GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 821*

Judiciary I Committee Substitute Adopted 6/21/16
Rules and Operations of the Senate Committee Substitute Adopted 6/29/16
Fourth Edition Engrossed 6/30/16

Short Title: GSC Technical Corrections 1. (Public)

Sponsors:

Referred to:

May 10, 2016

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE ADDITIONAL TECHNICAL AND OTHER AMENDMENTS TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 14-118.6(b1) reads as rewritten:

"(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the document against the property of a public officer or public employee until that document is approved by any judge of the judicial district having subject matter jurisdiction for filing by the clerk of superior ~~court by any judge of the judicial district having subject matter jurisdiction.~~ court. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the date and time of indexing by the clerk of superior court. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall enter an order that the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The clerk of superior court shall serve the order and return the original denied filing to the person or entity that presented it. The person or entity shall have 30 days from the entry of the order to appeal the order. If the order is not appealed within the applicable time period, the clerk may destroy the filing."

SECTION 1.1. G.S. 14-159.3(a1) reads as rewritten:

"(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on ~~his or her~~ the landowner's property owes the person the same duty of care that ~~he or she~~ the landowner owes a trespasser."

SECTION 2. G.S. 14-208.6 reads as rewritten:

"**§ 14-208.6. Definitions.**

The following definitions apply in this Article:

...

(5) "Sexually violent offense" means a violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

...."

SECTION 2.1. G.S. 20-45 reads as rewritten:

"**§ 20-45. Seizure of documents and plates.**

(a) The Division is ~~hereby~~ authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, or which has been unlawfully used.

(b) The Division may give notice to the owner, licensee or lessee of its authority to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it and require that person to surrender it to the Commissioner or ~~his~~ the Commissioner's officers or agents. Any person who fails to surrender the certificate of title, registration card, permit, license, or registration plate or any duplicate thereof, upon personal service of notice or within 10 days after receipt of notice by mail as provided in G.S. 20-48, shall be guilty of a Class 2 misdemeanor.

(c) Any sworn law enforcement officer with jurisdiction, including a member of the State Highway Patrol, is authorized to seize the certificate of title, registration card, permit, license, or registration plate, if the officer has electronic or other notification from the Division that the item has been revoked or cancelled, or otherwise has probable cause to believe that the item has been revoked or cancelled under any law or statute, including ~~G.S. 20-309(e).~~ G.S. 20-311. If a criminal

proceeding relating to a certificate of title, registration card, permit, or license is pending, the law enforcement officer in possession of that item shall retain the item pending the entry of a final judgment by a court with jurisdiction. If there is no criminal proceeding pending, the law enforcement officer shall deliver the item to the Division.

(d) Any law enforcement officer who seizes a registration plate pursuant to this section shall report the seizure to the Division within 48 hours of the seizure and shall return the registration plate, but not a fictitious registration plate, to the Division within 10 business days of the seizure."

SECTION 3. The catch line of G.S. 20-171.24 reads as rewritten:

"**§ 20-171.24. Motorized all-terrain vehicle use by municipal and county employees ~~of listed municipalities and counties~~ permitted on certain highways.**"

SECTION 3.1. G.S. 24-10.1(a) reads as rewritten:

"(a) Subject to the limitations contained in subsection (b) of this section, any lender may charge a party to a loan or extension of credit governed by the provisions of ~~G.S. 24-1.1, 24-1.2,~~ G.S. 24-1.1 or ~~24-1.1A~~G.S. 24-1.1A a late payment charge as agreed upon by the parties in the loan contract."

SECTION 4. G.S. 28A-2-4 reads as rewritten:

"**§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.**

(a) The clerks of superior court of this State, as ex officio judges of probate, shall have original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not limited to, the following:

(1) Probate of wills.

(2) Granting and revoking of letters testamentary and letters of administration, or other proper letters of authority for the administration of estates.

(3) Determination of the elective share for a surviving spouse as provided in G.S. 30-3.

(4) Proceedings to ascertain heirs or devisees, to approve settlement agreements pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to determine priority among creditors, to determine whether a person is in possession of property belonging to an estate, to order the recovery of property of the estate in possession of third parties, and to determine the existence or nonexistence of any immunity, power, privilege, duty, or right. Any party or the clerk of superior court may file a notice of transfer of a proceeding pursuant to this subdivision to the Superior Court Division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust~~ an estate proceeding pending before the clerk of superior court to the extent consistent with this Article.

(b) Nothing in this section shall affect the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes. In the event that either the petitioner or the respondent in an estate proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either party may move for a transfer of the proceeding to the Superior Court Division of the General Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate proceeding to the extent consistent with this Article.

(c) Without otherwise limiting the jurisdiction of the Superior Court Division of the General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a) or ~~(c)~~ (b) of this section or G.S. 28A-2-5 of the following:

(1) Actions by or against creditors or debtors of an estate, except as provided in Article 19 of this Chapter.
(2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
(3) Caveats, except as provided under G.S. 31-36.
(4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
(5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

SECTION 5. Reserved.

SECTION 6. G.S. 28A-19-5(b) reads as rewritten:

"(b) With respect to a contingent or unliquidated claim rejected by a personal representative pursuant to G.S. 28A-19-16, the claimant may, within the three-month period prescribed by G.S. 28A-19-16, file a petition for an order of the clerk of superior court in accordance with subsection (a) of this section, provided that nothing in this section shall require the clerk of superior court to hear and determine the validity of, priority of, or amount of a contingent or unliquidated claim that has not yet become absolute."

