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ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 92. [REPEAL LAND TRANSFER TAX](#). Filed 2/15/11. *TO REPEAL THE LAND TRANSFER TAX.*

Repeals Article 60 of GS Chapter 105 (the County Land Transfer Tax Act), as title indicates.

Intro. by Howard, Starnes, GS 105 Taxation
Brawley, Jordan.

H 93. [MODIFY REFUNDABILITY OF EITC](#). Filed 2/15/11. *TO MODIFY THE REFUNDABILITY PROVISION OF THE EARNED INCOME TAX CREDIT.*

Deletes the provisions of GS 105-151.31(b) (concerning refundability of earned income tax credit) and replaces with new *Limitations* provision. Provides that the earned income tax credit allowed under the statute may not exceed the amount of individual income tax imposed for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Current law directs the Secretary of

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Revenue to refund any excess to the taxpayer, if the earned income tax credit allowed under the statute exceeds the individual income tax imposed for the taxable year, reduced by the sum of all credits allowable. Effective for taxable years beginning on or after January 1, 2011.

Intro. by Howard, Setzer, GS 105 Taxation
Brubaker, Starnes.

H 94. LOCAL FLEXIBILITY RE: SCHOOL CALENDAR. Filed 2/15/11. *TO PERMIT LOCAL BOARDS OF EDUCATION TO SET SCHOOL CALENDARS FOR THEIR LOCAL SCHOOL ADMINISTRATIVE UNITS.*

Amends GS 115C-84.2(d) (concerning opening and closing dates for public schools) to provide that the opening date for students, except for those in year-round schools, may not be before August 15. Also requires that first semester examinations be given before winter break. Retains the provision that local boards of education will determine the opening and closing dates for public schools, and deletes remaining provisions.

Current law sets the opening date for students, except for year-round schools, no earlier than August 25, and sets the closing date no later than June 10. Allows the State Board of Education to waive the required calendar dates upon a showing of good cause, as defined. Current law also allows the State Board to waive the required calendar dates for an educational purpose, as defined.

Effective beginning with the 2011-12 school year.

Intro. by Lucas. GS 115C Education

H 95. RAILROAD CORRIDOR PROTECTION. Filed 2/15/11. *CONCERNING MANAGEMENT AND PROTECTION OF RAILROAD CORRIDORS, AS RECOMMENDED BY THE RAILROADS STUDY COMMISSION.*

Amends GS 1-44 to clarify that no railroad right-of-way or other real property interest can be presumed to have been conveyed by acts constituting estoppel or waiver.

Amends GS 1-51 to provide that no suit, action, or proceeding may be brought against a railroad (RR) for damages or compensation for right-of-way or use and occupancy of lands by a RR, or for damages caused by railroad construction or repairs, unless the suit, action, or proceeding is commenced within three years (was, five years).

Amends GS 40A-51(a) to clarify that a property owner may also seek compensation for a taking by a RR company under GS 40A-3(a)(4) or by the RR under GS 40A-3(a)(1) (the exercise of eminent domain) where the RR has not filed a declaration of taking.

Amends GS 136-192 to clarify that a railroad's responsibility to avoid constructing its work in a manner that impedes the passage or transportation of persons or property along roads applies to lawfully established public roads (was, roads).

Enacts new GS 136-199 authorizing RRs to file railroad corridor maps with the Department of Transportation Rail Division. Requires the map to indicate the county recorded book and the page or file number of the deed or legal document conveying the right-of-way. Provides for electronic filing and public web access. Requires that any filed RR corridor maps be conspicuously stamped or marked, "For Informational Purposes Only, Pursuant to GS 136-199," and identify the owning and operating RR company. Also requires a RR company that files corridor maps to file a notice of the filing of the corridor maps with the register of deeds in the county where the RR property is located. Requires the RR to send a copy of the filed railroad corridor maps to the North Carolina Society of Surveyors.

Amends GS 153A-1 and GS 160A-1 to add a definition for *railroad corridor*.

Enacts new subsection (a1) to GS 153A-331 (contents and requirements of county subdivision control ordinances) to provide that when a RR company has filed corridor maps, a county subdivision control ordinance may not permit the dedication or reservation of recreation areas or open spaces within any rail corridor unless the applicant seeking dedication or reservation of the area first obtains written consent from the RR company. Provides that the RR has 60 days after receiving the request to either (1) approve, (2) deny with an explanation, or (3) respond with any requirements that the RR company has regarding the request. Provides that failure by the RR company to make a written response within 60 days will be deemed to be approval of the request for written consent unless the RR owns the corridor in fee simple. Allows a subdivision control ordinance, in lieu of obtaining consent from the RR company, to provide an open space credit for acreage subject to a RR easement without public dedication or reservation for the purpose of preserving the RR corridor for future RR use. States that nothing in these provisions is to be construed as altering or affecting the property rights of the RR or adjacent or underlying landowners. Exempts regulated public utilities, as defined, from the statute's application. Enacts new subsection (a2) to GS 153A-331, which also applies when a RR has filed a corridor map, to direct the applicant to provide the written consent obtained from the RR directly to the county authority. Provides that the county is to be held harmless for reliance upon information submitted by the applicant. Makes the same substantive changes to

the following provisions of GS Chapter 153A (applying to counties) and to GS Chapter 160A (applying to cities): GS 153A-340 (grant of power to counties to adopt zoning and development regulation ordinances), GS 160A-296 (establishment and control of streets by cities), GS 160A-372 (contents and requirements of city subdivision control ordinances), and GS 160A-381 (grant of power to cities regarding zoning and development regulation ordinances). Effective October 1, 2011, and applies to actions taken by city or county entities on or after that date.

