any person or any mandatory provision of federal law or to infringe on the constitutional powers of the Governor to execute the laws of the State, or (2) preclude or supersede any mitigation agreement entered into under applicable State or federal law.

Provides that this Part is effective January 25, 2018.

Part II. Class Size Phase In

Amends Section 1(b) of SL 2017-9 to limit the average class size for kindergarten through third grade in a local school administrative unit to one teacher per 20 students for the 2017-18 and 2018-19 school years (currently, limited to 20 students for the 2017-18 school year with the class size requirements set forth in GS 115C-301, as amended, applicable to the 2018-19 school year). Further limits the size of an individual class in kindergarten through third grade, at the end of the second school month and for the remainder of the school year, to one teacher per 23 students (currently, limited to 23 students).

Limits the average class size for kindergarten through third grade in a local school administrative unit to one teacher per 19 students for the 2019-20 school year, and one teacher per 18 students for the 2020-21 school year. Further limits the size of an individual class in kindergarten through third grade, at the end of the second school month and for the remainder of the school year, to one teacher per 22 students for the 2019-20 school year, and one teacher per 21 students for the 2020-21 school year.

Establishes that the class size requirements set forth in GS 115C-301, as amended, apply beginning with the 2021-22 school year.

Part III. Program Enhancement Teacher Allotment

Effective July 1, 2018, amends GS 115C-301 to require funds for classroom teachers in the State Public School Fund to consist of position allotments for (1) classroom teachers for kindergarten through twelfth grade, including funds for program enhancement teachers, self-contained exceptional children teachers, math, science, and computer teachers, and matching benefits, and (2) program enhancement teachers for kindergarten through fifth grade.

Effective July 1, 2021, amends GS 115C-301, requiring funds for classroom teachers in the State Public School Fund to consist of position allotments for classroom teachers for kindergarten through twelfth grade, to specifically require that funds for program enhancement teachers for sixth through twelfth grade be included.

Amends GS 115C-301(c1), which sets out class size exceptions for kindergarten through third grade, to add program enhancement classes to those excepted from the class size requirements for kindergarten through third grade. Additionally, clarifies the existing exception set out for language immersion classes, providing the exception applies to dual language immersion classes.

Further amends GS 115C-301, adding new subsection (c2) establishing the allotment ratio for kindergarten through fifth grade for program enhancement teachers to be one teacher per 191 students. Defines *program enhancement* similarly to existing GS 115C-301(f)(2)a., but adds that the term may also refer to other supplemental classes as defined by the State Board of Education. Makes conforming changes.

Makes conforming change to repeal Section 1(a)(2) of SL 1995-450, effective July 1, 2018.

Part IV. Allotment Transfer Restrictions

Effective July 1, 2018, amends GS 115C-105.25(b), as amended, to prohibit local boards of education from transferring positions out of the allocation for program enhancement teachers for kindergarten through fifth grade. Allows for local boards of education to convert positions allocated for program enhancement teachers for kindergarten through fifth grade into positions allocated for classroom teachers for kindergarten through twelfth grade.

Effective July 1, 2021, amends GS 115C-105.25(b), as amended, to prohibit local boards of education from transferring any positions out of the allocation for classroom teachers for kindergarten through twelfth grade except as currently provided in subdivision (5a). Makes conforming changes.

Part V. Appropriations for Program Enhancement Teachers

Appropriates from the unappropriated fund balance of the General Fund to DPI for the 2018-19 fiscal year \$61,359,225 in recurring funds for a position allotment for program enhancement teachers for kindergarten through fifth grade. Makes conforming changes to Sections 2.1 and 2.2(a) of SL 2017-57.

Amends GS 115C-301(c2), as enacted by this act in Part III, to provide for appropriations from the General Fund to DPI for the allotment of program enhancement teachers for kindergarten through fifth grade beginning with the 2019-20 fiscal year.

Sets out the amounts to be appropriated based on the identified percentage of the total funds required to allot program enhancement teacher positions for kindergarten through fifth grade on a basis of one teacher per 191 students for each fiscal year, with the following percentage designations: 50% appropriation for 2019-20, 75% for 2020-21, and 100% for 2021-22 and each subsequent fiscal year thereafter. Directs the Director of Budget to include the appropriated amount for each fiscal year as described when developing the base budget.