SECTION 7. G.S. 31B-1(a) reads as rewritten:

"(a) A person who succeeds to a property interest as:

...

(8) ~~Appointee~~ Appointee, permissible appointee, or taker in default under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument;

...

may renounce at anytime, in whole or in part, the right of succession to any property or interest therein, including a future interest, by filing a written instrument under the provisions of this Chapter. A renunciation may be of a fractional share or any limited interest or estate. The renunciation shall be deemed to include the entire interest of the person whose property or interest is being renounced unless otherwise specifically limited. A person may renounce any interest in or power over property, including a power of appointment, even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to renounce. Notwithstanding the foregoing, there shall be no right of partial renunciation if the instrument creating the interest expressly so provides."

SECTION 7.1. G.S. 36C-8-816.1 reads as rewritten:

"**§ 36C-8-816.1. Trustee's special power to appoint to a second trust.**

(a) For purposes of this section, the following definitions apply:
(1) Current beneficiary. – A person who is a permissible distributee of trust income or principal.
(2) Original trust. – A trust established under an irrevocable trust instrument pursuant to the terms of which a trustee has a discretionary power to distribute principal or income of the trust to or for the benefit of one or more current beneficiaries of the trust.
(3) Second trust. – A trust established under an irrevocable trust instrument, the current beneficiaries of which are one or more of the current beneficiaries of the original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.

(b) A trustee of an original trust may, without authorization by the court, exercise the discretionary power to distribute principal or income to or for the benefit of one or more current beneficiaries of the original trust by appointing all or part of the principal or income of the original trust subject to the power in favor of a trustee of a second trust. The trustee of the original trust may exercise this power whether or not there is a current need to distribute principal or income under any standard provided in the terms of the original trust. The trustee's special power to

appoint trust principal or income in further trust under this section includes the power to create the second trust. The second trust may have a duration that is longer than the duration of the first trust.

(c) The terms of the second trust shall be subject to all of the following:

(1) The beneficiaries of the second trust may include only beneficiaries of the original trust.

(2) A beneficiary who has only a future beneficial interest, vested or contingent, in the original trust cannot have the future beneficial interest accelerated to a present interest in the second trust.

(3) The terms of the second trust may not reduce any fixed income, annuity, or unitrust interest of a beneficiary in the assets of the original trust if that interest has come into effect with respect to the beneficiary.

(4) If any contribution to the original trust qualified for a marital or charitable deduction for federal income, gift, or estate tax purposes under the Internal Revenue Code, then the second trust shall not contain any provision that, if included in the original trust, would have prevented the original trust from qualifying for the deduction or that would have reduced the amount of the deduction.

(5) If contributions to the original trust have been excluded from the gift tax by the application of section 2503(b) and section 2503(c) of the Internal Revenue Code, then the second trust shall provide that the beneficiary's remainder interest in the contributions shall vest and become distributable no later than the date upon which the interest would have vested and become distributable under the terms of the original trust.

(6) If any beneficiary of the original trust has a power of withdrawal over trust property, then either:

a. The terms of the second trust must provide a power of withdrawal in the second trust identical to the power of withdrawal in the original trust; or

b. Sufficient trust property must remain in the original trust to satisfy the outstanding power of withdrawal.

(7) If a trustee of an original trust exercises a power to distribute principal or income that is subject to an ascertainable standard by appointing property to a second trust, then the power to distribute income or principal in the second trust must be subject to the same ascertainable standard as in the original trust and must be exercisable in favor of the same current beneficiaries to whom such distribution could be made in the original trust.

(8) The second trust may confer a power of appointment upon a beneficiary of the original trust to whom or for the benefit of whom the trustee has the power to distribute principal or income of the original trust. The permissible appointees of the power of appointment conferred upon a beneficiary may include persons who are not beneficiaries of the original or second trust. The power of appointment conferred upon a beneficiary shall be subject to the provisions of G.S. 41-23 specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed.

(9) The terms of the second trust shall not contain any provisions that would jeopardize (i) the qualification of a transfer as a direct skip under section 2642(c) of the ~~[Internal Revenue]~~ Internal Revenue Code, (ii) if the first trust owns subchapter S Corporation stock, the election to treat a corporation as a subchapter S Corporation under section 1362 of the Internal Revenue Code, (iii) if the first trust owns an interest in property subject to the minimum distribution rules of section 401(a)(9) of the Internal Revenue Code, a favorable

distribution period by shortening the minimum distribution period, or (iv) any other specific tax benefit for which ~~a contribution originally~~ the first trust was clearly designed to qualify and for which the first trust qualified or would have qualified ~~for income, gift, estate, or generation-skipping transfer tax purposes.~~ but for the enactment of this section. In this subdivision, "tax benefit" means a federal or State tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for the benefit from having the settlor considered the owner under sections 671 through 679 of the Internal Revenue Code. Subject to clause (ii) above, the second trust may be a trust as to which the settlor is not considered the owner under sections 671 through 679 of the Internal Revenue Code even if the settlor is considered the owner of the first trust, and the second trust may be a trust as to which the settlor of the first trust is considered the owner under sections 671 through 679 of the Internal Revenue Code, even if the settlor is not considered the owner of the first trust.