Enacts new GS 153A-337 (counties) and new GS 160A-368 (cities) to set forth the requirements for access to development within a RR corridor. Provides that when a RR company has filed corridor maps, the local government may not approve any development plan where the sole means of ingress to and egress from the property encroaches on the RR corridor, unless the applicant first obtains written consent from the RR company, following the criteria set forth (substantively the same as above). Provides that, except in regard to railroad crossings, failure by the RR company to make a written response within 60 days will be deemed to be approval of the request for written consent unless the RR owns the corridor in fee simple. Further provides that if the sole means of ingress and egress to a property being developed is over an existing public roadway and does not require additional land within the RR corridor, then the applicant may use the existing public roadway without the RR company's consent. Prohibits the Department of Transportation from conditioning the approval of any development plan on the applicant making road improvements, if those improvements would fall within the RR corridor and require RR company consent. Effective October 1, 2011, and applies to actions taken by city or county entities on or after that date.

Amends GS 153A-357 (counties) and GS 160A-417 (cities) to address permit requirements under the State Building Code and any other applicable state or local law. Requires the relevant inspection department, before issuing a permit, to verify that the RR company has given written consent for the project. Excepts specified permits. Sets further permitting procedures. Makes technical and clarifying changes. Effective October 1, 2011, and applies to actions taken by city or county entities on or after that date.

Intro. by Rapp.

GS 1, 40A, 136, 153A, 160A

Transportation;
Property, Land Use, and Housing;
Local Government

H 98. BREWERIES TO SELL MALT BEVERAGES ON PREMISES. Filed 2/15/11. *TO ALLOW ALCOHOLIC BEVERAGE PERMITTEES WHO HAVE BEEN ISSUED BREWERY PERMITS TO SELL MALT BEVERAGES BREWED AT THE BREWERY ON THE PREMISES OF THE BREWERY.*

Amends GS 18B-1104(7) to allow the holder of a brewery permit to sell the brewery's malt beverages at the brewery upon receiving a sales permit under GS 18B-1001(1) (was, sales on premises limited to areas where the sale was legal). Deletes provision which allowed the holder of a brewery permit to give malt beverages to employees and guests for consumption on the premises. Makes conforming changes. Makes conforming change to GS 18B-1001(1).

Intro. by McGrady.

GS 18B

Alcoholic Beverage Control

H 99. JUDICIAL TERMS. Filed 2/15/11. *TO AMEND THE NORTH CAROLINA CONSTITUTION TO ALLOW APPELLATE COURT JUSTICES AND JUDGES ADEQUATE TIME TO FULFILL THEIR JUDICIAL DUTIES BEFORE RUNNING FOR ELECTION, AND TO IMPROVE ELECTION ADMINISTRATION BY INCREASING FROM SIXTY TO NINETY DAYS THE WINDOW WHERE A SPECIAL ELECTION IS REQUIRED TO FILL A VACANCY IN THE OFFICES OF SUPERIOR COURT JUDGE AND DISTRICT ATTORNEY, AND TO MAKE CONFORMING STATUTORY CHANGES.*

Subject to approval by the voters at the November 6, 2012, general election, amends Section 19 of Article IV of the North Carolina Constitution (Constitution), effective upon certification and applying to vacancies occurring on or after the 60th day before November 6, 2012, to provide that all vacancies in the offices of chief justice, justices of the supreme court, and judges of the court of appeals are to be filled by appointment of the Governor. Additionally provides that the appointees are to hold their office's until the second election that is held for members of the General Assembly after the vacancy occurs at which time elections to fill the vacancies are to be held. Increases the window of time for holding a special election to fill all vacancies covered under Article IV of the Constitution from 60 to 90 days, except as otherwise provided under Article IV of the Constitution. Makes a conforming change.

Provides that the following changes are effective with respect to vacancies occurring on or after the 60th day before November 6, 2012, only if the proposed constitutional amendment is approved by the qualified voters of the state.

Makes conforming changes to GS 163-9 (filling vacancies in state and district judicial offices), 163-10 (filling vacancy in office of district attorney), and 163-327.1 (rules when vacancies for superior court judge are to be voted on). Amends GS 163-329(a) and 163-329(b1) to limit their respective provisions governing the filling of

vacancies to apply only to vacancies created in the office of judge of superior court (was, applied to office of justice of the supreme court, judge of the court of appeals, or judge of superior court). Makes a conforming change to GS 163-329(b1) (method for vacancy election).

Repeals GS 163-278.64A (special participation provisions for candidates in vacancy elections).

