

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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House Legislative Day 17

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Table of Contents

Summaries of Bills Filed _____	1
Public Bills _____	1
Local Bills _____	9
Action on Bills _____	10
Summaries of Amendments and Committee Substitutes _____	13
Legislation Enacted _____	14
Index by Keyword _____	15
Notes _____	15
Next Sessions _____	16

SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 164. UPSET BIDDER NOTICE IN FORECLOSURE. Filed 2/23/11. *TO REQUIRE THAT THE NOTICE OF SALE AND THE NOTICE FILED BY AN UPSET BIDDER IN A FORECLOSURE PROCEEDING INCLUDE AN EXPLANATION OF THE EFFECT OF A BANKRUPTCY PETITION THAT IS FILED DURING THE TEN-DAY UPSET BID PERIOD.*

Adds subdivision (9) to GS 45-21.16A(a) (regarding notice of sale) and adds subdivision (3a) to GS 45-21.27(e) (regarding an upset bid on real property) as the title indicates. Makes a technical change to GS 45-21.27(e). Effective October 1, 2011, and applies to upset bid notices filed on or after that date.

Intro. by Randleman.

GS 45

Property, Land Use, and Housing;
Banking and Finance

H 165. PLANNED COMMUNITY & CONDO ACT AMENDS. Filed 2/23/11. *TO AMEND THE PLANNED COMMUNITY ACT AND THE CONDOMINIUM ACT TO ADD OR ENHANCE CONSUMER PROTECTION PROVISIONS, INCLUDING PROVISIONS RELATED TO DISCRETION IN ENFORCEMENT BY*

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HOMEOWNERS ASSOCIATIONS, PROCESSES REQUIRED FOR IMPOSITION OF SPECIAL ASSESSMENTS, OPEN MEETINGS, RECORD KEEPING, USE OF ALTERNATIVE DISPUTE RESOLUTION, ADDITIONAL LIMITATIONS ON FORECLOSURE, DECLARANT CONTROL, AND DISCLOSURE OF INFORMATION ABOUT HOMEOWNERS ASSOCIATIONS TO POTENTIAL PURCHASERS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON HOMEOWNERS ASSOCIATIONS.

Amends various sections of the NC Planned Community Act (Planned Community Act) and the NC Condominium Act (Condominium Act) affecting homeowners or unit owners association management, liens for assessments, and providing for alternative dispute resolution. Makes additional changes to the Planned Community Act affecting declarant rights. Enacts new Article 4 to the Planned Community Act, requiring certain sellers to disclose to purchasers specified information on the lot and homeowners association, and makes conforming changes to the Condominium Act.

Association Management. Enacts new GS 47F-3-102.1 (planned communities) and new GS 47C-3-102.1 (condominiums) allowing an association's executive board, in its discretion, to take enforcement action by imposing sanctions or commencing an action. Provides that the board does not have a duty to take enforcement action if it determines any of the following: (1) the association's legal position does not justify action; (2) the covenant, restriction, or rule being enforced is or may be inconsistent with law; (3) the violation is not so material as to be objectionable to a reasonable person or to justify expending resources; or (4) it is not in the association's best interest.

Repeals GS 47F-3-103(c) and GS 47C-3-103(c) (concerning budget ratification procedures) and replaces with new GS 47F-3-107.2 and new GS 47C-3-107.2, addressing budget ratification and special assessment procedures. Requires the executive board to adopt, at least annually, a proposed budget and to provide a budget summary to all owners (refers to "lot owners" under the Planned Community Act and to "unit owners" under the Condominium Act) within 30 days of adoption. Specifies timeline and meeting procedures for ratification. Allows the board, at any time, to propose a special assessment provided the board follows the procedures for budget ratification. Upon a two-thirds vote by the board that a special assessment is necessary to respond to an emergency, authorizes the board to impose an emergency special assessment without following the budget ratification procedures, provided the funds are spent only for the purposes described in the vote. Requires prompt notice of the emergency special assessment to all owners.

Amends GS 47F-3-108 and GS 47C-3-108 to require that an association hold a meeting of owners annually at a time, date, and place stated in or fixed in accordance with the bylaws (previous law required a meeting at least once each year). Current law allows owners with 10% (or lower percentage stated in bylaws) of the association's votes to call a special meeting. Proposed amendment also allows the requesting lot owners to notify all owners of the meeting if the association fails to do so within 30 days of the request. Deletes subsection (b), concerning speaking opportunities for owners at board meetings. Allows association and executive board meetings to be held by telephonic, video, or other conferencing process if specified conditions are met. Mandates that owners be given a reasonable opportunity to comment on relevant matters during any meeting or executive board meeting. Requires that meetings of the executive board and association committees be open to the owners, except during executive sessions, which may be held only during a regular or special meeting. Forbids any final vote or action from occurring during an executive session. Lists the permitted purposes for an executive session. Details additional rules and restraints for meetings, including schedules, location, and periods of declarant control.

Liens for Assessments. Amends GS 47F-3-116 and GS 47C-3-116 to provide that any assessment levied against a lot or unit remaining unpaid for 90 days (was, 30 days) or longer will constitute a lien on that lot or unit when a claim of lien is properly filed. Requires the association to include an offer to accept payments in installments with the mailed notice of assessment amount due (previous law *allowed* the association to accept installments). Allows the association, acting through the executive board, to foreclose the claim of lien according to Article 2A of GS Chapter 45 (power of sale foreclosure) if the assessment remains unpaid for 90 or more days and the owner failed to accept or comply with the payment installment plan. Prohibits the association from foreclosing the claim of lien if the executive board does not vote to commence the foreclosure proceeding. Adds new subsection (b1), specifying that the association must apply any payments in the following priority: (1) unpaid assessments; (2) late charges associated with the assessment; (3) attorneys' fees and other collection charges; and (4) fees, fines, interest, and associated late fees. Allows an association to file a claim of lien when a scheduled payment remains unpaid for 30 days or longer, *if* an owner accepts a proposed installment plan and fails to comply with its terms. Requires the installment plan to consist of equal periodic payments made over a reasonable time based on the outstanding balance and states that the accumulation of late charges must cease when the owner agrees to pay according to an installment plan.