(10) Notwithstanding any other provision of this section, but subject to the limitations of subdivisions (1), (2), (4), (5), and (9) of this subsection, a trustee may exercise the power to appoint principal and income under subsection (b) of this section with respect to a disabled beneficiary's interest in the original trust to a second trust that is a supplemental needs trust that does not have (i) an ascertainable standard (or has a different ascertainable standard); (ii) a fixed income, annuity, or unitrust interest in the assets of the original trust; or (iii) a right of withdrawal, if the trustee determines that it would be in the best interest of the disabled beneficiary. For purposes of this subsection, the following apply:

a. A "supplemental needs trust" means a trust that is a discretionary trust under G.S. 36C-5-504 and relative to the original trust contains either lesser or greater restrictions on the trustee's power to distribute income or principal, and which the trustee believes would, if implemented, allow the disabled beneficiary to receive greater governmental benefits than the disabled beneficiary would receive if the power to appoint principal and income had not been exercised.

b. "Governmental benefits" means medical assistance, financial aid, or services from any local, State, or federal agency or department.

c. A "disabled beneficiary" means a current beneficiary of the original trust who the trustee determines has a condition that substantially impairs the beneficiary's ability to provide for his or her own support, care, or custody whether or not the beneficiary has been adjudicated a "disabled person" by any government agency or department.

d. The second supplemental needs trust shall not be liable to pay or reimburse the State or any government or public agency for medical assistance, financial aid, or services provided to the disabled beneficiary except as provided in the second supplemental needs trust.

(d) A trustee may not exercise the power to appoint principal or income under subsection (b) of this section if the trustee is a beneficiary of the original trust, but the remaining cotrustee or a majority of the remaining cotrustees may act for the trust. If all the trustees are beneficiaries of the original trust, then the court may appoint a special fiduciary with authority to exercise the power to appoint principal or income under subsection (b) of this section.

(e) The exercise of the power to appoint principal or income under subsection (b) of this section:

(1) Shall be considered the exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate; and

(2) Shall be subject to the provisions of G.S. 41-23 specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed; and

(3) Is not prohibited by a spendthrift provision or by a provision in the original trust instrument that prohibits amendment or revocation of the trust.

(f) To effect the exercise of the power to appoint principal or income under subsection (b) of this section, all of the following shall apply:

(1) The exercise of the power to appoint shall be made by an instrument in writing, signed and acknowledged by the trustee, setting forth the manner of the exercise of the power, including the terms of the second trust, and the effective date of the exercise of the power. The instrument shall be filed with the records of the original trust.

(2) The trustee shall give written notice to all qualified beneficiaries of the original trust, at least 60 days prior to the effective date of the exercise of the power to appoint, of the trustee's intention to exercise the power. The notice shall include a copy of the instrument described in subdivision (1) of this subsection.

(3) If all qualified beneficiaries waive the notice period by a signed written instrument delivered to the trustee, the trustee's power to appoint principal or income shall be exercisable after notice is waived by all qualified beneficiaries, notwithstanding the effective date of the exercise of the power.

(4) The trustee's notice under this subsection shall not limit the right of any beneficiary to object to the exercise of the trustee's power to appoint and bring an action for breach of trust seeking appropriate relief as provided by G.S. 36C-10-1001.

(g) Nothing in this section shall be construed to create or imply a duty of the trustee to exercise the power to distribute principal or income, and no inference of impropriety shall be made as a result of a trustee not exercising the power to appoint principal or income conferred under subsection (b) of this section. Nothing in this section shall be construed to abridge the right of any trustee who has a power to appoint property in further trust that arises under the terms of the original trust or under any other section of this Chapter or under another provision of law or under common law.

(h) A trustee or beneficiary may commence a proceeding to approve or disapprove a proposed exercise of the trustee's special power to appoint to a second trust pursuant to subsection (b) of this section."

SECTION 7.2.(a) G.S. 39-33 and G.S. 39-34 are repealed.

SECTION 7.2.(b) G.S. 39-35 is recodified as G.S. 31D-5-505.

SECTION 7.2.(c) G.S. 39-36 is recodified as G.S. 31D-4-403.1.

SECTION 7.3. G.S. 42A-17(a) reads as rewritten:

"(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings and loan association~~ federally insured depository institution in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property."

SECTION 7.4. G.S. 97-25(f) reads as rewritten:

"(f) In claims subject to G.S. 97-18(b) and (d), a party may file a motion as set forth in this subsection regarding a request for medical compensation or a dispute involving medical issues. The nonmoving party shall have the right to contest the motion. Motions and responses shall be

submitted contemporaneously via electronic ~~mail~~ means to the Commission and to the opposing party or the opposing party's ~~attorney[, as follows]:~~attorney, as follows:

(1) A party may file a motion with the Executive Secretary for an administrative ruling regarding a request for medical compensation or a dispute involving medical issues. The motion shall be decided administratively pursuant to rules governing motions practices in contested cases. The Commission shall decide the motion within 30 days of the filing of the motion unless an extension of time to respond to the motion has been granted for good cause shown. Either party may file a motion for reconsideration of the administrative order with the Executive Secretary. Either party may request an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the decision of the Executive Secretary approving or denying the original motion or the motion for reconsideration. Within five days of the filing of a request for an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the decision of the Executive Secretary, the Commission shall assign a Deputy Commissioner to conduct the formal hearing. The decision shall not be stayed during the pendency of an appeal pursuant to G.S. 97-84 and subdivision (2) of this subsection except under those circumstances set out in subdivision (4) of this subsection. A motion to stay shall be filed with the Deputy Commissioner scheduled to conduct the formal hearing pursuant to G.S. 97-84. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the Deputy Commissioner shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. A motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

