Currently, North Carolina follows an old common law rule in tort cases known as *contributory negligence*. Under this rule, whenever a person is found to share any responsibility for his or her injuries, the person is barred from recovering compensation for those injuries. There have been several attempts to overturn North Carolina’s contributory negligence laws without success, most recently with H.B. 813. The bill would have replaced contributory negligence rules with a modified *comparative negligence* system in which plaintiffs only would have been barred recovery if they were found to be 50% or more at fault for their losses. It appears that H.B. 813 never made it out of the Senate leaving North Carolina one of the three remaining contributory negligence states.

For ease of understanding and brevity of the statute, I have condensed the intent of Chapter 143, which outlines the application and limitations of contributory negligence in North Carolina. Chapter 143, Article 31 states that “if the Industrial Commission finds that there was negligence on the part of an officer, employee, involuntary servant or agent of the State while acting within the scope of his office, employment, service, agency or authority of that was the proximate cause of the injury and that there was no contributory negligence on the part of the claimant or the person in whose behalf the claim is asserted.” “The unit of State government that employed the employee at the time the cause of action arose shall pay the first one hundred fifty thousand dollars ($150,000) of liability, and the balance of any payment owed shall be paid in accordance with G.S. 143-299.4”.

§143-299.4 states “for each claim payable during any fiscal year in excess of one hundred fifty thousand dollars ($150,000) per claim arising under this Article on account of injury or damage to any one person, each State agency shall transfer to the Office of State Budget and Management its proportionate share of that agency’s estimated lapsed salaries, as determined by the Director of the Budget, and the Director of the Budget shall use these transferred funds to pay the balance of that claim in excess of one hundred fifty thousand dollars ($150,000). However, if the Director of the Budget determines that the agency liable for the claim has the resources to pay the full claim even though it exceeds one hundred fifty thousand dollars ($150,000), then the Director of the Budget may, in the Director’s discretion, require the agency
to pay the full claim. Additionally, the Director of the Budget may, in the Director’s discretion, limit the number of agencies required to transfer funds to the agency for the claim to pay the balance of the claim”.

“The maximum amount that the State may pay cumulatively to all claimants on account of injury and damage to any one person arising out of any one occurrence, whether the claim or claims are brought under this Chapter, shall be one million dollars ($1,000,000)”.

Potentially, a State Agency could be financially responsible for additional claims if more than one person is injured in the occurrence.

In addition, the State of North Carolina has for a number of years purchased an excess liability insurance policy that provides all State employees with supplementary coverage beyond the $1,000,000 paid directly by the employee’s State agency. Under this insurance contract negotiated by the North Carolina Department of Insurance, the coverage limits below are shared by all State agency employees:

- $10,000,000 per employee
- $10,000,000 per occurrence
- $25,000,000 annual aggregate