Association Records. Amends GS 47F-3-118 and GS 47C-3-118, listing specific records that the association must retain (expands current record-keeping requirements). Describes requirements for examining and copying

records and permissible exceptions. Recodifies, as GS 47F-3-103(g) and GS 47C-3-103(g), the provisions prohibiting payments to any association officer or board member or to any related entity, unless expressly allowed.

Alternative Dispute Resolution. Enacts new GS 47F-3-120.1 and new GS 47C-3-120 to allow parties to resolve their dispute by any form of binding or nonbinding alternative dispute resolution (ADR). Allows a declarant to submit a dispute to ADR only after the period of declarant control ends. Requires that parties electing ADR use only mediators certified by the Dispute Resolution Commission.

Declarant Control and Transfer of Special Declarant Rights. Adds definitions for *affiliate of a declarant* and *dispose or disposition* under the Planned Community Act. Amends GS 47F-3-103 to mandate that a period of declarant control terminates at the earlier of: (1) 120 days after conveyance of 75% of the lots to lot owners other than the declarant, (2) two years after all declarants have ceased to offer lots for sale in the ordinary course of business, or (3) two years after any development right to add new lots was last exercised. Permits a declarant to voluntarily surrender the right to appoint and remove officers and executive board members before the declarant control period terminates, but allows the declarant to retain approval rights over certain actions of the association or executive board, as recorded, for the entire period. Enacts new subsection (d1) to limit the duration of declarant control, according to specified conveyance benchmarks.

Amends GS 47F-3-104 to detail a transferor declarant's liability upon transfer of any special declarant right in various circumstances. Explains the process of special declarant rights transferred upon foreclosure or sale. Lists the liabilities and obligations of successors to special declarant rights.

Amends GS 47F-3-105 to clarify that (1) any management contract, employment contract, or lease of recreational parking areas or facilities; (2) any other contract or lease between the association and a declarant or an affiliate of a declarant; or (3) any contract or lease that is not bona fide or was unconscionable to the lot owners at the time of agreement, may be terminated without penalty, according to the specified procedure. Requires that this contract termination provision be included in each contract entered into by or on behalf of the association before the elected executive board takes office; absence of the contract provision will not affect the association's rights.

Amends GS 47F-3-111 to make a declarant liable to the association for (1) all tort losses not covered by insurance and (2) all breach of contract losses when an action is brought against the association for a wrong that occurred during a period of declarant control, and the association gives the declarant reasonable notice of and an opportunity to defend against the action.

Disclosures to Purchasers. Enacts new Article 4 to GS Chapter 47F (Planned Community Act) to require that each seller of a lot in a planned community provide the purchaser a copy of the declaration before the earlier of either conveyance or transfer of right of possession. Also requires the seller to provide a disclosure certificate containing 16 enumerated items, including assessment amounts, restrictive covenants, and any unsatisfied judgments against the association. Lists the types of dispositions excepted from the disclosure certificate requirement and makes a conforming change to GS 47C-4-101. Allows a potential purchaser to void a purchase contract if the purchaser does not receive the disclosure certificate more than 5 days before contract execution by following the specified steps. Directs an association, within 10 days of the owner's request, to supply the information necessary for inclusion in the disclosure certificate. Makes corresponding changes to the Condominium Act.

Directs the NC Real Estate Commission to revise the Residential Property Disclosure Statement (developed pursuant to GS 47E-4) to provide for disclosure of the existence of any homeowners association and any restrictive covenants affecting the real property, regardless of whether the covenants are currently violated.

The amendments to the Planned Community Act apply to all (1) planned communities containing more than 20 residential lots and created in NC on or after the date that the act becomes law and (2) planned communities containing more than 20 residential lots already in existence, but the act only applies to events and circumstances that occur on or after the date that the act becomes law and does not invalidate existing provisions of those planned communities. Allows planned communities pre-dating the act to amend their governing documents, in accordance with the act.

The amendments to the Condominium Act apply to all (1) condominiums created in the state on or after the date that the act becomes law and (2) condominiums created in the state before that date, except the act applies only with respect to events and circumstances occurring on or after the act's effective date and does not invalidate existing provisions of those condominiums. Allows condominiums pre-dating the act to amend their governing documents in accordance with the act.

Other Provisions. Directs the Consumer Protection Division of the Department of Justice (DOJ) to provide general information to and receive complaints from the public regarding the act. Requires DOJ to compile all complaints related to homeowners associations in an annual report, and publish the report online. Includes a severability clause.

Intro. by McGee, Weiss, Earle, Howard. GS 47C, 47F Property, Land Use, and Housing; State Government

H 166. PURPLE HEART MOTORCYCLE SPECIAL PLATES. Filed 2/23/11. *TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE A MOTORCYCLE PLATE FOR PURPLE HEART RECIPIENTS.*

Amends GS 20-79.4(116) as title indicates. Effective July 1, 2011.

Intro. by McGee. GS 20 Military and Veterans Affairs; Transportation

H 167. EXTEND ASSESSMENT REFUND PERIOD. Filed 2/23/11. *TO EXTEND THE PERIOD FOR LOCAL GOVERNMENTS TO REFUND SPECIFIED UNUSED ASSESSMENTS.*

Amends SL 2010-129, Section 7, to allow a local government that has imposed an assessment before 2012 (was, before 2007) to finance a capital project that has been assumed by another unit of local government to return unused assessments to the person that paid the assessment.

Intro. by Iler. UNCODIFIED Local Government

H 168. ZONING/AGRICULTURAL ANNEXATION EXEMPTION. Filed 2/23/11. *PROVIDING A ZONING EXEMPTION FOR ANY AGRICULTURAL INTEREST ANNEXED BY A MUNICIPALITY AND EXEMPTING COVERAGE OF ANY AGRICULTURAL INTEREST IN THE EXTRATERRITORIAL PLANNING JURISDICTION OF A MUNICIPALITY.*

Enacts new GS 160A-393.1 as the title indicates. Applies to any agricultural interest included in an area to be annexed by a municipality under Article 4A (regarding extension of corporate limits) of GS Chapter 160A. Defines *agricultural interest* to mean an area of land, including any structures, used primarily for (1) the production of produce, grains, livestock, or fibers; (2) the production of horticultural products; (3) the production of aquaculture products; (4) the production of trees and timber; (5) a demonstration, research, or test farm; (6) a petting zoo (7) agritourism; or (8) equine activities.