(2) In lieu of filing a motion with the Executive Secretary for an administrative ruling pursuant to subdivision (1) of this subsection, when appealing a ruling made pursuant to subdivision (1) of this subsection or when appealing an administrative ruling of the Chief Deputy or the Chief Deputy's designee on an emergency motion, a party may request a full evidentiary hearing pursuant to G.S. 97-84 on an expedited basis, limited to a request for medical compensation or a dispute involving medical issues, by filing a motion with the Office of the Chief Deputy Commissioner. The case will not be ordered into mediation based upon a party's request for hearing on the motion or appeal under this subdivision, except upon the consent of the parties. The Commission shall set the date of the expedited hearing, which shall be held within 30 days of the filing of the motion or appeal and shall notify the parties of the time and place of the hearing on the motion or appeal. Upon request, the Commission may order expedited discovery. The record shall be closed within 60 days of the filing of the motion, or in the case of an appeal pursuant to subdivisions (1) and (3) of this subsection, within 60 days of the filing of the appeal, unless the parties agree otherwise or the Commission so orders. Transcripts of depositions shall be expedited if necessary and paid pursuant to rules promulgated by the Commission related to depositions and shall be submitted electronically to the Commission. The Commission shall decide the issue in dispute and make findings of fact based upon the preponderance of the evidence in view of the entire record. The award, together with a statement of the findings of fact,

rulings of law, and other matters pertinent to the questions at issue shall be filed with the record of the proceedings within 15 days of the close of the hearing record, and a copy of the award shall immediately be sent to the parties. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the Deputy Commissioner pursuant to G.S. 97-84 shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. A motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

(3) An emergency medical motion filed by either party shall be filed with the Office of the Chief Deputy Commissioner. The Chief Deputy or Chief Deputy's designee shall rule on the motion within five days of receipt unless the Chief Deputy or Chief Deputy's designee determines that the motion is not an emergency, in which case the motion shall be referred to the Executive Secretary for an administrative ruling pursuant to subdivision (1) of this subsection. Motions requesting emergency medical relief shall contain all of the following:

a. An explanation of the medical diagnosis and treatment recommendation of the health care provider that requires emergency attention.

b. A specific statement detailing the time-sensitive nature of the request to include relevant dates and the potential for adverse consequences to the movant if the recommended relief is not provided emergently.

c. An explanation of opinions known and in the possession of the movant of additional medical or other relevant experts, independent medical examiners, and second opinion examiners.

d. Documentation known and in the possession of the movant in support of the request, including relevant medical records.

e. A representation that informal means of resolving the issue have been attempted.

Either party may appeal the decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion by requesting an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the administrative decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion. Within five days of the filing of a request for an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection, the Commission shall assign a Deputy Commissioner to conduct the formal hearing. The decision of the Chief Deputy or the Chief Deputy's designee shall not be stayed during the pendency of an appeal of the administrative decision except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay shall be filed with the Deputy Commissioner scheduled to conduct the expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. If so, the decision of the Deputy Commissioner shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall

render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

(4) The Commission shall consider, among other factors, all of the following when determining whether to grant a motion to stay filed pursuant to this subsection:

a. Whether there would be immediate and irreparable injury, harm, loss, or damage to either party.

b. The nature and cost of the medical relief sought.

c. The risk for further injury or disability to the employee inherent in the treatment or its delay.

d. Whether it has been recommended by an authorized physician.

e. Whether alternative therapeutic modalities are available and reasonable.

(5) If the Commission determines that any party has acted unreasonably by initiating or objecting to a motion filed pursuant to this section, the Commission may assess costs associated with any proceeding, including any reasonable attorneys' fees and deposition costs, against the offending party."

SECTION 8. The catch line of G.S. 108A-70.21 reads as rewritten:

"**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private ~~plans; purchase of extended coverage.~~plans.**"

SECTION 9. G.S. 120-4.16(b) reads as rewritten:

"(b) Purchase of Service Credits Through Rollover Contributions From Certain Other Plans. – Notwithstanding any other provision of this Article, and without regard to any limitations on contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase membership or creditable service pursuant to the provisions of this Article, may purchase such service credits through rollover contributions to the Annuity Savings Fund from (i) an annuity contract described in Section 403(b) of the Internal Revenue Code, (ii) an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, (iii) an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income, or (iv) a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code. Notwithstanding the foregoing, the Retirement System shall not accept any amount as a rollover contribution unless such amount is eligible to be rolled over to a qualified trust in accordance with applicable law and the member provides evidence satisfactory to the Retirement System that such amount qualifies for rollover treatment. Unless received by the Retirement System in the form of a direct rollover, the rollover contribution must be paid to the Retirement System on or before the 60th day after the date it was received by the member.

(b1) Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any other provision of this Article, and without regard to any limitations on contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase membership or creditable service pursuant to the provisions of this Article, may purchase such service credits through a direct transfer to the Annuity Savings Fund of funds from (i) an annuity contract described in Section 403(b) of the Internal Revenue Code or (ii) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state."

