

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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House Legislative Day 6

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Senate Legislative Day 6

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SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 34. [STATE'S RIGHT TO CLAIM SOVEREIGNTY](#). Filed 2/3/11. *SUPPORTING THE STATE OF NORTH CAROLINA'S RIGHT TO CLAIM SOVEREIGNTY OVER CERTAIN POWERS UNDER THE TENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.*

As title indicates. Provides that the North Carolina House of Representatives urges the federal government, as the agent of the state, to cease and desist mandates that are beyond the scope of any constitutionally delegated powers. The House also urges that compulsory federal legislation directing states to comply, under threat of penalty or sanction, or requiring states to pass legislation or lose federal funding, be prohibited or repealed.

Intro. by Cleveland.

HOUSE RES

General Assembly; State
Government

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H 35. NC MILITARY BUSINESS CENTER FUNDS (=S 11). Filed 2/3/11.

TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA MILITARY BUSINESS CENTER. Identical to S 11, filed 1/31/11.

Intro. by Glazier, Lucas, Parfitt, Brisson. APPROP

Budget and Appropriations;
Education; Military and Veterans
Affairs

H 36. PUBLIC CONTRACTS/ILLEGAL IMMIGRANTS. Filed 2/3/11. *PROHIBITING STATE AND LOCAL GOVERNMENT CONTRACTS WITH CONTRACTORS WHO EMPLOY ILLEGAL IMMIGRANTS AND REQUIRING CONTRACTORS TO VERIFY AND CERTIFY THEIR EMPLOYEES' LEGAL STATUS OR AUTHORIZATION TO WORK IN THE UNITED STATES.*

Enacts new GS 143-129.1A to prohibit any state agent or employee, any board or governing body of the state or of any state government institution, or any local government agent, employee, or governing body, from awarding a contract for construction or repair work or a purchase contract for apparatus, supplies, materials, or equipment to any contractor or subcontractor who knowingly employs or contracts with an illegal immigrant to perform work under the contract. Defines *contractor* as any person, firm, association, or corporation that desires to submit a bid or contract with any state department, institution, or agency, or the board or governing body of any local government, to perform construction or repair work or to supply any materials or equipment.

Requires a contractor to verify the legal status or authorization to work in the United States of each individual employed by the contractor to perform work under the contract, following the E-Verify Program administered by the U.S. Department of Homeland Security, before submitting a bid or contracting with any of the listed entities. Requires the contractor to certify, on a form approved by the Secretary of Administration, that the contractor has verified the legal status or work authorization of each employed individual. Makes it a Class I felony to submit a knowingly false certification.

Requires each contract entered into under Article 8 of GS Chapter 143 to include the following provisions: (1) state that the contractor will not knowingly employ or contract with an illegal immigrant to perform work under the contract and will not contract with a subcontractor who fails to certify that the subcontractor will not knowingly employ or contract with an illegal immigrant for the work and (2) indicate that the contractor has verified the legal status or work authorization of each individual employed to work under the contract through the E-Verify Program.

Provides that a violation of the statute renders the contract void. Allows a void contract, under the statute, to continue until an alternative is arranged when: (1) immediate termination would harm the public health or welfare and (2) the Secretary of Administration grants approval.

Prohibits a contractor from submitting a bid or entering into a contract with a state department, institution, agency or local government for one year following a discovery that the contractor knowingly used the services of an illegal immigrant to perform contract work.

Effective October 1, 2011, and applies to all bids submitted and all contracts entered into on or after that date.

Intro. by H. Warren, Cleveland. GS 143

State Government; Local
Government; Employment and
Retirement

H 39. HONOR BOY SCOUTS. Filed 2/3/11. *HONORING THE BOY SCOUTS OF AMERICA.*

As title indicates.

Intro. by Jones, Moffitt, Iler, McComas. HOUSE RES

General Assembly

H 40. HONOR JOHN WEATHERLY. Filed 2/3/11. *HONORING THE LIFE AND MEMORY OF JOHN WEATHERLY, FORMER MEMBER OF THE GENERAL ASSEMBLY.*

As title indicates.