Adds a new subsection (a2) to GS 160A-360 to provide that the provisions of GS 160A-360 (regarding territorial jurisdiction) do not apply to any *agricultural interest*, as defined in proposed GS 160A-393(b), located within the extraterritorial jurisdiction of a municipality.

Intro. by Sanderson, Cleveland. GS 160A Agriculture, Environment, and Natural Resources; Property, Land Use, and Housing

H 169. HIGH POINT FURNITURE MARKET FUNDS. Filed 2/23/11. *TO APPROPRIATE FUNDS FOR THE HIGH POINT MARKET.*

Appropriates \$848,925 for 2011-12 and \$848,925 for 2012-13 from the General Fund to the Department of Commerce to be allocated to the High Point Market Authority to support the market. Appropriates \$1.2 million for 2011-12 and \$1.2 million for 2012-13 from the Highway Fund to the Department of Transportation to be allocated to the High Point Market Authority for transportation services associated with the market. Effective July 1, 2011.

Intro. by Jeffus, Faircloth, Brandon. APPROP Budget and Appropriations; Business and Commerce; Transportation

H 171. MUNICIPAL SELF-ANNEXATIONS. Filed 2/23/11. *TO RESTATE THAT A MUNICIPALITY HAS NO AUTHORITY TO PETITION ITSELF FOR SELF-ANNEXATION OF PROPERTY IT DOES NOT OWN OR HAVE ANY LEGAL INTEREST IN, SUCH AS STATE-MAINTAINED STREETS.*

Enacts new subsection (b) to GS 160A-58.7 (annexation of municipal property) to provide as title indicates. Specifies that, for the purposes of the subsection, a municipality has no legal interest in a state-maintained street unless it owns the underlying fee and not just an easement. Makes conforming changes to GS 160A-31 (annexation by petition). Makes a technical change.

Intro. by L. Brown. GS 160A Local Government

H 172. ENCOURAGE MILITARY VETERAN CONTRACTOR USE. Filed 2/23/11. *TO ENCOURAGE STATE AND LOCAL GOVERNMENT TO USE MILITARY VETERAN CONTRACTORS.*

Amends GS 143-48 to add military veteran contractors to the state policy of encouraging and promoting the use of small contractors, minority contractors, physically handicapped contractors, and women contractors. Makes conforming changes to include data regarding military veteran contractors in the required annual reports under this statute. Enacts new GS 143-128.5 to set military veteran business (as defined) participation goal at 10% of the total value of work for each state building project and 10% for local government state appropriated building projects where the project cost is over \$100,000. Requires cities, counties, and other public entities to set appropriate verifiable percentage goals for veteran businesses in building projects. Sets bidding and contract award requirements that require good faith efforts to reach these goals and to establish record keeping and reporting requirements (generally applicable to building projects with a total cost of \$300,000 or more). Establishes reporting requirements. Defines *military veteran* as a citizen or lawful resident of the United States who (1) served in the U.S. Armed Forces or the NC National Guard for a minimum of 180 days but has since been discharged or released with an honorable discharge or a general discharge under honorable conditions, or (2) is or was a member of the reserve components of the Armed Forces as defined in 10 USC Section 10101, who was on active federal service status for 180 days or more. Adds provision to GS 143-131 requiring solicitation of military veteran participation in informal bids. Makes conforming changes. Effective when the act becomes law and applicable to bids solicited on or after that date.

Intro. by Killian. GS 18C, 113, 116, 116D, 143, 147, 148 Business and Commerce; Military and Veterans Affairs

H 173. STATE SHRIMP FESTIVAL-SNEADS FERRY. Filed 2/23/11. *TO MAKE THE SNEADS FERRY SHRIMP FESTIVAL THE OFFICIAL STATE SHRIMP FESTIVAL.*

Enacts new GS 145-33 as title indicates.

Intro. by Shepard. GS 145 State Government

H 174. COMMERCIAL REAL ESTATE BROKER LIEN ACT. Filed 2/23/11. *TO ENACT THE COMMERCIAL REAL ESTATE BROKER LIEN ACT.*

Enacts new Part 4 to Article 2 of GS Chapter 44A as title indicates. Provides that a commercial real estate broker has a lien on commercial real estate in the amount that the broker is due under a written instrument signed by the owner of an interest in the real estate or the owner's authorized agent. Provides that the lien is available only to the broker named in the instrument signed by the owner, buyer, or tenant or that individual's agent. Prescribes procedures for notice of the lien, attachment of the lien, release or satisfaction of the lien, and enforcement of the lien. Provides that the costs of the proceeding to enforce a lien, including reasonable attorneys' fees and prejudgment interest, must be paid by the nonprevailing party. Identifies circumstances under which an escrow account must be established with the clerk of superior court with reference to a lien claim under proposed Part 4. Effective October 1, 2011.

Intro. by McCormick, Gibson, Daughtry. GS 44A Property, Land Use, and Housing

H 175. PUTTING STUDENTS FIRST/LOCAL CONTROL. Filed 2/23/11. *TO AMEND THE SCHOOL CALENDAR LAW TO PUT STUDENTS FIRST AND TO RESTORE LOCAL CONTROL.*

Amends GS 115C-84.2 to increase the school calendar requirement from 215 days per fiscal year to 220 days. Requires the local school board to designate eight days for use as teacher workdays, additional instructional days, or other lawful purposes (was, five teacher workdays). Removes provision that declared that teacher workdays were protected to allow teachers to complete instructional and classroom administrative duties and prohibiting local boards from imposing any additional tasks on the designated work days. Authorizes a local board to delegate authority to individual schools to schedule use of some or all of the eight days and allows the individual school's principal to schedule the delegated days for any of the designated purposes. Permits flexibility in the scheduling and use of these days, including permitting reserving of up to two days as additional make-up days in local school administrative units that have made up an average of at minimum eight days due to inclement weather. Requires local boards and individual schools to give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on any of the delegated eight days designated for the allowed purposes. Provides that the total number of teacher workdays is not to be more than 200 days (was, 195).