SECTION 9.1. G.S. 120-57 is repealed.

SECTION 9.2. G.S. 136-41.2(c) reads as rewritten:

"(c) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has formally adopted a budget ordinance in substantial compliance with ~~G.S. 160-410.3,~~ G.S. 159-8 and G.S. 159-13, showing revenue received from all sources, and showing that funds have been appropriated for at least two of the following municipal services if the municipality was incorporated with an effective date prior to January 1, 2000, water distribution; sewage collection

or disposal; garbage and refuse collection or disposal; fire protection; police protection; street maintenance, construction, or right-of-way acquisition; or street lighting, or at least four of the following municipal services if the municipality was incorporated with an effective date of on or after January 1, 2000: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning."

SECTION 9.3. G.S. 143-215.31(a1) reads as rewritten:

"(a1) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this ~~subsection;~~subsection:

(1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high-hazard dam or an intermediate-hazard dam to the Department and the Department of Public Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.

(2) The Emergency Action Plan shall include, at a minimum, all of the following:

a. A description of potential emergency conditions that could occur at the dam, including security risks.

b. A description of actions to be taken in response to an emergency condition at the dam.

c. Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.

d. A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment. A downstream inundation map prepared pursuant to this section does not require preparation by a licensed professional engineer or a person under the responsible charge of a licensed professional engineer unless the dam is associated with a coal combustion residuals surface impoundment, as defined by G.S. 130A-309.201.

(3) The owner of the dam shall update the Emergency Action Plan annually and shall submit it to the Department and the Department of Public Safety for their review and approval within one year of the prior approval.

(4) The Department shall provide a copy of the Emergency Action Plan to the regional offices of the Department that might respond to an emergency condition at the dam.

(5) The Department of Public Safety shall provide a copy of the Emergency Action Plan to all local emergency management agencies that might respond to an emergency condition at the dam.

(6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" shall include Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in ~~18 C.F.R. § 333.112.~~18 C.F.R. § 388.112."

SECTION 9.4. G.S. 143B-168.5 reads as rewritten:

"**§ 143B-168.5. Child Care – special unit.**

There is established within the Department of Health and Human ~~Services~~ Services, Division of Child Development and Early Education, a special unit to deal primarily with violations

involving child abuse and neglect in child care arrangements. The Child Care Commission shall make rules for the investigation of reports of child abuse or neglect and for administrative action when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, ~~and 110-105.2.~~ 110-105.3, 110-105.4, 110-105.5, and 110-105.6."

SECTION 9.5. G.S. 143B-931(b) reads as rewritten:

"(b) The Department of Public Safety may provide a criminal history record check to the board of directors of a regional school of a person who is employed at a regional school or of a person who has applied for employment at a regional school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73 by fingerprint card to the board of directors of the regional school from the National Repositories of Criminal Histories, in accordance with ~~G.S. 115C-238.56N.~~ G.S. 115C-238.73. The information shall be kept confidential by the board of directors of the regional school as provided in ~~G.S. 115C-238.56N.~~G.S. 115C-238.73."

SECTION 9.6. G.S. 143C-6-4(b) reads as rewritten:

"(b) Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was appropriated in the certified budget by adjusting the authorized budget for all of the following:

(1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.

(2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:

a. Required by a court or Industrial Commission order;

b. Authorized under ~~G.S. 166A-19.40(a)~~ G.S. 166A-19.40(a)(1) and (c) of the North Carolina Emergency Management Act; or

c. Required to call out the North Carolina National Guard.

(3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, if each of the following conditions is satisfied:

a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted.

b. The scope of the purpose or program is not increased.

c. The overexpenditure is authorized on a one-time nonrecurring basis for one year only, unless the overexpenditure is the result of (i) salary adjustments authorized by law or (ii) the establishment of time-limited positions funded with agency receipts."

SECTION 10. G.S. 146-9(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, or any other provision of law, prior to expiration of a lease of mineral deposits in State lands, the Department of Administration or other entity designated by the Department shall solicit competitive bids for lease of such mineral deposits, which shall include a process for upset bids as described in this subsection. An upset bid is an increased or raised bid whereby a person offers to lease such mineral rights for an amount exceeding the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, by a minimum of five percent (5%). The process shall provide that the Department or other designated entity that issued the solicitation for competitive bids shall issue a notice of high bid to the person submitting the highest bid in response to the initial solicitation for competitive bids, or the person submitting the last upset bid, as applicable, and any other bidders that have submitted a bid in an amount seventy-five percent (75%) or more of the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as

applicable, of the highest bid received at that point within 10 days of the closure of the bidding period, as provided in the solicitation for competitive bids, through notice delivered by any means authorized under G.S. 1A-1, Rule 4. Thereafter, an upset bid may be made by delivering to the Department or other designated entity, subject to all of the following requirements and conditions:

...

(4) When an upset bid is made as provided in this subsection, the Department or other designated entity shall notify ~~to~~ the highest prior bidder, and any other bidders that have submitted a bid in an amount seventy-five percent (75%) or more of the current high bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable.

...."

SECTION 10.1. G.S. 147-12(a) reads as rewritten:

"(a) In addition to the powers and duties prescribed by the Constitution, the Governor has the powers and duties prescribed in this and the following sections:

(1) To supervise the official conduct of all executive and ministerial officers; and when the Governor deems it advisable to visit all State institutions for the purpose of inquiring into the management and needs of the same.