Intro. by Ross, Rhyne. GS 163, CONST Constitutional Amendment; Courts; Elections Law

H 100. NONPROFITS/CRITERIA TO RECEIVE STATE FUNDS. Filed 2/15/11. *TO PROVIDE THAT A NONPROFIT CORPORATION IS ELIGIBLE TO RECEIVE A STATE-FUNDED GRANT ONLY IF IT MEETS CERTAIN CRITERIA.*

Enacts new GS 143C-6-24 requiring that a nonprofit entity must meet all of the following criteria to be eligible to receive state funds: (1) receive at least 35% of its funding from private sources; and (2) limit its administrative expenses to no more than 15% of the total budget or receipts for the nonprofit entity.

Provides that the Office of State Budget and Management may suspend disbursement of funds to a nonprofit entity that violates the eligibility requirements and may try to recover grant funds that have already been disbursed under GS 143C-6-23(f) (suspension and recovery of funds to grant recipients for noncompliance).

Requires a non-state entity that is a nonprofit corporation that receives a state grant to certify annually that it is in compliance with this section pursuant to GS 143C-6-23(d) (office of state budget rules must require uniform administration of state grants).

Makes a conforming change to GS 143C-6-23(d)(6).

Effective July 1, 2011, and applies to grants of state funds awarded on or after that date.

Intro. by L. Brown, Cleveland. GS 143C Business and Commerce; State Government

H 101. BROADBAND PARITY FOR COUNTIES & CITIES. Filed 2/15/11. *PROVIDING THAT COUNTIES HAVE THE SAME AUTHORITY AS CITIES TO ENGAGE IN PUBLIC ENTERPRISES RELATED TO CABLE TELEVISION SYSTEMS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON HIGH-SPEED INTERNET ACCESS IN RURAL AND URBAN AREAS.*

Enacts new GS 153A-274.1 (cable television systems) to provide as the title indicates. Effective July 1, 2011.

Intro. by K. Alexander, Bryant, Faison. GS 153A Local Government; Energy and Utilities; Community and Economic Development

H 102. SPECIAL PLATE FOR RONALD MCDONALD HOUSES. Filed 2/15/11. *TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE A SPECIAL PLATE FOR THE RONALD MCDONALD HOUSE CHARITY.*

Enacts new GS 20-79.4(b)(121a) as title indicates. Plate issuance is contingent on the receipt of at least 300 plate applications. Establishes a special plate fee of \$30 and requires that \$20 of that amount be transferred quarterly to the Ronald McDonald House Charities of North Carolina to support Ronald McDonald houses located in the state and related administrative and operating expenses. Makes a technical change. Effective July 1, 2011.

Intro. by Hager. GS 20 Transportation

H 103. RQMTS. FOR MIN'L OIL SPILLS-2. Filed 2/15/11. *TO CLARIFY REQUIREMENTS APPLICABLE TO NOTICE, COLLECTION, AND REMOVAL OF MINERAL OIL DISCHARGES FROM ELECTRICAL EQUIPMENT.*

Adds new subsection (c) to GS 143-215.85. Defines *mineral oil* as used in the proposed subsection to mean a light nontoxic liquid petroleum distillate typically used as a coolant and insulator in electrical equipment owned by a public utility. Requires a person who owns or has control over mineral oil discharged from electrical equipment owned by a public utility as defined in GS 62-100 to report the discharge within 24 hours to the appropriate regional office of the Department of Environment and Natural Resources (DENR) when (1) the discharge exceeds 25 gallons or (2) the discharge is directly to surface water or causes a sheen on surface waters of the state. Provides requirements for the content of the notice of the discharge and permits delivery of the notification by phone, electronic mail, fax, or hand delivery. Makes conforming changes to GS 143-215.85.

Adds new subsection (a2) to GS 143-215.84. Defines *mineral oil* as used in the proposed subsection to mean a light nontoxic liquid petroleum distillate typically used as a coolant and insulator in electrical equipment owned by a public utility. Directs a person having control over the discharge of mineral oil from electrical equipment owned by a public utility as defined in GS 62-100 to restore the affected area to the extent possible to the condition it was in before the discharge. Requires the person to notify DENR when the restoration has been properly completed if (1) the discharge exceeds 25 gallons or (2) the discharge is directly to surface waters or causes a sheen on surface waters. Provides additional criteria governing the cleanup of mineral oil and the

protocol to be followed when cleanup within 24 hours of confirmation of the discharge is not possible. Makes conforming changes to GS 143-215.84(a).

Intro. by Hager, Gillespie. GS 143

Energy and Utilities; Agriculture,
Environment, and Natural
Resources

H 104. ACH PILOT ON CRISIS INTERVENTION TRAINING. Filed 2/15/11. *TO DIRECT THE DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO COORDINATE A PILOT PROGRAM TO EVALUATE THE EFFECTIVENESS OF CRISIS INTERVENTION TRAINING IN A LIMITED NUMBER OF ADULT CARE HOMES, BASED ON RECOMMENDATION 5.2 FROM THE NORTH CAROLINA INSTITUTE OF MEDICINE TASK FORCE ON THE CO-LOCATION OF DIFFERENT POPULATIONS IN ADULT CARE HOMES, AND AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.*

Directs the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, Department of Health and Human Services (DHHS), as title indicates, to coordinate a pilot program in ten adult care homes. Provides additional details on qualifying homes and training requirements. Directs DHHS to evaluate the effectiveness of the crisis intervention training and to report to the NC Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services on or before March 1, 2012. Lists specific items to be included in the report.