Intro. by Hastings, T. Moore, Hager, Stam. HOUSE RES

General Assembly

H 41. TAX FAIRNESS IN EDUCATION. Filed 2/3/11. *TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR PART OF THE EXPENSE OF AVOIDED PUBLIC EDUCATION AND TO AUTHORIZE COUNTIES TO APPROPRIATE FUNDS FOR CHILDREN EDUCATED OTHER THAN IN PUBLIC SCHOOLS.*

Amends Part 2 (regarding Individual Income Tax) of GS Chapter 105, Article 4, to enact new GS 105-151.33, adding an education expenses tax credit for eligible taxpayers.

Eligible taxpayers are those whose North Carolina taxable income is *less* than the following specified amounts:

Filing Status	North Carolina Taxable Income
Married, filing jointly	\$100,000
Head of Household	\$ 80,000
Single	\$ 60,000
Married, filing separately	\$ 50,000

Provides that taxpayers meeting the above-listed income limit requirements are allowed a credit against the tax imposed by Part 2 of GS Chapter 105, Article 4, for each of the taxpayer's dependent children who (1) is a resident of North Carolina and (2) is for one or two semesters during the taxable year lawfully educated in grades K through 12 in a nonpublic school. Defines *dependent child* to mean a child for whom the taxpayer is entitled to deduct a personal exemption under Section 151(c)(1)(B) of the Internal Revenue Code (Code) for the taxable year. Provides that for initial eligibility for the tax credit, the eligible dependent child must have been enrolled in and attended at least two semesters in a public school in the taxable year that immediately preceded the taxable year for which the credit is sought.

Sets the credit amount at \$1,250 per semester. Provides that for the purposes of this proposed section, there are two semesters in each calendar year; a spring semester consisting of the first six months of the calendar year, and a fall semester consisting of the second six months of the calendar year. States that a child is considered to have been educated in a school for a semester if the child was educated in that school for a period of more than three months during that semester.

Provides that a taxpayer may be disqualified from claiming the credit for any semester during which the taxpayer's dependent child met any of the following conditions: (1) spent any time enrolled in a public school, (2) spent any time enrolled as a full-time student at a postsecondary educational institution, or (3) was 18 years or older during the entire semester.

Requires the taxpayer to submit specified information to the Secretary of Revenue in order to claim the tax credit.

Provides that if the amount of the credit is more than the amount of tax imposed under Part 2, then the Secretary of Revenue must refund the excess to the taxpayer. Directs that the refundable excess is governed by the provisions governing a refund of overpayment by the taxpayer of a tax that is imposed in Part 2.

The preceding provisions become effective for taxable years beginning on or after January 1, 2011, and apply to semesters beginning on or after July 1, 2011.

Effective for taxable years beginning on or after January 1, 2016, and applying to semesters beginning on or after July 1, 2016, amends proposed GS 105-151.33(a) as enacted by this act to reduce the number of semesters that the eligible dependent child must have been enrolled in and attended a public school in the taxable year that immediately preceded the taxable year for which the credit is sought from two semesters to one semester.

Amends GS 115C-429(b) to confer discretionary authority on the board of county commissioners to appropriate funds for the education expenses of resident children under age 18 who are educated in nonpublic schools. Limits the amount that may be appropriated to no more than \$1,000 per child per year. Provides that a county that chooses to appropriate funds for these education expenses of resident children in nonpublic schools must issue the funds to the individual who would be entitled to a personal exemption under section 151(c)(1)(B) of the Code for each qualifying child.

Makes a conforming change to GS 153A-149(b)(7).

Unless otherwise indicated, effective July 1, 2011.