...

(12) To name and locate State government buildings, monuments, memorials, and improvements, as provided by ~~G.S. 143B-373(1).~~G.S. 143B-373(a)(1).

...."

SECTION 11. G.S. 153A-340(h) reads as rewritten:

"(h) As provided in this subsection, counties may adopt temporary moratoria on any ~~county development approval required by law.~~ county development approval required by law, except for the purpose of developing and adopting new or amended plans or ordinances as to residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the board of commissioners shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 153A-323. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 153A-357 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G.S. 153A-344.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the county prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the county prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

(1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the county and why those alternative courses of action were not deemed adequate.

(2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

(3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the city shall have taken all reasonable and feasible steps proposed to be taken by the county in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the county shall have the burden of showing compliance with the procedural requirements of this subsection."

SECTION 12. G.S. 160A-332(a) reads as rewritten:

"(a) The suppliers of electric service inside the corporate limits of any city in which a secondary supplier was furnishing electric service on the determination ~~date (as defined in G.S. 160A-331(1))~~date, as defined in G.S. 160A-331(1b), shall have rights and be subject to restrictions as follows:

...."

SECTION 13.(a) G.S. 160A-372(e) reads as rewritten:

"(e) The ordinance may provide that a developer may provide funds to the city whereby the city may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this ~~paragraph [subsection]~~ subsection shall be based on the value of the development or subdivision for property tax purposes. The ordinance may allow a combination or partial payment of funds and partial dedication of land when the governing body of the city determines that this combination is in the best interests of the citizens of the area to be served."

SECTION 13.(b) G.S. 160A-372(f) reads as rewritten:

"(f) The ordinance may provide that in lieu of required street construction, a developer may be required to provide funds that the city may use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a

combination of partial payment of funds and partial dedication of constructed streets when the governing body of the city determines that a combination is in the best interests of the citizens of the area to be served."

SECTION 14.(a) Section 7.1 of S.L. 2014-107 reads as rewritten:

"**SECTION 7.1.** Section 5.1 of this act applies to all trusts created before, on, or after the effective date of this act. Except as otherwise provided, this act is effective when it becomes law."

SECTION 14.(b) This section becomes retroactively effective August 6, 2014.

SECTION 14.1. The introductory language of Section 54.5(b) of S.L. 2015-264 reads as rewritten:

"**SECTION 54.5.(b)** ~~Section 32.2(c)~~ Section 32.3(c) of S.L. 2015-241 reads as rewritten:"

SECTION 14.2. The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of Sections 7.1 and 7.2(b) and (c), as the Revisor may deem appropriate.

PART II. ADDITIONAL TECHNICAL AND OTHER AMENDMENTS

SECTION 14.5. G.S. 7A-45.1(a10) reads as rewritten:

"(a10) Except for the judgeships abolished pursuant to subsection (a8) of this section, upon the retirement, resignation, removal from office, death, or expiration of the term of any special superior court judge on or after September 1, 2014, each judgeship shall be filled for a full five-year term beginning upon the judge's taking office according to the following procedure prescribed by the General Assembly pursuant to Article IV, Section 9(1) of the North Carolina Constitution. As each judgeship becomes vacant or the term expires, the Governor shall submit the name of a nominee for that judgeship to the General Assembly for confirmation by ratified joint resolution. Upon each such confirmation, the Governor shall appoint the confirmed nominee to that judgeship. The term of the special superior court judge commencing on March 1, 2011, shall expire on the earlier of (i) the date on which the office shall become vacant through retirement, resignation, removal from office, or death or (ii) September 30, 2016.

However, upon the failure of the Governor to submit the name of a nominee within 90 days of the occurrence of the vacancy or within 90 days of the expiration of the judge's term, as applicable, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly shall submit the name of a nominee to the General Assembly. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, and the county of residence of the appointee.

The Governor may withdraw any nomination prior to it failing on any reading, and in case of such withdrawal the Governor shall submit a different nomination within 45 days of withdrawal. If a nomination shall fail any reading, the Governor shall submit a different nomination within 45 days of such failure. In either case of failure to submit a new nomination within 45 days, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall submit the name of a nominee to the General Assembly under the procedure provided in the preceding paragraph.

No person shall occupy a special superior court judgeship authorized under this subsection in any capacity, or have any right to, claim upon, or powers of those judgeships, unless that person's nomination has been confirmed by the General Assembly by joint resolution or appointed through the enactment of a bill upon the failure of the Governor to submit a nominee. Until confirmed by the General Assembly and appointed by the Governor, or appointed by the General Assembly upon the failure of the Governor to appoint a nominee, and qualified by taking the oath of office, a nominee is neither a de jure nor a de facto officer."

SECTION 15. G.S. 14-27.23(c) and G.S. 14-27.28(c) are repealed.

SECTION 15.5. G.S. 36C-8-816(31) reads as rewritten:

"(31) Distribute the assets of an inoperative trust consistent with the authority granted under ~~G.S. 28A-22-110;~~G.S. 28A-22-10; and"

SECTION 16. G.S. 90-12.7(b1), as enacted by S.L. 2016-17, reads as rewritten:

"(b1) A pharmacist may dispense an opioid antagonist to a person described in subdivision ~~(b)(1)~~(1) of subsection (b) of this section pursuant to a prescription issued pursuant to subsection (b) of this section. For purposes of this section, the term "pharmacist" is as defined in G.S. 90-85.3."