**Intro. by Farmer-Butterfield,
Earle, Weiss, Hurley.** STUDY

Health, Social Services and Aging

H 105. MOTORCYCLE AWARENESS MONTH. Filed 2/15/10. *DESIGNATING THE MONTH OF MAY AS MOTORCYCLE AWARENESS MONTH.*

Enacts new GS 103-12, as title indicates.

Intro. by Keever, Fisher. GS 103

State Government

H 106. DIRECT CARE WORKER WAGE AND BENEFIT STUDY. Filed 2/15/11. *TO DIRECT A STUDY OF DIRECT CARE WORKER WAGES AND BENEFITS TO EXAMINE WAYS TO REDUCE TURNOVER AND ADDRESS THE ANTICIPATED DIRECT CARE WORKER SHORTAGE RESULTING FROM INCREASED DEMAND FROM AGING BABY BOOMERS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.*

Directs the Division of Health Service Regulation, Department of Health and Human Services (DHHS), to coordinate a study, with representatives from 14 entities, as title indicates. Enumerates a non-inclusive list of eight issues for examination. Directs DHHS to report the study results to the NC Study Commission on Aging on or before October 1, 2012.

**Intro. by Farmer-Butterfield,
Pierce, Weiss, Hurley.** STUDY

Health, Social Services and Aging

H 107. GAST TRAINING PILOT. Filed 2/15/11. *TO REQUIRE THE DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO ESTABLISH A PILOT TRAINING PROGRAM USING GERIATRIC/ADULT MENTAL HEALTH SPECIALTY TEAMS TO CONDUCT TRAINING IN ADULT CARE HOMES ON PREVENTING THE ESCALATION OF BEHAVIORS LEADING TO CRISIS, BASED ON RECOMMENDATION 5.1 FROM THE NORTH CAROLINA INSTITUTE OF MEDICINE TASK FORCE ON THE CO-LOCATION OF DIFFERENT POPULATIONS IN ADULT CARE HOMES, AND AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.*

As title indicates. Directs the training pilot to be located in a local management entity (LME) within each of the three regions of the state, and provides additional details for the pilot training program. Directs the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services (DHHS), to evaluate the effectiveness of the pilot training program and to determine whether the existing Geriatric/Adult Mental Health Specialty Teams have the resources to expand the training statewide, the possibility of incorporating new and existing training, and any associated costs. Instructs DHHS to report on these issues to the NC Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health,

Developmental Disabilities, and Substance Abuse Services on or before September 1, 2012. Enacts GS 131D-4.9, directing adult care homes licensed under GS Chapter 131D to permit Geriatric/Adult Mental Health Specialty Teams to conduct staff training.

Intro. by Farmer-Butterfield, Earle, Weiss, Hurley. GS 131D, STUDY Health, Social Services and Aging

H 108. DHHS STUDY OF IOM TASK FORCE RECOM 3.1. Filed 2/15/11. *TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY RECOMMENDATION 3.1 FROM THE NORTH CAROLINA INSTITUTE OF MEDICINE TASK FORCE ON THE CO-LOCATION OF DIFFERENT POPULATIONS IN ADULT CARE HOMES TO ASSESS THE FEASIBILITY AND IMPLEMENTATION TIMELINE OF A PILOT PROGRAM AIMED AT TRANSITIONING ADULT CARE HOME RESIDENTS TO INDEPENDENT COMMUNITY-BASED HOUSING, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.*

Directs the Department of Health and Human Services (DHHS) to study the recommendation, as title indicates, including a recommendation that DHHS develop a pilot program to evaluate the costs, quality, consumer satisfaction, and patient outcomes of the transitional program. Enumerates a non-inclusive list of recommendations for evaluation. Directs DHHS to report to the NC Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before October 1, 2012.

Intro. by Farmer-Butterfield, Weiss, Earle, Hurley. STUDY Health, Social Services and Aging

H 109. EXTEND REPORTING ON BABY BOOMER PREPARATIONS. Filed 1/15/11. *TO AMEND THE ACT THAT DIRECTED THE UNIVERSITY OF NORTH CAROLINA INSTITUTE ON AGING, AND THE DIVISION OF AGING AND ADULT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO PROVIDE LEADERSHIP IN HELPING NORTH CAROLINA PREPARE FOR INCREASED NUMBERS OF OLDER ADULTS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.*

Amends SL 2009-407 as title indicates to also include other state agencies as applicable to the directive. Adds three items to the non-inclusive list of activities for the groups. Makes a clarifying change. Extends the directive to require annual updates on the groups' activities on or before October 1 from 2011 through 2015.

