

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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House Legislative Day 27

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SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 337. [SMART CARD BIOMETRICS AGAINST MEDICAID FRAUD \(=S 307\)](#). Filed 3/11/11. *TO ESTABLISH THE NORTH CAROLINA SMART CARD PILOT PROGRAM TO UTILIZE BIOMETRICS TO COMBAT FRAUD.* Identical to S 307, filed 3/9/11.

Intro. by Tolson, Johnson.

STUDY

Health, Social Services, and Aging

H 339. [HOUSING AUTHORITY/COLLECT UNPAID RENT](#). Filed 3/11/11. *AUTHORIZING A HOUSING AUTHORITY TO COLLECT UNPAID RENT BY SETTING OFF THE DEBT AGAINST A STATE INCOME TAX REFUND DUE A TENANT OR FORMER TENANT OF THE HOUSING AUTHORITY.*

Amends GS 105A-2(6), adding housing authorities created under GS Chapter 157 to the list of local agencies, to provide as title indicates under the Setoff Debt Collection Act. Effective October 1, 2011.

Intro. by Cook.

GS 105A

Taxation;
Property, Land Use, and Housing

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H 340. UTILITIES COMMISSION/CRIMINAL RECORDS CHECK. Filed 3/11/11. *AUTHORIZING THE UTILITIES COMMISSION TO OBTAIN CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR AND CURRENT HOLDERS OF A CERTIFICATE TO TRANSPORT HOUSEHOLD GOODS.*

Enacts new GS 62-273.1 as the title indicates. Provides definitions for the following terms as used in the proposed statute: (1) applicant, (2) certificate, (3) criminal history, and (4) current holder.

Provides that the Department of Justice may provide the criminal history of any applicant for or current holder of a certificate to transport household goods to the Utilities Commission (Commission). Directs the Commission to include with its request for a criminal history check the fingerprints and a form signed by the applicant or current holder consenting to the use of fingerprints and other identifying information required by the Department of Justice. Provides additional guidelines regarding the receipt and processing of the required information and confidentiality requirements. Provides that revelation of one or more convictions is not automatic grounds for denying or revoking a certificate and indicates factors to be considered by the Commission in deciding whether to deny or revoke a certificate. Authorizes the Commission to deny an application or revoke a certificate if the applicant or current holder refuses to consent to a criminal history record check or the use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

Effective when the act becomes law and applies to all current holders and applicants for a certificate to transport household goods on or after that date.

Intro. by Steen, Hager.

GS 62

Energy and Utilities

H 341. TOBACCO PRODUCTS TAX INCREASE. Filed 3/14/11. *TO PROTECT HEALTH AND TO PREVENT DEATH, DISABILITY, AND DISEASE AMONG NORTH CAROLINA RESIDENTS BY INCREASING THE TAX ON TOBACCO PRODUCTS.*

Amends GS 105-113.5 to increase the tax levied on the sale or possession for sale in the state, by a distributor, of all cigarettes to a rate of 7.25 cents (currently, 2.25 cents) per individual cigarette.

Amends GS 105-113.35 to increase the excise tax levied on tobacco products other than cigarettes to a rate of 41.25% (currently, 12.8%) of the cost price of the products.

Amends GS 105-113.40A, directing the Secretary of Revenue to credit the net proceeds of tax collected on other tobacco products as follows: (1) 9.8% of the cost price of the products to the University Cancer Research Fund (rather than crediting only remaining funds) and (2) the remainder to the General Fund (rather than 3%). Includes whereas clauses.

Effective January 1, 2012.

Intro. by Weiss, Luebke, Glazier,

GS 105

Taxation

Womble.

H 342. HIGH SCHOOL ACCREDITATION. Filed 3/14/11. *PROHIBITING ANY PUBLIC INSTITUTION OF HIGHER EDUCATION FROM SOLICITING OR USING INFORMATION REGARDING THE ACCREDITATION OF A SECONDARY SCHOOL ATTENDED BY A STUDENT AS A FACTOR AFFECTING ADMISSIONS, LOANS, SCHOLARSHIPS, OR OTHER EDUCATIONAL ACTIVITY AT THE PUBLIC INSTITUTION, UNLESS THE ACCREDITATION WAS CONDUCTED BY A STATE AGENCY; AUTHORIZING THE STATE BOARD OF EDUCATION TO ACCREDIT SCHOOLS IN A LOCAL SCHOOL ADMINISTRATIVE UNIT AT THE REQUEST OF AND AT THE EXPENSE OF THAT UNIT; AND MODIFYING THE BUDGET OF THE DEPARTMENT OF PUBLIC INSTRUCTION ACCORDINGLY.*

Enacts new GS 115D-1.3, directing the State Board of Community Colleges to adopt a policy that prohibits any community college from soliciting or using information regarding a secondary school's accreditation as a factor affecting admissions, loans, scholarships, or other educational activity of any applicant or student at the community college, unless the accreditation was performed by a state agency. Specifies that *accreditation* includes certification or other similar approval process for the section's purposes. Makes the same changes to GS 116-11, concerning the University of North Carolina and constituent institutions. Applies to academic semesters beginning on or after July 1, 2011.