SECTION 17. G.S. 90-96 reads as rewritten:

"**§ 90-96. Conditional discharge for first offense.**

(a) Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any statute of the United States or any state relating to those substances included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or is found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or by possessing drug paraphernalia as prohibited by ~~G.S. 90-113.22,~~ G.S. 90-113.22 or G.S. 90-113.22A or (ii) a felony under G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent of ~~such~~ the person, defer further proceedings and place ~~him~~ the person on probation upon such reasonable terms and conditions as it may require, unless the court determines with a written finding, and with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense. Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the court may allow the defendant to participate in a drug education program approved for this purpose by the Department of Health and Human Services or in the Treatment for Effective Community Supervision Program under Subpart B of Part 6 of Article 13 of Chapter 143B of the General Statutes. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge ~~such~~ the person and dismiss the ~~proceedings against him.~~ proceedings. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under this Article. Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge and dismiss under this section the court shall make a finding that the defendant has no record of previous convictions as provided in this subsection.

(a1) Upon the first conviction only of any offense which qualifies under the provisions of subsection (a) of this section, and the provisions of this subsection, the court may place defendant on probation under this section for an offense under this Article including an offense for which the prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the drug education school approved by the Department of Health and Human Services pursuant to G.S. 90-96.01. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a drug education school if:

(1) There is no drug education school within a reasonable distance of the defendant's residence; or

(2) There are specific, extenuating circumstances which make it likely that defendant will not benefit from the program of instruction.

The court shall enter such specific findings in the record; provided that in the case of subdivision (2) above, such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

Upon fulfillment of the terms and conditions of the probation, the court shall discharge such person and dismiss the proceedings against the person.

For the purposes of determining whether the conviction is a first conviction or whether a person has already had discharge and dismissal, no prior offense occurring more than seven years before the date of the current offense shall be considered. In addition, convictions for violations of a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or 90-113.11, or 90-113.12, or ~~90-113.22~~ 90-113.22, or 90-113.22A shall be considered previous convictions.

Failure to complete successfully an approved program of instruction at a drug education school shall constitute grounds to revoke probation pursuant to this subsection and deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. For purposes of this subsection, the phrase "failure to complete successfully the prescribed program of instruction at a drug education school" includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 150 days of imposition of probation, willful failure to pay the required fee for the course as provided in G.S. 90-96.01(b), or any other manner in which the person fails to complete the course successfully. The instructor of the course to which a person is assigned shall report any failure of a person to complete successfully the program of instruction to the court which imposed probation. Upon receipt of the instructor's report that the person failed to complete the program successfully, the court shall revoke probation, shall not discharge such person, shall not dismiss the proceedings against the person, and shall deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. A person may obtain a hearing before the court of original jurisdiction prior to revocation of probation or denial of application for expunction.

This subsection is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina.

(b) Upon the discharge of such person, and dismissal of the proceedings against the person under subsection (a) or (a1) of this section, such person, if he or she was not over 21 years of age at the time of the offense, may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(a).

(c) Repealed by Session Laws 2009-510, s. 8(b), effective October 1, 2010.

(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or a felony under G.S. 90-95(a)(3), upon dismissal by the State of the charges against such person, upon entry of a nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, the person may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(b).

(e) Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any statute of the United States or any state relating to controlled substances included in any schedule of this Article or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony under G.S. 90-95(a)(3), the person may be eligible to apply for cancellation of the judgment and expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

(f) Repealed by Session Laws 2009-577, s. 6, effective December 1, 2009, and applicable to petitions for expunctions filed on or after that date."

SECTION 18.(a) G.S. 90-414.5(a) reads as rewritten:

"(a) The Authority shall provide the Department and the State Health Plan for Teachers and State Employees secure, real-time access to data and information disclosed through the HIE Network, solely for the purposes set forth in ~~subsection (a) of this section~~ G.S. 90-414.4(a) and in G.S. 90-414.2. The Authority shall limit access granted to the State Health Plan for Teachers and State Employees pursuant to this section to data and information disclosed through the HIE Network that pertains to services (i) rendered to teachers and State employees and (ii) paid for by the State Health Plan."

SECTION 18.(b) G.S. 90-414.7(b) reads as rewritten:

"(b) Powers and Duties. – The Authority has the following powers and duties:

(1) Oversee and administer the HIE Network in a manner that ensures all of the following:

...

h. Minimization of the amount of data required to be submitted under ~~G.S. 90-414(b)~~ G.S. 90-414.4(b) and any use or disclosure of such data to what is determined by the Authority to be required in order to advance the purposes set forth in G.S. 90-414.2 and ~~G.S. 90-414(a).~~ G.S. 90-414.4(a)."

SECTION 18.2. G.S. 115C-401.2(e), as enacted by S.L. 2016-11, is amended by adding a new subdivision to read:

"(6) Using a student's information, including covered information, solely to identify or display information on nonprofit institutions of higher education or scholarship providers to the student if the provider secures the express written consent of the parent or student who is at least 13 years of age given in response to clear and conspicuous notice."

SECTION 18.4. G.S. 143B-139.6A reads as rewritten:

"**§ 143B-139.6A. Secretary's responsibilities regarding availability of early intervention services.**

The Secretary of the Department of Health and Human Services shall ensure, in cooperation with other appropriate agencies, that all types of early intervention services specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the federal early intervention legislation, are available to all eligible infants and toddlers and their families to the extent funded by the General Assembly.