Intro. by Farmer-Butterfield, Weiss, Pierce, Hurley. UNCODIFIED Health, Social Services and Aging

H 110. TASK FORCE ON FRAUD AGAINST OLDER ADULTS. Filed 1/15/11. *TO DIRECT THE CONSUMER PROTECTION DIVISION, DEPARTMENT OF JUSTICE, TO COORDINATE A TASK FORCE ON FRAUD AGAINST OLDER ADULTS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.*

As title indicates. Specifies representatives to be included on the Task Force, and enumerates a non-inclusive list of four issues for examination. Directs the Task Force to make an interim report to the NC Study Commission on Aging on or before November 1, 2011, and a final report with findings, recommendations, and draft legislation on or before October 1, 2012.

Intro. by Farmer-Butterfield, Weiss, Pierce, Hurley. STUDY Health, Social Services and Aging; Criminal Law, Procedure, and Sentencing

H 111. HANDGUN PERMIT VALID IN PARKS & RESTAURANTS. Filed 2/15/11. *TO ALLOW PERSONS WITH CONCEALED HANDGUN PERMITS TO PROTECT THEMSELVES AND THEIR FAMILIES IN RESTAURANTS AND TO ALLOW A CONCEALED HANDGUN PERMITEE TO CARRY A HANDGUN IN A PARK.*

Enacts new GS 14-269.3(b)(5) to allow a person to carry a gun, rifle, or pistol on the premises of an establishment that is a restaurant, as defined, if the person has a valid concealed handgun permit under Article 54B of GS Chapter 14.

Amends GS 14-415.23 (statewide uniformity for the regulation of legally carrying a concealed handgun) to eliminate the authority granted to local governments to adopt an ordinance that allows the posting of a prohibition against carrying a concealed handgun in local government parks.

Effective December 1, 2011.

Intro. by Hilton.

GS 14

Criminal Law, Procedure, and
Sentencing

SENATE BILLS

S 67. SUNSHINE AMENDMENT (=H 87). Filed 2/15/11. *TO PROVIDE FOR GOVERNMENT IN THE SUNSHINE BY AMENDING THE NORTH CAROLINA CONSTITUTION.*

Substantively identical to H 87, filed 2/10/11. Omits effective date.

Intro. by Clary, Tucker, Goolsby. CONST

Constitutional Amendment; Courts;
General Assembly; Local
Government; State Government

S 69. SPECIAL PLATE FOR RONALD MCDONALD HOUSES (=H 102). Filed 2/15/11. *TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE A SPECIAL PLATE FOR THE RONALD MCDONALD HOUSE CHARITY.*

Identical to H 102, filed 2/15/11.

Intro. by Clary.

GS 20

Transportation

S 70. EXPUNGE NONVIOLENT CRIMES. Filed 2/15/11. *TO PROVIDE FOR THE EXPUNCTION OF CONVICTIONS FOR CERTAIN NONVIOLENT CRIMINAL OFFENSES UPON APPLICATION AND A FEE, TO ALLOW DISCLOSURE OF EXPUNGED INFORMATION TO LAW ENFORCEMENT AGENCIES AND OTHER SPECIFIED AGENCIES FOR EMPLOYMENT AND LICENSING PURPOSES, TO REQUIRE THOSE AGENCIES TO MAINTAIN CONFIDENTIALITY OF THE EXPUNGED INFORMATION, AND TO MAKE CONFORMING CHANGES.*

Enacts new GS 15A-145.4 to create procedures and criteria for the expunction of a nonviolent felony conviction from the record of an offender who: (1) had not previously been convicted of any felony or misdemeanor (except for traffic violations) at the time of the offense; (2) was convicted of a felony violation of GS 14-54 (breaking or entering buildings generally) with intent to commit a larceny involving a thing of value of less than \$350, GS 14-56 (breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft), GS 14-71.1 (possessing stolen goods), GS 14-100 (obtaining property by false pretenses) where the thing of value is less than \$50,000, or GS 90-95(d)(4) (possession of a Schedule VI substance); (3) has no convictions other than the conviction to be expunged and traffic violations at the time of the petition; and (4) has no outstanding warrants or pending criminal cases. Prohibits a petition from being filed earlier than 10 years after the date of conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later. Specifies the content of the petition, requires service upon the district attorney of the court where the conviction was obtained, permits the district attorney to file objections within 30 days after service, and provides for victim notification.

Allows the court to take any of the following steps and consider at least the following issues in rendering a decision upon a petition: (1) call upon a probation officer for additional investigation or verification of the petitioner's conduct during period of time since the conviction, (2) review the results of a state and national criminal record check, (3) review the amount of restitution made and give consideration to whether or not restitution was paid in full, and (4) review any other relevant information. Allows the court to order that the petitioner be restored to the status occupied before the arrest, indictment, or information if the court finds all of the following after a hearing: (1) the petitioner remained of good moral character for the period of time since conviction of the felony in question or any active sentence, period of probation, or post-release supervision has been served, whichever is later; (2) the petitioner has not been previously convicted of any felony or misdemeanor other than a traffic violation; (3) the petitioner has no outstanding warrants or pending criminal cases; (4) the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution; and (5) the search of the confidential records of expunction conducted by the Administrative Office of the Courts (AOC) shows that the petitioner has not been previously granted an expunction.