Authorizes local boards of education to set opening and closing dates for public schools (was, except for year round schools, statewide requirement that the opening date be no earlier than August 25 and the closing date no later than June 10 for students). Permits different opening and closing dates for schools in the same

administrative unit. Makes a conforming change, deleting provisions regarding waiver requests to the State Board of Education by local administrative units needing make up days due to school closings.

Amends GS 115C-302.1(b) to provide that the daily rate of pay for teachers is to equal one twenty-second of the monthly rate of pay (was, daily rate of pay equal to midway between one twenty-first and one-twenty-second of the monthly rate of pay). Makes conforming changes.

Provides that there will not be an increase or decrease for the annual rate of pay beginning with the 2011-12 school year for certified and noncertified employees who are employed on or after the effective date of this act. Provides that noting in this act is to be construed as changing the pay cycle for noncertified employees. Requires the State Board of Education to make an annual report on compliance with these provisions.

Declares that the increase in the number of workdays does not constitute a demotion under Part 3 of Article 22 of GS Chapter 115C or any other personnel law or policy.

Provides that nothing in this act requires an appropriation of funds from the General Assembly or additional spending by a local administrative unit to implement it.

Effective when the act becomes law and applies to school years beginning with the 2011-12 school year.

Declares that the act applies in all 100 counties and in all local school administrative units.

Intro. by Burr, Folwell, Hager, Rapp. GS 115C Education

H 176. REVIEW DV PROGRAM PARTICIPATION. Filed 2/23/11. *TO PROVIDE FOR REVIEW OF A DEFENDANT'S PARTICIPATION IN A COURT-ORDERED ABUSER TREATMENT PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.*

Amends GS 15A-1343(b)(12) (concerning regular conditions of probation) to require a defendant attending an abuser treatment program to abide by all program rules. Directs the probation officer to forward a copy of the probation judgment to the treatment program and request to be notified of any violations. Requires the court to review the defendant's participation in the program within 30 days of a notification that the defendant violated program rules or failed to complete the program within the specified time period. Specifies requirements for notification of the case review.

Effective December 1, 2011, and applies to defendants placed on probation on or after that date.

Intro. by McLawhorn. GS 15A Courts; Criminal Law, Procedure, and Sentencing

H 177. ENVIRONMENTAL TECHNICAL CORRECTIONS 2011. Filed 2/23/11. *TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES.*

Amends GS 143B-344.37 (North Carolina Sustainable Communities Grant Fund) to correct a statutory reference. Amends GS 143B-344.38 (North Carolina Sustainable Communities Task Force-reports) to correct a committee name to the House Committee on Commerce and Job Development. Amends GS 143B-432 (Transfers to Department of Commerce) to remove the Western North Carolina Public Lands Council of the Department of Natural and Economic Resources from those that are transferred to the Department of Commerce.

Intro. by Samuelson, McElraft. GS 143B Agriculture, Environment, and Natural Resources

H 178. DOMESTIC VIOLENCE/FUNDING AMENDMENTS. Filed 2/23/11. *TO AMEND THE NORTH CAROLINA DOMESTIC VIOLENCE CENTER FUND AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.*

Reorganizes and expands GS 50B-9, which established the Domestic Violence Center Fund (Fund). Specifies that the Fund is a nonreverting special fund. Defines a *center for victims of domestic violence*, for the purposes of the statute, as an office with a street address that is open to the public, operated by a non-profit or local governmental entity, and provides, at a minimum, five listed services related to domestic violence. Clarifies that a center will be eligible for an equal share of the Fund only if it continuously provided the required services since July 1st preceding the grant application period. Explains that an office location will not be considered a center for victims of domestic violence and will not be eligible for grant funds if it does not provide the listed services. Describes funding procedures when there is more than one center in a county. Explains that a non-profit or local government entity will be eligible for only one equal share of the Fund for each eligible center, and one equal share will also go to the NC Coalition Against Domestic Violence, Inc. (Coalition). Allows the board of county commissioners, in a county that does not have an eligible center, to apply for an equal share of the Fund, provided the board can show that the grant funds will provide residents with the services listed in the statute. Limits the number of centers eligible for funds based on a county's population in the 2010 census. Lists the

procedures and voting rules that the NC Domestic Violence Commission must follow if a county has one center receiving funds and a second or third qualified center applies for an equal share of the Fund.

Makes technical and conforming changes.

Applies to Fund grant applications for the 2012-13 fiscal year.

**Intro. by McLawhorn, Ross,
Ingle.**

GS 50B

Budget and Appropriations;
Family Law; Criminal Law,
Procedure, and Sentencing

SENATE BILLS

S 110. PERMIT TERMINAL GROINS. Filed 2/23/11. *TO AUTHORIZE THE PERMITTING AND CONSTRUCTION OF TERMINAL GROINS AT INLETS UNDER CERTAIN CONDITIONS.*

Amends GS 113A-115.1 (limitations on erosion control structures). Defines (1) *estuarine shoreline* as all shorelines that are not ocean shorelines that border water estuaries as defined in GS 113A-113(b)(2) and (2) *terminal groin* as a structure, generally perpendicular to the shoreline, that is constructed on the side of an inlet at the tip of an island to limit or control sediment passage into the inlet channel.

Current law prohibits, with exceptions, constructing a permanent erosion control structure in an ocean shoreline. Adds new subdivision (3) to GS 113A-115.1(b) to add terminal groins as permitted under proposed new subsection (f) of GS 113A-115.1 as an exception to this prohibition. Provides that any existing rule that prohibits permanent erosion control structures does not apply to terminal groins.