The Secretary shall coordinate and facilitate the development and administration of the early intervention system for eligible infants and toddlers and shall assign among the cooperating agencies the responsibility, including financial responsibility, for services. The Secretary shall be advised by the Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5, and may enter into formal interagency agreements to establish the collaborative relationships with the Department of Public Instruction, other appropriate agencies, and other public and private service providers necessary to administer the system and deliver the services.

As part of the permission to refer parents to services under the early intervention system for eligible infants and toddlers, the Secretary shall include the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf as agencies included on any permission to refer release form provided to parents for contact regarding services.

The Secretary shall adopt rules to implement the early intervention system, in consultation with all other appropriate agencies."

SECTION 18.5. G.S. 143B-437.01(a)(6), as amended by S.L. 2016-5, reads as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special account to be known as the Industrial Development Fund Utility Account ("Utility

Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the account:

...

(6) The funds shall not be used for any retail, entertainment, or sports projects. The funds shall not be used for any nonmanufacturing project that does not meet the wage standard for the development tier area or zone in which the project is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county in which the ~~datacenter~~ project is located. The wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county in which the ~~datacenter~~ project is located."

SECTION 19. G.S. 147-12(b) reads as rewritten:

"(b) The Department of Transportation, the Division of Adult Correction of the Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the ~~Department of Natural and Natural Resources [Department of Natural and Cultural Resources],~~ Department of Natural and Cultural Resources, and the Division of Marine Fisheries in the Department of Environmental Quality shall deliver to the Governor by February 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of each year, detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated annual report, on or before March 1 of each year, to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate appropriations committees with jurisdiction over natural and economic resources."

SECTION 19.2. G.S. 147-86.59 reads as rewritten:

"**§ 147-86.59. Certification required.**

(a) A State agency shall ~~require~~ certify that a person that attempts to contract with the State or political subdivision of the ~~State, including a contract renewal or assumption, to certify, at the time~~ State is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58 when the bid is submitted or the contract is entered into, renewed, or ~~assigned, that the person or the assignee is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58.~~ assigned. "Attempts to contract" include a contract renewal or assumption. A State agency shall include certification information in the procurement record. If a State agency and the same person enter into multiple contracts or multiple contract renewals or assumptions within 180 days after a certification is made, a new certification need not be made.

(b) A person that contracts with the State or a political subdivision of the State, including a contract renewal or assumption, shall not utilize on the contract with the State agency any subcontractor that is identified on a list created pursuant to G.S. 147-86.58.

(c) Upon receiving information that a person who has ~~made the certification~~ been certified as required by subsection (a) of this section is in violation thereof, the State agency shall review the information and offer the person an opportunity to respond. If the person fails to demonstrate

that the person should not have been identified on the list created pursuant to G.S. 147-86.58 within 90 days after the determination of the violation, then the State agency shall take action as may be appropriate and provided for by law, rule, or contract."

SECTION 20. Section 1 of S.L. 2015-52 is repealed.

SECTION 20.5.(a) Section 10 of S.L. 2015-125 reads as rewritten:

"**SECTION 10.** Sections 8 and 9 of this act become effective July 1, 2015. Section 3 of this act becomes effective October 1, 2016. The remainder of this act becomes effective July 1, 2016, and applies to offenses committed on or after that date."

SECTION 20.5.(b) If House Bill 959, 2015 Regular Session, becomes law, Section 13(f) of the act is repealed.

SECTION 20.5.(c) If House Bill 959, 2015 Regular Session, becomes law, Section 13(j) of the act reads as rewritten:

"**SECTION 13.(j)** This section becomes effective ~~December 1, 2016, and applies to offenses committed on or after that date.~~July 1, 2016."

SECTION 20.5.(d) This section becomes effective July 1, 2016."

SECTION 21. Section 4 of S.L. 2016-27 reads as rewritten:

"**SECTION 4.** ~~G.S. 14-309(5)c.,~~ G.S. 14-309.14(5)c., as enacted by Section 1 of this act, becomes effective October 1, 2016, and applies to applications submitted on or after October 1, 2016, and offenses committed on or after that date. The remainder of Section 1 of this act becomes effective December 1, 2016, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law."

SECTION 22. If House Bill 289, 2016 Regular Session of the 2015 General Assembly, becomes law, Section 3 of the act reads as rewritten:

"**SECTION 3.** This act becomes effective ~~October 1, 2015.~~October 1, 2016."

SECTION 22.5. If House Bill 630, 2015 Regular Session, becomes law, that act is amended by adding a new bill section to read:

"**SECTION 1.1.** For purposes of G.S. 130A-309.216, as enacted by Section 1 of this act, the term "an impoundment owner" shall be construed to mean Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, as a single entity, and as such, G.S. 130A-309.216, as enacted by Section 1 of this act, requires installation and operation of a total of three ash beneficiation projects in the State."

SECTION 23. Section 1 of Senate Resolution 746, adopted by the Senate, 2016 Regular Session of the 2015 General Assembly, is amended by deleting the phrase "general farming" and substituting the word "marketing" in its place.

PART III. EFFECTIVE DATE

SECTION 24. Section 2 of this act becomes effective December 1, 2015. Except as otherwise provided, this act is effective when it becomes law.