Requires the court to also order that the conviction be expunged from the records of the court and direct all law enforcement agencies to expunge their records of the conviction. Directs the clerk of court to notify state and local government agencies of the court's order, as indicated.

Allows the petitioner to whom the petition to expunge has been granted to notify other state and local government agencies of the order; the agencies must then expunge entries made as a result of the conviction. Also allows the person to request that the agency reverse any administrative action taken against the person as a result of the expunged charge or conviction; the agency may use its discretion in deciding whether or not to do so. Exempts the Department of Justice for purposes of DNA records and samples stored in the state DNA database and databank from this provision.

Provides that a person filing a petition for expunction pay a fee of \$200, unless the person is indigent; \$100 of the fee is to be remitted to the Department of Justice to pay the costs of the State Bureau of Investigation for purging records and the remaining \$100 goes to the AOC for implementation costs. States that persons required by state law to obtain a criminal background check on a prospective employee will not be deemed to have knowledge of convictions expunged under the statute.

Amends GS 15A-151(a) to add specified entities and purposes to the list of those that the AOC may disclose confidential information to.

Amends GS 17C-13 and GS 17E-12 to provide that the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission may gain access to a person's felony conviction records, including those maintained by AOC in its confidential files and may deny, suspend, or revoke a person's certification based solely on the person's felony conviction whether or not it was expunged.

Effective December 1, 2011, and applies to applications for expunction made on or after that date.

Intro. by Kinnaird.

GS 15A

Criminal Law, Procedure, and Sentencing

S 71. CHOCOLATIERS MAY USE UP TO 5% ALCOHOL BY VOL. Filed 2/15/11. *TO ALLOW CONFECTIONERS TO PRODUCE CONFECTIONERIES WHICH CONTAIN NO MORE THAN FIVE PERCENT ALCOHOL BY VOLUME.*

Amends GS 106-129(3)(b.) to provide that a confectionery is deemed adulterated under the North Carolina Food, Drug, and Cosmetic Act if it bears or contains *more than five percent alcohol by volume* (currently, contains any alcohol other than alcohol not exceeding 0.5% derived from flavoring extracts) including alcohol not in excess of 0.5% by volume derived solely from flavoring extracts (or if the confectionery falls under another statutory category).

Intro. by Kinnaird.

GS 106

Agriculture, Environment, and Natural Resources;
Business and Commerce

S 72. SOCIAL SECURITY INCREASE/MEDICAID ELIG. Filed 2/15/11. *TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ADOPT A POLICY ALLOWING A CERTAIN INCOME DISREGARD UNDER THE MEDICAID PROGRAM.*

Directs the Department of Health and Human Services, Division of Medical Assistance (DMA), to adopt and implement a policy to prevent a Medicaid recipient from losing Medicaid eligibility when the annual Social Security and Railroad Retirement Cost of Living Adjustments (COLAs) and the annual federal poverty level adjustment cause a recipient to become income-ineligible for Medicaid benefits. Applies only to cases where Medicaid income eligibility is affected only by Social Security and Railroad Retirement COLAs and federal poverty level adjustment, and will not make a Medicaid recipient eligible if other eligibility requirements are not met. Directs DMA to apply to the Centers for Medicare and Medicaid Services for policy approval, if required.

Intro. by Kinnaird.

UNCODIFIED

Health, Social Services, and Aging

S 73. "CHOOSE LIFE" SPECIAL PLATE. Filed 2/15/11. *TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A "CHOOSE LIFE" SPECIAL LICENSE PLATE.*

Amends GS 20-79.4(b) to add a special registration plate that bears the phrase "Choose Life." Amends GS 20-79.7 to establish a special plate fee of \$25. Distributes \$10 of the fee amount to the Special Registration Plate Account and \$15 to the Collegiate and Cultural Attraction Plate Account (CCAPA). Amends GS 20-81.12 to direct the Division of Motor Vehicles to make a quarterly transfer of the money in the CCAPA earned from the sale of the "Choose Life" plates to the Carolina Pregnancy Care Fellowship to be distributed annually to nongovernmental, not-for-profit agencies that provide pregnancy services that are limited to counseling and/or meeting the physical needs of pregnant women. Prohibits the funds from being distributed to any agency,

organization, business, or other entity that provides, promotes, counsels, or refers individuals for abortion or to any entity that charges women for services received. Provides that the development of the plate is contingent on receiving at least 300 plate applications. Effective July 1, 2011.

Intro. by Daniel, Allran, Harrington. GS 20 Transportation

S 74. COMM. COLLEGES/OPT OUT OF FED'L LOAN PROGRAM. Filed 2/15/11. *TO PROVIDE THAT CONSTITUENT INSTITUTIONS OF THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.*

Amends GS 115D-40.1 (Financial Assistance for Community College Students) to allow a community college board of trustees to adopt a resolution declining to participate in the William D. Ford Federal Direct Loan Program (loan program). Community colleges are required to participate in the loan program unless such a resolution is adopted. Allows a board of trustees that has adopted a resolution declining to participate in the loan program to rescind the resolution and participate in the loan program, but takes away that institution's option of declining further participation in the loan program. Makes conforming changes.