Part VI. Changes to Personal Education Savings Accounts

Amends GS 115C-591 by amending the eligibility requirements for the North Carolina Personal Education Savings Accounts Program (Program), as enacted in SL 2017-57, to now require that a student residing in the state who has not yet received a high school diploma to meet the following requirements: (1) be eligible to attend a North Carolina public school under GS 115C-366; (2) not be enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit; (3) be a child with a disability, as defined; and (4) have not been placed in a nonpublic school or facility by a public agency at public expense (previous requirements were that the student residing in the state who has not yet received a high school diploma must not be enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit; that the child have a disability, as defined; and that the student meet one of seven listed criteria).

Further amends the statute to define a *part-time student* as a child enrolled part time in a public school and part time in a nonpublic school that exclusively provides services for children with disabilities. Amends GS 115C-592(b) to allow part-time students to be eligible for scholarships of up to \$4,500 per eligible student for the fiscal year in which the application is received. Makes conforming changes.

Requires, for the 2018-19 school year only, that the State Education Assistance Authority give priority in awarding scholarships to applicants with one or more of the following: (1) autism; (2) developmental disability; (3) hearing impairment; (4) moderate or severe intellectual disability; (5) multiple, permanent orthopedic impairments; or (6) visual impairment.

Part VII. NC Pre-K Statutory Appropriation

Enacts new GS 143B-168.10B concerning NC Prekindergarten program (NC Pre-K program) funds. Includes General Assembly findings on the need to increase funds for the NC Pre-K program. Appropriates from the General Fund to the Department of Health and Human Services, Division of Child Development and Early Education, \$82,001,394 for 2019-20 and \$91,351,394 for 2020-21 and each subsequent fiscal year. Requires the Director of the Budget to include the appropriated amount specified in the act for each fiscal year when developing the base budget.

Part VIII. Implement the North Carolina Supreme Court's Holding in *Cooper v. Berger* by Giving the Governor Increased Control Over the Bipartisan State Board of Elections and Ethics Enforcement

Includes General Assembly findings related to the Bipartisan State Board of Elections and Ethics Enforcement. States that the purposes of this legislation is to implement the decision of the North Carolina Supreme Court on January 26, 2018, in *Cooper v. Berger* (No. 52PA17-2) to give the Governor executive control over the Bipartisan State Board of Elections and Ethics Enforcement (State Board) and to provide for representation on the State Board by unaffiliated and third-party voters.

Amends GS 163A-2, which sets out the membership of the State Board. Increases the membership from eight to nine individuals. The additional member is required to be an individual who is not registered with either the political party with the largest number of registered affiliates in the state or of the political party with the second-largest number of registered affiliates in the state, to be appointed by the Governor from a list of two nominees selected by the other eight State Board members. Requires the Governor to make all appointments to the State Board no later than 30 days after receiving the list of nominees for each nominating entity. Requires the eight members to hold an initial appointment selection meeting within 14 days of appointment by the Governor, for the purpose of selecting two nominees who meet the qualifications for appointment. Prohibits taking any other action, other than the oath of office, during the appointment selection meeting. Makes additional clarifying, organizational, and technical changes. Allows State Board members to be removed by the Governor at the Governor's discretion (was, members must be removed by the Governor only for misfeasance, malfeasance, or nonfeasance). Amends the procedure for filling vacancies to reflect the addition of the new type of membership. Makes additional conforming changes.

Sets out the terms of office for members appointed to the State Board in 2018 as one beginning on March 1, 2018, and expiring April 30, 2019. Requires the State Board to hold its first meeting in March 2018.

Part IX. Effective Date

Unless otherwise indicated, the act is effective when it becomes law.

Intro. by Elmore, K. Hall, Hurley.

APPROP, GS 115C, GS 143B, GS 163A

[View summary](#)

Education, Preschool, Elementary and Secondary Education, Environment, Energy, Environment/Natural Resources, Government, Budget/Appropriations, Elections, Ethics and Lobbying, State Agencies, Department of Public Instruction, State Government, Executive

H 189 (2017-2018) [WATER SAFETY ACT \(NEW\)](#). Filed Feb 23 2017, *AN ACT TO IMPLEMENT MEASURES TO ADDRESS "GENX" AND OTHER EMERGING CONTAMINANTS*.

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

Changes the act's long and short titles.

Eliminates the proposed directive requiring the Department of Health and Human Services (DHHS) to consult with the Secretaries' Science Advisory Board in developing health goals for contaminants. Instead, directs DHHS to consult with the following federal and state entities concerning DHHS's process for establishing health goals for per- and poly-fluoroalkyl substances: the US Environmental Protection Agency (EPA), the Centers for Disease Control and Prevention, the Agency for Toxic Substances and Disease Registry, and the North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill (Policy Collaboratory) in coordination with faculty experts across the UNC System.