Specifies the permit application requirements necessary for the construction of a terminal groin that are needed in addition to the permit application requirements of Part 4 of Article 7 of GS Chapter 113A. Requires in new (f) that all of the following conditions be met in order for a terminal groin to be permitted under this section: (1) the permit applicant has complied with all of the specified permit application requirements, (2) the permit applicant has provided notice to any property owners and local governments identified in the required engineering design as potentially affected by the construction of the proposed terminal groin, and (3) the construction of the terminal groin must be accompanied by a concurrent beach project to prefill the groin. Provides limitations on the number of terminal groins that may be placed on each ocean shoreline immediately adjacent to an inlet and on the ocean shoreline of an inlet when the shoreline is immediately adjacent to a federally maintained navigation channel associated with a state port.

Directs the Department of Environment and Natural Resources (DENR) to amend the management program that DENR adopted under the federal Coastal Zone Management Act to ensure that the management program is consistent with GS 113A-115.1 as amended in this act. Requires DENR to get approval for the amended management plan from the U.S. Secretary of Commerce or the Secretary's authorized designee no later than six months after the effective date of this act. Makes technical changes.

**Intro. by Brown, Goolsby,
Rabon.**

GS 113A

Agriculture, Environment, and
Natural Resources; Property, Land
Use, and Housing

S 111. DESIGNATE KIDNEY MONTH (=H 146). Filed 2/23/11. *DESIGNATING THE MONTH OF MARCH OF EACH YEAR AS KIDNEY MONTH IN NORTH CAROLINA.*

Identical to H 146, filed 2/17/11.

Intro. by Purcell.

GS 103

State Government

S 112. DISAPPROVE PHARMACY BOARD RULE. Filed 2/23/11. *TO DISAPPROVE A RULE ADOPTED BY THE NORTH CAROLINA BOARD OF PHARMACY.*

Disapproves 21 NCAC 46 .1418 (Advanced Pharmacy Technician) adopted by the NC Board of Pharmacy on April 20, 2010, and approved by the Rules Review Commission on June 17, 2010.

Intro. by Purcell.

UNCODIFIED

APA/Rule Making; Health, Social
Services, and Aging

S 113. GED CLASSES & TESTS OFFERED IN ENGLISH ONLY. Filed 2/23/11. *TO REQUIRE COMMUNITY COLLEGES TO OFFER GED TESTING PROGRAMS AND GED TESTS IN ENGLISH.*

Amends GS 115D-5 to prohibit offering General Educational Development (GED) testing programs and tests in a language other than English. Make a technical correction. Applies to testing programs and tests offered after July 1, 2011.

Intro. by Allran.

GS 115D

Education

S 114. NO STANDARDIZED TESTING UNLESS REQ'D BY FEDS (=H 48). Filed 2/23/11. *TO REDUCE SPENDING BY ELIMINATING STATEWIDE STANDARDIZED TESTING IN THE PUBLIC SCHOOLS, EXCEPT AS REQUIRED BY FEDERAL LAW OR AS A CONDITION OF A FEDERAL GRANT.*

Identical to H 48, filed 2/7/11.

Intro. by Allran.

GS 115C

Education

S 115. COVERAGE FOR TREATMENT OF AUTISM DISORDERS. Filed 2/23/11. *TO REQUIRE HEALTH BENEFIT PLANS, INCLUDING THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES, TO PROVIDE COVERAGE FOR TREATMENT OF AUTISM SPECTRUM DISORDERS.*

Adds new GS 58-3-192 requiring health benefit plans, including the State Health Plan for Teachers and State Employees (State Plan), to provide coverage for autism spectrum disorders, subject to the same deductibles, co-payments and coinsurance terms that apply to other covered medical services under the health benefit plan.

Prohibits every health benefit plan, including the State Plan, from terminating coverage or refusing coverage to an individual solely because the individual is diagnosed with one of the autism spectrum disorders or has received treatment for autism spectrum disorders. Provides that there will be no limits on the number of visits an individual may make to an autism services provider. Prohibits denying coverage because the treatments are habilitative or educational in nature. Directs that coverage under these provisions must not be construed as limiting benefits that are otherwise available to an individual under a health benefit plan. Establishes a maximum annual benefit of \$75,000 for behavioral therapy for autism spectrum disorders. Prohibits applying payments made by the insurer on behalf of the individual for any care, treatment, intervention, service, or item unrelated to autism spectrum disorders toward the maximum benefit. Provides that if an individual is receiving treatment for an autism spectrum disorder, with the exception of inpatient services, a health benefit plan has the right to request a review of the treatment no more than once every 12 months unless the individual's licensed medical doctor or licensed psychologist agrees that a more frequent review is needed. Requires the insurer to pay any costs for the review. Includes applicable definitions in proposed GS 58-3-192.

Amends GS 135-45 to direct the Executive Administrator and Board of Trustees of the State Plan not to change the plan's comprehensive health benefit coverage, co-payments, deductible, out-of-pocket expenditures, and lifetime maximum in effect on January 1, 2012, (was, July 1, 2009) that would result in a net increased cost to the State Plan or a reduction in benefits to plan members until the General Assembly directs that such changes be made. Makes conforming changes to GS 135-45 to synchronize its provisions with those of proposed GS 58-3-192.

Provides that the act becomes effective January 1, 2012, and applies to all health benefit plans that are delivered, issued for delivery, or renewed within North Carolina, or outside of the state if the health benefit plan is insuring North Carolina residents, on and after the effective date.

Intro. by Purcell, Garrou, Mansfield.

GS 58, 135

Health, Social Services, and Aging

S 116. FUNDS/NC SPECIAL OLYMPICS (=H 128). Filed 2/23/11. *TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA SPECIAL OLYMPICS.*

Identical to H 128, filed 2/17/11.

Intro. by Purcell.

APPROP

Budget and Appropriations; Health, Social Services, and Aging

S 117. ELIMINATE EITC REFUNDABILITY PROVISION. Filed 2/23/11. *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 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 Clary.

GS 105

Taxation

S 118. DOWNTOWN SERVICE DISTRICT DEFINITION. Filed 2/23/11. *TO EXPAND THE DEFINITION OF DOWNTOWN REVITALIZATION IN THE MUNICIPAL SERVICE DISTRICT LAW.*

Amends GS 160A-536(b) to provide that *downtown revitalization projects*, as used in the statute, also include public buildings, restrooms, docks, visitor centers, and tourism facilities in the non-inclusive list of examples.