Intro. by Gunn. GS 115D Education

S 75. PROMOTE ELECTRICITY DEMAND REDUCTION. Filed 2/15/11. *TO PROMOTE THE USE OF ELECTRICITY DEMAND REDUCTION TO SATISFY RENEWABLE ENERGY PORTFOLIO STANDARDS.*

Amends GS 62-133.8(b) and (c) to add to the options through which electric public utilities and electric membership corporations or municipalities may meet the renewable energy and energy efficiency standards to include energy demand reduction. Defines *energy demand reduction* as a measurable reduction in the electricity demand of a retail electric customer that is voluntary, under the real-time control of the electric public utility and the customer, and measured in real time using two-way communications devices that communicate on the basis of standards.

Intro. by Hartsell. GS 62 Energy and Utilities; Agriculture, Environment, and Natural Resources

S 76. TC: ELIGIBILITY: INDUS FACIL/FIX UWHARRIE COM. Filed 2/15/11. *TO MAKE A TECHNICAL CORRECTION TO THE INDUSTRIAL FACILITIES SALES TAX REFUND AND A TECHNICAL CORRECTION TO THE MEMBERSHIP COUNT OF THE UWHARRIE COMMISSION.*

Amends GS 105-164.14B(a) (pertaining to certain industrial facilities refunds) to add definitions for *owner*, *paper-from-pulp manufacturing*, and *turbine manufacturing*. Amends GS 105-164.14B(b)(1) to add *paper-from-pulp manufacturing* and *turbine manufacturing* to the list of businesses applicable to industrial facilities allowed a sales and use tax refund. Makes technical changes. Effective July 1, 2010, and applies to sales made on or after that date.

Amends GS 153C-3(d) to increase the membership of the Uwharrie Commission from 10 to 12.

Intro. by Hartsell, Rucho, Clary. GS 105, 153C Agriculture, Environment, and Natural Resources; Taxation

Local Bills

HOUSE BILLS

H 96. ADDITIONAL ALLEGHANY OCCUPANCY TAX. Filed 2/15/11. *TO AUTHORIZE ALLEGHANY COUNTY TO LEVY AN ADDITIONAL THREE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.*

Amends SL 1991-162 (as amended), as the title indicates.

Intro. by Stevens. ALLEGHANY Alleghany

H 97. UNION FIRE FEE SUNSET REPEALED (=S 19). Filed 2/15/11. *TO REPEAL THE SUNSET ON FIRE PROTECTION FEES IN UNION COUNTY.*

Identical to S 19, filed 2/1/11.

Intro. by Horn. UNION Union

SENATE BILLS

S 68. ROBESON HUNTING AND FISHING. Filed 2/15/11. *TO PROHIBIT HUNTING AND FISHING ON THE PROPERTY OF ANOTHER WITHOUT WRITTEN PERMISSION IN ROBESON COUNTY.*

Amends Section 4 of SL 1985-204, as amended, to add Robeson County to the section, as the title indicates. Effective for offenses committed on or after October 1, 2011.

Intro. by Walters.

ROBESON

Robeson

ACTION ON BILLS

February 15, 2011

- NOTES**
1. Digests appearing under "Summaries of Bills Filed" are for bills stamped with today's filing date.
 2. Amendments and committee substitutes adopted today are summarized following the chamber action.
 3. Subscribers can find the digest of every version of each bill online at www.dailybulletin.unc.edu.
 4. The dates on which previous amendments or committee substitutes were adopted are listed below bill numbers.
 5. The action "Cal Pursuant Rule 36b" indicates that the bill has been reported by committee and is awaiting calendaring.
 6. 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 Withdrawn From Cal
	S Placed On Cal For 2/16/2011
01-31-11, 02-02-11, 02-14-11	
H0022 Vance-Granville Comm. Coll. Bond Funds.	H Reptd Fav
	H Re-ref Com On Finance
H0027 Forensic Sciences Act.	HA Amend Adopted 1
	H Passed 2nd & 3rd Reading
	H Ordered Engrossed
02-09-11, 02-15-11	
H0048 No Standardized Testing Unless Req'd by Feds.	H Reptd Fav
	H Cal Pursuant Rule 36(b)
	H Placed On Cal For 2/16/2011
H0077 Apply for TBI Medicaid Waiver.	H If Favorable Appropriations
H0078 Evaluate Efficacy of CABHA Model.	H If Favorable Appropriations
H0079 Report on MH Services Provided by Hosp. ERs.	H If Favorable Appropriations
H0080 Evidence-Based Pract. in Psych. Hospitals.	H If Favorable Appropriations
H0081 Develop Plan for Allocating DD Resources.	H If Favorable Appropriations
H0082 Funds for Step-Down Unit for BART Program.	H If Favorable Appropriations
H0083 Modify MHDDSAS Reporting Requirements.	H If Favorable Appropriations
H0085 Evaluate DD Residential Options for Children.	H If Favorable Appropriations
H0088 Honor Clay County's 150th Anniversary.	H Passed 1st Reading
	H Ref To Com On Rules, Calendar, and Operations of the House
H0089 GIS/NC OneMap System Funds.	H Passed 1st Reading
	H Ref To Com On Appropriations
H0090 Confectioners may use up to 5% Alcohol By Vol.	H Passed 1st Reading
	H Ref To Com On Commerce and Job Development