Adds a new directive requiring the Department of Environmental Quality (DEQ) to cooperate with any audit of its National Pollutant Discharge Elimination System (NPDES) permitting program by the EPA. Expressly directs DEQ to specifically work with the EPA to examine the adequacy of DEQ's NPDES permitting program in the event of an audit.

Modifies and adds to the previously proposed provisions concerning the review of the NPDES Permit Program. Specifies that DEQ is to review its NPDES permitting program from the date on which DEQ assumed authority to implement the program under delegation from the EPA pursuant to Section 402(b) of the Clean Water Act and 40 CFR Part 123, October 19, 1975, to the effective date of the act. Modifies and adds to the four permitting requirements and processes DEQ must examine (previously, specifically directed to examine the adequacy of the identified requirements and processes). Removes from the study the examination of monitoring, sampling, and laboratory analytical requirements applicable to persons holding current NPDES permits and persons applying for new NPDES permits. Adds to the study the examination of the time required to process all NPDES permit applications that are received by DEQ, including (1) the total processing time from when an initial permit application is received to permit issuance or denial, and (2) the processing time from when a complete permitting application is received to permit issuance or denial. Additionally, modifies the previously proposed study components to now refer to emerging *contaminants* instead of emerging *chemicals*. Eliminates the requirement that DEQ submit an interim report. Instead, only requires DEQ to submit a final report that includes any steps DEQ plans to take to improve DEQ's implementation of the NPDES permitting program to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than June 1, 2018 (previously, final report was to be submitted no later than December 1, 2018). Additionally requires DEQ to include any information related to an audit of its NPDES permitting program by the EPA in the report.

Eliminates the directive requiring DEQ to study the statutory notification requirements for dischargers of untreated wastewater, untreated waste, and other substances to ensure that the requirements are sufficient to protect public health and provide adequate notice to DEQ and the public.

Eliminates the directive requiring the UNC School of Government to study the civil liability of public and private water utilities for the distribution of drinking water contaminated by a pollutant without any applicable established federal or state discharge standards.

Deletes the previous provisions concerning GenX funding and instead provides the following funding provisions.

Establishes the finding that relevant faculty expertise, technology, and instrumentation, including mass spectrometers, existing throughout the UNC System should be made available for the analysis of water quality sampling with respect to the discharge of the poly-fluoroalkyl chemical known as GenX and other emerging contaminants, as well as for related research on improved water quality sampling and analysis techniques, data interpretation, and potential mitigation measures that may be necessary. Further establishes that repurposing existing funds to facilitate these activities is an efficient utilization of State funds and resources.

Directs the Policy Collaboratory to coordinate water quality sampling analysis related to GenX and other emerging contaminants in the most cost-effective manner using relevant faculty expertise, technology, and instrumentation, including mass spectrometers, existing throughout the UNC System, in the event the EPA no longer provides access to its analytical instrumentation at no cost to the State or if DEQ determines the analysis is not being performed in a sufficiently timely manner. Directs the Policy Collaboratory to consult with DEQ and the relevant experts in the UNC System to establish a protocol for the delivery of samples taken by DEQ to the entity designated to perform sample analyses, chain of custody protocols, and other matters to ensure proper handling and processing of the samples.

Further directs the Policy Collaboratory to identify faculty expertise within the UNC System and use technology and instrumentation, including mass spectrometers, existing throughout the UNC System to: (1) develop quantitative models to predict which private wells are most at risk of contamination from the discharge known as GenX and other emerging contaminants, and (2) test the performance of household water filters in removing the compounds. Permits the Policy Collaboratory to evaluate and conduct other research for improved water quality sampling and analyses techniques, data interpretation, and potential mitigation measures that may be necessary with respect to the discharge of GenX and other emerging contaminants, using relevant faculty expertise, technology and instrumentation existing throughout the UNC System.

For the above purposes, authorizes the Policy Collaboratory to use up to \$1 million for the 2017-18 fiscal year and up to \$1 million for the 2018-19 fiscal year of the funds appropriated for the 2016-17 fiscal year to the Office of State Budget and Management, Special Appropriations, and allocated to the Board of Trustees of the University of North Carolina at Chapel Hill for use as matching funds by the Collaboratory. Adds that the reallocated funds are to remain available for nonrecurring expenses. Clarifies that no match is required for funds reallocated by this act.