Enacts new subdivision (38) to GS 115C-12 to direct the State Board of Education (SBE), at the local board of education's request, to evaluate schools in local school administrative units to determine whether the education provided meets acceptable levels of quality. Lists required considerations for the (SBE). Directs the local unit to pay (SBE) for the accreditation process and appropriates those funds to the Department of Public Instruction for the 2010-11 and 2011-12 fiscal years.

Intro. by Blackwell, Holloway.

GS 115C, 115D, 116

Education

H 343. SUPPORT LAW ENFORCEMENT/SAFE NEIGHBORHOODS. Filed 3/14/11. *TO ENACT THE SUPPORT OUR LAW ENFORCEMENT AND SAFE NEIGHBORHOODS ACT.*

Enforcement of Federal Immigration Laws. Recodifies GS 64-1 through 64-5 as Article 1 of GS Chapter 64. Enacts new Article 2, *Enforcement of Federal Immigration Laws*, to GS Chapter 64 to prohibit any official or agency of the state or a local government from limiting or restricting the enforcement of federal immigration laws. Allows any state resident to bring a civil action against any governmental entity to enforce the prohibition. Details action requirements and penalties for violations. Indemnifies law enforcement officers, as specified, except in matters of bad faith. Directs a law enforcement officer or agency, during any lawful stop or detention where reasonable suspicion exists that the person stopped or detained is an alien not lawfully present in the U.S., to make a reasonable attempt to determine the immigration status of the person. Provides the presumption that a person is not an alien unlawfully present in the U.S. if the person produces: (1) a valid NC driver's license; (2) a NC special identification card; (3) a valid form of tribal identification; or (4) any valid federal, state, or local government issued identification, if the entity requires proof of legal presence in the U.S. before issuance. Requires that the immigration status of an arrestee be determined before release. Requires the applicable entity to notify U.S. Immigration and Customs Enforcement (ICE) upon the release from imprisonment or collection of a fine from a convicted alien not lawfully present in the U.S. Authorizes a law enforcement agency to securely transport an alien who is unlawfully present in the U.S. to a federal facility or federal custody. Allows state agencies and local government units to exchange information related to an individual's immigration status for four enumerated purposes.

Makes the offense of willful failure to complete or carry an alien registration document, defined as a violation of 8 USC Section 1304(e) or Section 1306(a) (corresponding federal laws), a Class 1 misdemeanor. Provides, however, that the maximum fine is \$100 and the maximum imprisonment is 20 days for the first offense and 30 days for subsequent offenses. Sets forth a procedure for allocating confinement costs and an exception for persons authorized to remain in the U.S. Makes the offense of transporting, concealing, or encouraging an alien, as specified, a Class 1 misdemeanor, except makes a violation including 10 or more aliens not lawfully present in the U.S. a Class G felony. Excepts listed parties. Authorizes a person's immigration status to be verified pursuant to federal law by a federally approved law enforcement officer or in any other federally authorized manner. Prohibits law enforcement officers and agencies from considering a person's race, color, or national origin, except to the extent permitted by the U.S. or N.C. Constitution.

Amends GS 15A-401(b)(2) to add that an officer may arrest without a warrant if the officer has probable cause, based on information from ICE or another federal agency, that the person has committed an act that makes the person removable from the U.S.

Smuggling of Human Beings. Enacts new GS 14-43.14 to provide that the offense of smuggling of human beings occurs when a person intentionally engages in the smuggling of human beings for profit or a commercial purpose. Makes the violation a Class F felony; however, makes the violation a Class C felony if the victim is a minor and unaccompanied by a family member over 18 years old, or if the offense involved a deadly weapon or dangerous instrument. States that each violation constitutes a separate offense. Enacts new subdivision (6) to GS 14-43.10(a) to define *smuggling of human beings*.

E-Verify. Amends GS 126-7.1(f) to require each state agency, department, institution, university, community college, and local education agency to register and participate in E-Verify (rather than verify according to the Basic Pilot Program). Enacts new GS 153A-99.1 to require counties to register and participate in E-Verify to verify the work authorization of new employees. Defines E-Verify as the federal E-Verify program operated by the U.S. Department of Homeland Security and other federal agencies used to verify the work authorization of newly hired employees. Also enacts new GS 160A-169.1 to require cities to register and participate in E-Verify. Includes a nondiscrimination clause applicable to the two proposed statutes. Enacts new GS 153A-449(b) and GS 160A-20.1(b) to prohibit counties and cities, respectively, from entering into contracts for the physical performance of services within the state unless the contractor registers and participates in E-Verify. Makes other conforming and technical changes. Enacts new GS 143-129(j) to prohibit any board, state governing body, institution of state government, or local government from awarding contracts unless the contractor registers and participates in E-Verify. Enacts new GS 143-48.5 to prohibit any entity required to report to the Department of Administration from entering into a contract for goods and services unless the contractor registers and participates in E-Verify. Applies to contracts entered into or renewed after January 1, 2012.