Intro. by Stam, Hager, Collins, Brawley. GS 105, 115C, 153A Education; Taxation

H 42. [HONOR JOHN A. GARWOOD.](#) Filed 2/3/11. *HONORING THE LIFE AND MEMORY OF JOHN ALLEN GARWOOD, FORMER MEMBER OF THE GENERAL ASSEMBLY.*

As the title indicates.

Intro. by Randleman. HOUSE RES General Assembly

SENATE BILLS

S 34. [THE CASTLE DOCTRINE.](#) Filed 2/3/11. *TO CLARIFY WHEN A PERSON MAY USE DEFENSIVE FORCE TO PROTECT AGAINST THE UNLAWFUL AND FORCIBLE ENTRY INTO THE PERSON'S DWELLING BY ANOTHER, TO PREVENT THE REMOVAL OF A PERSON AGAINST HIS OR HER WILL FROM THE PERSON'S DWELLING, AND TO PROVIDE THAT A PERSON IS JUSTIFIED IN USING DEFENSIVE FORCE IN*

THESE CIRCUMSTANCES AND SO IS IMMUNE FROM CRIMINAL PROSECUTION AND CIVIL ACTION FOR THE USE OF SUCH FORCE.

Repeals GS 14-51.1 (use of deadly force against an intruder) and enacts new GS 14-51.2 providing that a person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to self or another when using defensive force that is intended or likely to cause death or great bodily harm to another if both of the following apply: (1) the person against whom the force was used was in the process of unlawfully and forcefully entering, or had so entered, a dwelling, or had removed or attempted to remove another from the dwelling and (2) the person using the deadly force knew or had reason to believe that such unlawful and forcible entry or removal had occurred.

The presumption does not apply if (1) the person against whom the force was used had a right to be in the dwelling and there is not a protective or no contact order against that person, (2) the person removed or sought to be removed is a child or grandchild or is otherwise under lawful custody or guardianship of the person against whom the defensive force is used, (3) the person using the force is engaged in other unlawful activity, (4) the person against whom the force is used is a law enforcement officer acting in the lawful performance of the officer's official duties and who has made known his status as a law enforcement officer or the person using force should have known the individual was an officer, or (5) the person against whom the force is used has discontinued all efforts to unlawfully and forcefully enter the dwelling or residence and has exited the dwelling or residence.

Provides that a person who unlawfully and by force enters or attempts to enter another's dwelling is presumed to be doing so with intent to commit an unlawful act involving force or violence.

Provides immunity for a person using force as justified by circumstances described above.

Defines terms as used in the proposed new section.

Effective December 1, 2011, and applies to offenses committed on or after that date. Provides that prosecutions for offenses committed before the effective date are not abated or affected by this act and the statutes that would be applicable to such offenses were it not for this act remain applicable to those prosecutions.

**Intro. by Brock, D. Berger,
Harrington.**

GS 14

Criminal Law, Procedure, and
Sentencing; Civil Law and
Procedure

S 36. BAN MOBILE PHONE USE. Filed 2/3/11. *TO MAKE USING A MOBILE PHONE UNLAWFUL WHILE DRIVING A MOTOR VEHICLE ON A PUBLIC STREET OR HIGHWAY OR PUBLIC VEHICULAR AREA.*

Replaces the provisions of GS 20-137.3 in the same manner as House Bill 31 (Short Title: Unlawful to Use Mobile Phones while Driving). Makes it unlawful to operate a motor vehicle or a school bus on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile phone while the vehicle or school bus is in motion. Defines *mobile telephone* as a device used by subscribers and other users of wireless telephone service to access the service; the term includes (1) a device with which a user makes a call using at least one hand and (2) a device with an internal feature or function or an attachment or addition, whether or not permanently part of the mobile telephone, that allows the user to make a call without the use of either hand. Also defines *additional technology*, *emergency situation*, *school bus*, and *wireless telephone service*. Allows use of a mobile telephone or associated technology when the vehicle or school bus is stationary. Excepts from the ban on mobile telephone use communications during emergency situations to an emergency response operator, ambulatory service, fire department, or law enforcement agency.