Intro. by Preston.

GS 160A

Community and Economic
Development; Local Government

S 121. ELIGIBILITY REQUIREMENTS/PUBLIC ASSISTANCE. Filed 2/23/11. *REQUIRING APPLICANTS FOR PUBLIC ASSISTANCE TO UNDERGO DRUG TESTING BEFORE THE APPLICANT IS ELIGIBLE FOR PUBLIC ASSISTANCE.*

Enacts new GS 108A-26.1 as the title indicates. Requires the substance abuse screening to be administered by the county department of social services in the county in which the applicant resides, or by the entity designated by the board of county commissioners in the case of residents of electing counties. Requires an applicant who fails the screening to undergo substance abuse treatment. Requires the Social Services Commission to adopt rules establishing requirements and policies for (1) substance abuse screening of applicants, (2) substance abuse treatment, (3) subsequent screening of recipients after becoming eligible for public assistance, and (4) any other relevant requirements or policies.

Intro. by Rouzer.

GS 108A

Health, Social Services, and Aging

S 122. NC MORGAN HORSE CLUB SPECIAL PLATE. Filed 2/23/11. *TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE A MORGAN HORSE CLUB SPECIAL PLATE.*

Enacts new GS 20-79.4(b)(89a) as title indicates. Plate issuance is contingent on the receipt of at least 300 plate applications. Establishes a special plate fee of \$20 and requires that \$20 of that amount be transferred quarterly to the Morgan Horse Club to support the mission of the Virginia-Carolinas Morgan Horse Club, Inc. Effective July 1, 2011.

Intro. by Atwater.

GS 20

Transportation

Local Bills

HOUSE BILLS

H 170. WINSTON-SALEM/COUNCIL MEETINGS. Filed 2/23/11. *AMENDING THE CHARTER OF THE CITY OF WINSTON-SALEM REGARDING MEETINGS OF THE CITY COUNCIL.*

Amends Section 13 of SL 1927-232, as amended, as the title indicates. Provides for meeting notice requirements including requiring that a person or persons calling a special meeting of the council comply with the notice requirements in Article 33C of GS Chapter 143. Deletes provision authorizing compensation to council members for their services.

Intro. by L. Brown.

FORSYTH

Forsyth

SENATE BILLS

S 119. BEAUFORT/USE OF PARKING METER PROCEEDS (=H 15). Filed 2/23/11. *AUTHORIZING THE TOWN OF BEAUFORT TO USE PROCEEDS FROM PARKING METERS FOR THE ACQUISITION, DEVELOPMENT, AND OPERATION OF ON-STREET AND OFF-STREET PARKING FACILITIES.*

Identical to H 15, filed 1/27/11.

Intro. by Preston.

CARTERET

Carteret

S 120. NEW BERN CHARTER AMENDMENTS. Filed 2/23/11. *AMENDING THE CHARTER OF THE CITY OF NEW BERN RELATING TO THE MAYOR AND MAYOR PRO TEM AND TO THE ELIGIBILITY OF CANDIDATES FOR ALDERMAN AND MAYOR.*

Amends Section 6 of the New Bern Charter, as amended, to provide that the mayor will have the right to vote on *any* question before the board of aldermen and will do so as if the mayor is a member of the board. The current charter allows the mayor to vote only in the case of a tie. Also provides that the mayor will be considered an elected member of the board of aldermen for the purposes of Sections 8, 9, and 10 of the charter.

Amends Sections 18 and 19 of the charter, as amended, to provide that no person who has been elected alderman or mayor for two full terms will be eligible to serve a third successive term in that position. Makes other technical and clarifying changes.

Intro. by Preston.

CRAVEN

Craven

ACTION ON BILLS

February 23, 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. 01-31-11, 02-02-11, 02-14-11, 02-16-11	H	Ratified
H0007	Comm. Colleges/Opt Out of Fed'l Loan Program. 02-22-11	H	Withdrawn From Cal H Re-ref Com On Appropriations
H0029	Retrieval of Big Game. 02-22-11, 02-23-11	HA	Amend Adopted 1 H Passed 2nd Reading
H0060	Extend Hearing Loss Task Force.	H	Passed 2nd & 3rd Reading
H0063	Firearm in Locked Motor Vehicle/Parking Lot.	H	Withdrawn From Com H Re-ref Com On Judiciary Subcommittee A
H0111	Handgun Permit Valid in Parks & Restaurants.	H	Withdrawn From Com H Re-ref Com On Judiciary Subcommittee A
H0123	Business Entity Changes.	H	Reptd Fav H Cal Pursuant Rule 36(b) H Placed On Cal For 2/24/2011
H0157	UNC Bd of Gov/Student Member May Vote.	H	Passed 1st Reading H Ref To Com On Education
H0158	Limit Legislators to Four Consecutive Terms.	H	Passed 1st Reading H Ref To Com On Rules, Calendar, and Operations of the House
H0159	Military Service Notation on Licenses.	H	Passed 1st Reading H Ref To Com On Transportation
H0160	Check-Off Donation: Breast Cancer Screening.	H	Passed 1st Reading H Ref to the Com on Health and Human Services, if favorable, Finance
H0161	Transfer State Health Plan to State Treasurer.	H	Passed 1st Reading H Ref to the Com on Insurance, if favorable, Appropriations
H0162	Exempt Small Ag Processing from Permit Req.	H	Passed 1st Reading H Ref To Com On Agriculture