H0091 Repeal e-NC Sunset.	H	Passed 1st Reading
	H	Ref To Com On Commerce and Job Development
H0092 Repeal Land Transfer Tax.	H	Filed
H0093 Modify Refundability of EITC.	H	Filed
H0094 Local Flexibility Re: School Calendar.	H	Filed
H0095 Railroad Corridor Protection.	H	Filed
H0098 Breweries to Sell Malt Beverages on Premises.	H	Filed
H0099 Judicial Terms.	H	Filed
H0100 Nonprofits/Criteria to Receive State Funds.	H	Filed
H0101 Broadband Parity for Counties & Cities.	H	Filed
H0102 Special Plate for Ronald McDonald Houses.	H	Filed
H0103 Rqmts. for Min'l Oil Spills - 2.	H	Filed
H0104 ACH Pilot on Crisis Intervention Training.	H	Filed
H0105 Motorcycle Awareness Month.	H	Filed
H0106 Direct Care Worker Wage and Benefit Study.	H	Filed
H0107 GAST Training Pilot.	H	Filed
H0108 DHHS Study of IOM Task Force Recom 3.1.	H	Filed
H0109 Extend Reporting on Baby Boomer Preparations.	H	Filed
H0110 Task Force on Fraud Against Older Adults.	H	Filed
H0111 Handgun Permit Valid in Parks & Restaurants.	H	Filed
H0112 Realign Wake Superior Court Districts.	H	Filed
S0007 Ban Mephedrone.	H	Passed 1st Reading
	H	Ref to the Com on Health and Human Services, if
favorable,		Judiciary Subcommittee B
S0009 Make Synthetic Cannabinoids Illegal.	H	Passed 1st Reading
	H	Ref to the Com on Health and Human Services, if
favorable,		Judiciary Subcommittee B
02-07-11		
S0013 Balanced Budget Act of 2011.	S	Pres. To Gov. 2/14/2011
02-02-11, 02-07-11		
S0027 Involuntary Annexation Moratorium.	S	Reptd Fav
S0052 UNC Board of Governors Election.	S	Reptd Fav Com Substitute
	SA	Com Substitute Adopted
02-15-11		
S0065 Honor John A. Garwood.	S	Passed 1st Reading
	S	Ref To Com On Rules and Operations of the Senate
S0066 Retrieval of Deer.	S	Passed 1st Reading
	S	Ref To Com On Agriculture/ Environment/Natural
Resources		
S0067 Sunshine Amendment.	S	Filed
S0069 Special Plate for Ronald McDonald	S	Filed

Houses.

S0070	Expunge Nonviolent Crimes.	S	Filed
S0071	Chocolatiers may use up to 5% Alcohol By Vol.	S	Filed
S0072	Social Security Increase/Medicaid Elig.	S	Filed
S0073	"Choose Life" Special Plate.	S	Filed
S0074	Comm. Colleges/Opt Out of Fed'l Loan Program.	S	Filed
S0075	Promote Electricity Demand Reduction.	S	Filed
S0076	TC: Eligibility: Indus Facil/Fix Uwharrie Com.	S	Filed

LOCAL BILLS

H0096	Additional Alleghany Occupancy Tax.	H	Filed
H0097	Union Fire Fee Sunset Repealed.	H	Filed
S0019	Union Fire Fee Sunset Repealed.	S	Reptd Fav S Re-ref Com On Finance
S0029	Tax Certification - Alamance County.	S	Reptd Fav
S0039	Parmele Town Board Size.	S	Reptd Fav Com Substitute SA Com Substitute Adopted
02-15-11			
S0068	Robeson Hunting and Fishing.	S	Filed

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

HOUSE BILLS

H 27. [FORENSIC SCIENCES ACT](#). Filed 2/1/11. House amendment makes the following changes to 2nd edition.
Makes technical changes only.

State Government; Criminal Law,
Procedure, and Sentencing; Courts

SENATE BILLS

S 39. [PARMELE TOWN BOARD SIZE](#). Filed 2/7/11. Senate committee substitute makes the following changes to 1st edition. Provides that the expansion of the Parmele Board of Commissioners applies to the 2011 election and subsequent election years (was, applies to the 2011 election).

Martin

S 52. [UNC BOARD OF GOVERNORS ELECTION](#). Filed 2/9/11. Senate committee substitute makes the following changes to 1st edition.

Deletes requirement that the Senate election results for the UNC Board of Governors be sent by Special Messenger to the House of Representatives. Requires the President of the Senate to entertain (was, make) a motion for the simultaneous election of nominees.

Education; General Assembly

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Notes

None

NEXT SESSIONS

February 16, 2011

HOUSE convenes at 2:00 p.m.

SENATE convenes at 2:00 p.m.