Makes violations, when operating a motor vehicle other than a school bus, an infraction and imposes a \$100 fine. Makes violations, when operating a school bus, a Class 2 misdemeanor and imposes a fine of not less than \$100. Assesses no driver's license points or insurance surcharge for violations of the statute. Provides that failure to comply with the statute does not constitute negligence per se or contributory negligence. Repeals GS 20-137.4 (pertaining to unlawful use of a mobile phone). Repeals GS 20-137.4A (pertaining to unlawful use of mobile telephone for text messaging or electronic mail). Effective December 1, 2011, and applies to offenses committed on or after that date.

Intro. by Dannelly.

GS 20

Transportation

S 37. EMINENT DOMAIN (=H 8). Filed 2/3/11. *TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROHIBIT CONDEMNATION OF PRIVATE PROPERTY TO CONVEY AN INTEREST IN THAT PROPERTY FOR ECONOMIC DEVELOPMENT AND TO PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL BY JURY IN ALL CONDEMNATION CASES.*

Identical to H 8, filed 1/26/11.

Intro. by Jackson.

CONST

Constitutional Amendment;
Property, Land Use, and Housing;
Community and Economic
Development; Local Government;
State Government

S 38. HONOR BOY SCOUTS. Filed 2/3/11. *HONORING THE BOY SCOUTS OF AMERICA.*

As title indicates.

Intro. by Stevens, Hunt, Soucek.

SENATE RES

General Assembly

Local Bills

HOUSE BILLS

H 37. LEXINGTON ANNEXATIONS REPEALED. Filed 2/3/11. *TO EXERCISE THE POWER OF THE GENERAL ASSEMBLY UNDER SECTION 2 OF ARTICLE VI OF THE NORTH CAROLINA CONSTITUTION TO FIX THE BOUNDARIES OF CITIES AND GIVE SUCH POWERS TO CITIES AS IT DEEMS ADVISABLE BY WITHDRAWING THE DELEGATION OF AUTHORITY TO THE CITY OF LEXINGTON TO MAKE CERTAIN ANNEXATIONS.*

As title indicates. Repeals three specified ordinances, adopted by the Lexington City Council on July 21, 2008, extending the corporate limits of Lexington. Makes act retroactively effective, beginning June 30, 2009.

Intro. by R. Brown.

DAVIDSON

Davidson; General Assembly

H 38. TAX CERTIFICATION - ALAMANCE COUNTY (=S 29). Filed 2/3/11. *TO AUTHORIZE ALAMANCE COUNTY TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY.*

Identical to S 29, filed 2/2/11.

Intro. by Bordsen, Ingle.

ALAMANCE

Alamance

H 43. INCREASE PROPERTY TAX APPEALS EFFICIENCY. Filed 2/3/11. *TO INCREASE THE EFFICIENCY OF PROPERTY TAX APPEALS IN MECKLENBURG COUNTY.*

Repeals SL 1981-509 (authorizing the appointment of a special Board of Equalization and Review for Mecklenburg County). Authorizes the Mecklenburg Board of County Commissioners, upon adoption of a resolution to do so, to appoint and delegate a special board of equalization and review (Board) to perform the duties imposed under GS 105-322. Provides guidelines regarding the adoption of the resolution and the duties and operations of the Board. Applies only to Mecklenburg County. Effective January 1, 2011.

Intro. by Carney, Samuelson, R. Moore.

MECKLENBURG

Mecklenburg

SENATE BILLS

S 35. ORANGE CO./NO DEER HUNTING WITH DOGS. Filed 2/3/11. *TO PROHIBIT THE HUNTING OF DEER WITH DOGS IN ORANGE COUNTY.*

Makes it unlawful to hunt deer or attempt to take deer with the aid of dogs at any time in Orange County. Makes a violation of the act a Class 3 misdemeanor. Provides enforcement power to Wildlife Resources Commission law enforcement officers, sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction. Effective October 1, 2011, and applies to offenses committed on or after that date.