H0172	Encourage Military Veteran Contractor Use.	H	Filed
H0173	State Shrimp Festival-Sneads Ferry.	H	Filed
H0174	Commercial Real Estate Broker Lien Act.	H	Filed
H0175	Putting Students First/Local Control.	H	Filed
H0176	Review DV Program Participation.	H	Filed
H0177	Environmental Technical Corrections 2011.	H	Filed
H0178	Domestic Violence/Funding Amendments.	H	Filed
H0179	Expand Charitable Property Tax Exemption.	H	Filed
S0007	Ban Mephedrone.	HA	Reptd Fav Com Substitute
		H	Re-ref Com On Judiciary Subcommittee B
02-23-11			
S0008	No Cap on Number of Charter Schools.	S	Amend Failed 1
		SA	Amend Adopted 2
		S	Amend Failed 3
		S	Amend Failed 4
		SA	Amend Adopted 5
		S	Passed 2nd Reading
02-16-11, 02-22-11, 02-23-11			
S0013	Balanced Budget Act of 2011.	S	Re-ref Com On Rules and Operations of the Senate
02-02-11, 02-07-11			
S0020	Student Refunds by Proprietary Schools.	S	Reptd Fav Com Substitute
		SA	Com Substitute Adopted
02-23-11			
S0027	Involuntary Annexation Moratorium.	S	Withdrawn From Cal
		S	Re-ref Com On Finance
02-22-11			
S0032	Hospital Medicaid Assessment/ Payment Program.	S	Reptd Fav
02-22-11			
S0034	The Castle Doctrine.	S	Withdrawn From Cal
		S	Placed On Cal For 2/24/2011
02-22-11			
S0058	Modify FMAP Cuts/Auth. Use of Credit Balance.	S	Reptd Fav
S0074	Comm. Colleges/Opt Out of Fed'l Loan Program.	S	Reptd Fav Com Substitute
		SA	Com Substitute Adopted
02-23-11			
S0076	TC: Eligibility: Indus Facil/ Fix Uwharrie Com.	S	Reptd Fav Com Substitute
		SA	Com Substitute Adopted
02-23-11			
S0088	Elect State Community College Bd Members.	S	Reptd Fav
		S	Placed On Cal For 2/23/2011
		S	Passed 2nd & 3rd Reading
S0094	IRC Update.	S	Reptd Fav Com Substitute
		SA	Com Substitute Adopted
02-23-11			

S0097 Clarify Refunds of Tax Overpayments.	S	Reptd Fav
S0098 911 Call Transcripts.	S	Passed 1st Reading
	S	Ref To Com On Judiciary II
S0099 Reform UI Tax Structure/ Expedite Analysis.	S	Reptd Fav
S0100 Injury Prevention Funds.	S	Passed 1st Reading
	S	Ref To Com On Appropriations/ Base Budget
S0101 Perinatal Quality Care Funds.	S	Passed 1st Reading
	S	Ref To Com On Appropriations/ Base Budget
S0102 Child Death Research Funds.	S	Passed 1st Reading
	S	Ref To Com On Appropriations/ Base Budget
S0103 Mountains-to-Sea Trail Special Plate.	S	Passed 1st Reading
	S	Ref To Com On Finance
S0104 Funds for Arthritis Services of Charlotte.	S	Passed 1st Reading
	S	Ref To Com On Appropriations/ Base Budget
S0105 Increase Penalty/2nd Degree Murder.	S	Passed 1st Reading
	S	Ref To Com On Judiciary II
S0106 Defense of Marriage.	S	Passed 1st Reading
	S	Ref To Com On Rules and Operations of the Senate
S0107 Tax of Improved Prop. in Roadway Corridors.	S	Passed 1st Reading
	S	Ref To Com On Finance
S0108 Civil Litigation Costs Reform Act of 2011.	S	Passed 1st Reading
	S	Ref To Com On Judiciary I
S0109 Spending Cuts for the Current Fiscal Year.	S	Passed 1st Reading
	S	Ref To Com On Appropriations/ Base Budget
S0110 Permit Terminal Groins.	S	Filed
S0111 Designate Kidney Month.	S	Filed
S0112 Disapprove Pharmacy Board rule.	S	Filed
S0113 GED Classes & Tests Offered in English Only.	S	Filed
S0114 No Standardized Testing Unless Req'd by Feds.	S	Filed
S0115 Coverage for Treatment of Autism Disorders.	S	Filed
S0116 Funds/NC Special Olympics.	S	Filed
S0117 Eliminate EITC Refundability Provision.	S	Filed
S0118 Downtown Service District Definition.	S	Filed
S0121 Eligibility Requirements/ Public Assistance.	S	Filed
S0122 NC Morgan Horse Club Special Plate.	S	Filed

LOCAL BILLS

H0163 Orange County Local Disclosure Act Repeal.	H	Passed 1st Reading
	H	Ref To Com On Government

H0180	Wilmington Annexation Suspension.	H	Filed
S0055	Increase Property Tax Appeals Efficiency.	H	Reptd Fav H Cal Pursuant Rule 36(b) H Placed On Cal For 2/23/2011 H Passed 2nd & 3rd Reading
02-16-11			
S0068	Robeson Hunting and Fishing.	S	Passed 2nd & 3rd Reading
S0119	Beaufort/Use of Parking Meter Proceeds.	S	Filed
S0120	New Bern Charter Amendments.	S	Filed

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

HOUSE BILLS

H 29. [RETRIEVAL OF BIG GAME](#). Filed 2/2/11. House amendment makes the following changes to 2nd edition. Deletes provision prohibiting pursuit and retrieval accomplished with a motor vehicle or a portable light source between the hours of 11:00 p.m. and one-half hour before sunrise. Replaces it with a provision that prohibits pursuit and retrieval with a motorized vehicle between the hours of one-half hour after sunset and 11:00 p.m. Adds archery equipment to the permissible weapons that a hunter may use to dispatch a wounded big game animal.

Agriculture, Environment, and
Natural Resources; Animal Law

SENATE BILLS

S 7. [ADD TO SCHEDULE I CONTROLLED SUBSTANCES \(NEW\)](#). Filed 1/27/11. House committee substitute makes the following changes to 1st edition.

Further amends GS 90-89(5) to add methyenedioxypyrovalerone (known as MDPV) and a compound, other than bupropion, that is structurally derived from 2-amino-1-phenyl-1-propanone, as specified, to the list of Schedule I controlled substances in the Controlled Substances Act. Makes a conforming change to the title. Changes the effective date to April 1, 2011 (was, December 1, 2011).