Eliminates the previously proposed appropriations to DEQ for the purpose of supporting sampling and analysis activities associated with discharges of GenX and other emerging contaminants, and the acquisition of analytic equipment for more timely and cost-effective evaluation of any threat to public health and safety resulting from discharges of GenX and other emerging contaminants. Instead, appropriates \$2.4 million in nonrecurring funds for the 2017-18 fiscal year from the unappropriated balance remaining in the General Fund to DEQ to implement the act. Adds a requirement for DEQ to report no later than June 1, 2018, and quarterly thereafter, to the Joint Legislative Committee on Governmental Operations on how the appropriated funds will be and are being used. Makes conforming changes to Sections 2.1 and 2.2(a) of SL 2017-57, as amended. Adds that nonrecurring funds appropriated for the 2017-18 fiscal year are to remain available for nonrecurring expenses through June 30, 2019.

Intro. by Davis, Hardister, Clampitt, Grange.

APPROP, STUDY, GS 143

[View summary](#)

Environment, Environment/Natural Resources, Government, Budget/Appropriations, State Agencies, UNC System, Department of Environmental Quality (formerly DENR), Department of Health and Human Services, Health and Human Services, Health, Public Health

PUBLIC/SENATE BILLS

S 708 (2017-2018) **HONOR N.C. A&T'S CHAMPIONSHIP FOOTBALL TEAM.** Filed Feb 8 2018, *A JOINT RESOLUTION RECOGNIZING NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY FOR ITS LONG AND STORIED CONTRIBUTIONS TO THE EDUCATION AND TRAINING OF AFRICAN-AMERICANS AND OTHER DIVERSE STUDENTS AND*

CONGRATULATING THE UNIVERSITY'S FOOTBALL TEAM ON WINNING THE 2017 HISTORICALLY BLACK COLLEGES AND UNIVERSITIES NATIONAL CHAMPIONSHIP.

Includes whereas clauses.

Recognizes and supports North Carolina Agricultural and Technical State University (NC A&T) for its dedication and commitment to educating students in varied fields of graduate and undergraduate study, for its successes in creating leaders in science, technology, and other areas, and for its successes in its athletic programs.

Congratulates the Aggies of NC A&T on their undefeated 2017 football season and on their 2017 Celebration Bowl victory. Acknowledges the efforts of each member of the 2017 football team of NC A&T and their Head Coach Rod Broadway.

Directs the Secretary of State to transmit a certified copy of the resolution to Chancellor Harold Martin, Sr., Director of Intercollegiate Athletics Earl Hilton, III, current Head Coach Sam Washington, and retired Head Coach Rod Broadway.

Intro. by Robinson.

JOINT RES

[View summary](#)

Education, Higher Education, Government, Cultural Resources and Museums

S 709 (2017-2018) **CONFIRM RETIREMENT SYSTEM BOT.** Filed Feb 8 2018, *A SENATE RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE GOVERNOR'S APPOINTMENT TO THE BOARD OF TRUSTEES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.*

Confirms the appointment of Cecil Gammon as a public member to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring March 31, 2021.

Intro. by Chaudhuri.

SENATE RES

[View summary](#)

Employment and Retirement, Government, State Government, Executive, State Personnel

ACTIONS ON BILLS

PUBLIC BILLS

H 90: CHANGES TO EDUCATION AND ELECTION LAWS (NEW).

Senate: Conf Com Reported

House: Conf Com Reported

Senate: Re-ref Com On Appropriations/Base Budget

House: Re-ref Com On Appropriations

House: Reptd Fav For Adoption

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 02/09/2018

House: Placed On Cal For 02/09/2018

Senate: Placed On Cal For 02/09/2018

House: Withdrawn From Cal

House: Placed On Cal For 02/13/2018

H 189: WATER SAFETY ACT (NEW).

Senate: Reptd Fav

S 707: JT SESSION/STATE BD OF EDUCATION CONFIRMATION.

House: Withdrawn From Cal

House: Re-ref Com On Rules, Calendar, and Operations of the House

S 708: HONOR N.C. A&T'S CHAMPIONSHIP FOOTBALL TEAM.

Senate: Filed

Senate: Passed 1st Reading

Senate: Placed on Today's Calendar

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Special Message Sent To House

House: Special Message Received From Senate

House: Passed 1st Reading

House: Added to Calendar

House: Cal Pursuant 36(b)

House: Passed 2nd Reading

House: Passed 3rd Reading

House: Ordered Enrolled

S 709: CONFIRM RETIREMENT SYSTEM BOT.

Senate: Filed

Senate: Passed 1st Reading

Senate: Ref To Com On Pensions and Retirement and Aging

No local actions on bills

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