Intro. by Kinnaid.

ORANGE

Orange

ACTION ON BILLS

February 3, 2011

- NOTES**
1. Amendments and committee substitutes adopted today are summarized following the chamber action.
 2. Subscribers can find the digest of every version of each bill online at www.dailybulletin.unc.edu.
 3. The dates on which previous amendments or committee substitutes were adopted are listed below bill numbers.
 4. The action "Cal Pursuant Rule 36b" indicates that the bill has been reported by committee and is awaiting calendaring.
 5. Enacted bills are indicated by #, failed bills by *. Actions that change a bill are indicated by HA or SA.

PUBLIC BILLS

H0002 Protect Health Care Freedom.	S Rec From House
	S Passed 1st Reading
	S Ref To Com On Judiciary II
01-31-11, 02-02-11	
H0006 House Pensions Committee Duties.	H Withdrawn From Cal
	H Re-ref Com On Rules, Calendar, and Operations of the House
H0028 DHHS to Provide Law Enforcement Information.	H Passed 1st Reading
	H Ref To Com On Judiciary Subcommittee B
H0029 Retrieval of Deer.	H Passed 1st Reading
	H Ref To Com On Agriculture
H0030 Allow Wage Garnishment to Satisfy Judgments.	H Passed 1st Reading
	H Ref To Com On Judiciary Subcommittee A
H0031 Unlawful to Use Mobile Phones While Driving.	H Passed 1st Reading
	H Ref To Com On Rules, Calendar, and Operations of the House
H0032 Electoral Freedom Act of 2011.	H Passed 1st Reading
	H Ref To Com On Elections
H0036 Public Contracts/Illegal Immigrants.	H Filed
H0039 Honor Boy Scouts.	H Filed
H0040 Honor John Weatherly.	H Filed
H0041 Tax Fairness in Education.	H Filed
H0042 Honor John A. Garwood.	H Filed
S0013 Balanced Budget Act of 2011.	S Amend Failed 1
	S Passed 2nd Reading
02-02-11	
S0021 Add Program Evaluation Committee.	S Reptd Fav
	S Placed On Cal For 2/8/2011
S0027 Involuntary Annexation Moratorium.	S Passed 1st Reading
	S Ref To Com On State and Local Government
S0028 Funds to Prevent Infant Mortality.	S Passed 1st Reading
	S Ref To Com On Base Budget
Appropriations/ S0030 Defense & Security Techn. Accelerator Funds.	S Passed 1st Reading
	S Ref To Com On Base Budget
Appropriations/ S0031 Conform Penalty Unauth. Practice of	S Passed 1st Reading

Medicine.	S	Ref To Com On Judiciary I
S0032 Hospital Medicaid Assessment/Payment Program.	S	Passed 1st Reading
	S	Ref to Finance. If fav, re-ref to Appropriations/Base Budget
S0033 Medical Liability Reforms.	S	Passed 1st Reading
	S	Ref To Com On Judiciary I
S0034 The Castle Doctrine.	S	Filed
S0036 Ban Mobile Phone Use.	S	Filed
S0037 Eminent Domain.	S	Filed
S0038 Honor Boy Scouts.	S	Filed

LOCAL BILLS

H0010 Honor Transylvania County's 150th. 02-02-11	H	Adopted
H0037 Lexington Annexations Repealed.	H	Filed
H0038 Tax Certification - Alamance County.	H	Filed
H0043 Increase Property Tax Appeals Efficiency.	H	Filed
S0029 Tax Certification - Alamance County.	S	Passed 1st Reading
	S	Ref To Com On Finance
S0035 Orange Co./No Deer Hunting With Dogs.	S	Filed

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

None

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Notes

None

NEXT SESSIONS

February 7, 2011

HOUSE convenes at 6:00 p.m.

SENATE convenes at 5:30 p.m.