Criminal Law, Procedure, and
Sentencing

S 8. [NO CAP ON NUMBER OF CHARTER SCHOOLS](#). Filed 1/27/11. Senate amendments make the following changes to 3rd edition. Amendment #2 clarifies that the North Carolina Public Charter Schools Commission (Commission) is located administratively under the State Board of Education (Board) but that the Commission exercises its powers and functions independently of the Board and the Department of Public Instruction.

Amendment #5 adds to the items that must be included in the Commission's annual report to require inclusion of composite annual data disaggregated by charter school on the gender, race and ethnicity and disability status of students enrolled in charter schools; testing data disaggregated by the purpose of the charter school and by gender, race and ethnicity, and disability; the number of students long-term suspended and expelled; the number of students receiving a free and reduced meal plan through a federal subsidy program or through means other than a federal subsidy program; and the number of students receiving special education services.

Education

S 20. [AMEND LAW REGULATING PROPRIETARY SCHOOLS \(NEW\)](#). Filed 2/1/11. Senate committee substitute makes the following changes to 1st edition. Amends GS 115D-87 by collapsing the varied definitions for schools covered under Article 8 (proprietary schools) of GS Chapter 115D into a single definition for *proprietary school*. Defines *person* to also include a director. Defines *proprietary school* to include nonprofit organizations and specifies eligible students and purposes of instruction.

Amends GS 115D-88 to clarify exemptions from the provisions of Article 8 for nonprofit schools (1) conducted by 501(c)(3) charities exempt from taxation under the Internal Revenue Code where students are not charged tuition or (2) conducted by religious institutions. Removes from exempt status schools that are taught in homes or other locations to five or fewer students. Adds to the list of exemptions any institution that is exempt under GS 116-15(c), which are private institutions that have been providing post-secondary degree education since 1972. Makes a conforming change.

Amends GS 115D-91(b) to authorize the State Board of Community Colleges to set the duration of licenses. Clarifies that all of the specified criteria must be met for license renewal.

Makes conforming changes to GS 115D-89, 115D-90(a), 115D-96, and 115D-97. Amends the title to better reflect the content of the bill.

Effective July 1, 2011 (with the exception of Section 5, carried over from the 1st edition, which is effective when the act becomes law).

Education

S 74. [COMM. COLLEGES/OPT OUT OF FED'L LOAN PROGRAM](#). Filed 2/15/11. Senate committee substitute makes the following changes to 1st edition.

Amends GS 115D-40.1 to require the State Board of Community Colleges to ensure the availability of at least one counselor at each college to inform students about available federal programs and funds to assist community college students (was, ensure at least one counselor available at each college participating in the William D. Ford Federal Direct Loan Program). Makes clarifying changes. Changes the effective date to July 1, 2011 (was, effective when the act becomes law).

Education

S 76. [TC: ELIGIBILITY: INDUS FACIL/FIX UWHARRIE COM](#). Filed 2/15/11. Senate committee substitute makes the following changes to 1st edition.

Amends GS 105-164.14B(a) to define *owner* as a term including a lessee under a capital lease (rather than under a lease-purchase contract). Also deletes the term and definition for *strategic partner*.

Amends GS 105-164.14B(b)(2) to allow an owner to invest funds required as a minimum investment either directly or indirectly through a related entity (previous version allowed the owner to invest funds directly or indirectly through a related entity or strategic partner, only in the case of a computer manufacturing facility).

Adds a new section to enact GS 105-360(e), entitling a taxpayer to receive interest for an overpayment of property tax when the county board of equalization and review reduces the property valuation or removes the property from the tax lists. Specifies interest rate and refund timeline. Also amends GS 105-378(d) to delay the collection of taxes or enforcement of a tax lien resulting from an assessment when the property valuation has been or is appealed to the *county board of equalization and review* or the Property Tax Commission. Makes these provisions effective for taxable years beginning on or after January 1, 2011.

Makes conforming changes to the title.

Agriculture, Environment, and
Natural Resources; Taxation

S 94. [IRC UPDATE](#). Filed 2/21/11. Senate committee substitute makes the following changes to 1st edition.

Amends proposed GS 105-130.5(a)(23) and GS 105-134.6(c)(15) to clarify that the definition of section 179 property, as used in the subdivisions, has the same meaning as under section 179 property of the IRC as of January 1, 2011.

Deletes proposed GS 105-32.2A, which allowed the estate of a decedent dying in 2010 that pays the federal estate tax and receives the federal stepped-up basis of the property to elect to receive the stepped-up basis for North Carolina purposes by paying the state estate tax for 2010.

Taxation

Legislation Enacted

None

Index by Keyword

Agriculture, Environment, and Natural Resources	Education
H 168, 4	H 175, 6
H 177, 6	S 113, 7
H 29, 13	S 114, 8
S 110, 7	S 20, 14
S 76, 14	S 74, 14
Animal Law	S 8, 13
H 29, 13	Family Law
APA/Rule Making	H 178, 7
S 112, 7	Forsyth
Banking and Finance	H 170, 9
H 164, 1	Health, Social Services, and Aging
Budget and Appropriations	S 112, 7
H 169, 4	S 115, 8
H 178, 7	S 116, 8
S 116, 8	S 121, 9
Business and Commerce	Local Government
H 169, 4	H 167, 4
H 172, 5	H 171, 4
Carteret	S 118, 9
S 119, 9	Military and Veterans Affairs
Community and Economic Development	H 166, 4
S 118, 9	H 172, 5
Courts	Property, Land Use, and Housing
H 176, 6	H 164, 1
Craven	H 165, 4
S 120, 10	H 168, 4
Criminal Law, Procedure, and Sentencing	H 174, 5
H 176, 6	S 110, 7
H 178, 7	State Government
S 7, 13	H 165, 4
	H 173, 5
	S 111, 7
	Taxation
	S 117, 8
	S 76, 14
	S 94, 14
	Transportation
	H 166, 4
	H 169, 4
	S 122, 9

Notes

None

NEXT SESSIONS

February 24, 2011

HOUSE convenes at 1:00 p.m.

SENATE convenes at 11:00 a.m.