Employment of Unauthorized Aliens. Enacts new Article 3, *Employment of unauthorized aliens*, to GS Chapter 64 to prohibit an employer from knowingly employing an unauthorized alien. Clarifies that an employer knowingly contracts with an unauthorized alien, in violation of the statute, if the employer uses a contract, subcontract, or other agreement with an independent contractor to obtain the labor of an alien in NC. Directs the Attorney General (AG) to prescribe a complaint form for reporting the violation of employing an unauthorized alien. Provides that upon the receipt of a complaint alleging a violation, the AG or district attorney is to investigate the alleged violation. Provides guidelines for conducting the investigation. Directs that if the AG or district attorney determines that the complaint is not false or frivolous, then the AG or district attorney is to: (1) notify the ICE of

the presence of the suspected unauthorized alien; (2) notify local law enforcement agencies of the presence of the unauthorized alien; (3) direct the district attorney to bring an action, if applicable; and (4) bring a civil action against the employer in the appropriate superior court district. Makes it a Class 2 misdemeanor to knowingly file a false and frivolous complaint.

Distinguishes criteria for first, second, and subsequent violations, and details the corresponding consequences, including suspension or revocation of the employer's license and probationary periods. Directs the AG to maintain copies of court orders issued regarding violations, to maintain a database of business locations and employers convicted of a first violation, and to make the court orders available on the AG's web site. Directs the AG or district attorney, when investigating a complaint under proposed Article 3, to verify the work authorization of the alleged unauthorized alien with the federal government. Instructs the court to only consider the federal government's determination of the work status. Specifies that proof that an employee's work authorization was verified through E-Verify creates a rebuttable presumption that the employer did not knowingly employ an unauthorized alien. Also provides that an employer who demonstrates that the employer has complied in good faith with the requirements of 8 U.S.C. Section 1324a(b) establishes an affirmative defense that the employer did not knowingly employ an unauthorized alien. Provides additional guidelines regarding compliance with federal and state law. Requires employers to register and participate in E-Verify, and defines *employer* for the purposes of the statute. Makes it an unfair trade practice as defined in GS 75-1.1 for an employer to discharge a lawfully authorized employee while knowingly employing an unauthorized alien. Includes terms and definitions for proposed Article 3.

Effective for contracts entered into or renewed after January 1, 2012.

Eligibility for Public Benefits. Enacts new Article 4, *Eligibility for Public Benefits*, to GS Chapter 64, requiring any person who applies for a federal public benefit administered by NC to submit at least one of the 11 enumerated documents to the entity administering the federal public benefit to demonstrate lawful presence in the U.S. Also requires any state agency or local government that administers a public benefit to require each applicant to submit at least one of the 11 enumerated documents. Details exceptions, lists additional requirements, and sets forth penalties for a failure to report violations of federal immigration law. Includes terms and definitions for proposed Article 4. Includes a severability clause.

Admission to Higher Education Institutions. Enacts new GS 115D-1.3 to prohibit a person who is not lawfully present in the United States from being admitted to or taking any class at a community college. Provides exceptions for (1) a person who is enrolled in a secondary school at the same time that the person is taking a class or classes at a community college and (2) a person who will not be present in the United States during any portion of the class or classes taken at a community college. Enacts new GS 116-40.11 to prohibit a person who is not lawfully present in the United States from being admitted to or taking any class at a constituent institution of the University of North Carolina. Provides exceptions for (1) a person who is enrolled in a secondary school at the same time that the person is taking a class or classes at a constituent institution and (2) a person who will not be in the United States during any portion of the class or classes taken at a constituent institution. Makes a conforming change to GS 115D-1. Applies to admissions and classes taken after the date the act becomes law; however, does not prevent a student enrolled in a program as of the date the act becomes law or during the previous semester from completing that program.

Effective October 1, 2011, unless otherwise indicated.

Intro. by Cleveland, Blust, Hilton. GS 14, 15A, 64, 115D, 116, 126, 143, 153A, 160A Criminal Law, Procedure, and Sentencing; Education; Employment and Retirement; Local Government; State Government

H 344. TAX CREDITS FOR CHILDREN WITH DISABILITIES. Filed 3/14/11. *TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR CHILDREN WITH DISABILITIES WHO REQUIRE SPECIAL EDUCATION AND TO CREATE A FUND FOR SPECIAL EDUCATION AND RELATED SERVICES.*

Enacts a new GS 105-151.33 to establish a tax credit against imposed income tax for a taxpayer's child who is (1) a state resident; (2) a child with a disability as defined in GS 115C-106.3(1); (3) has spent at least two semesters in a taxable year in a public school (immediately preceding the taxable year in which a credit is taken to establish initial eligibility) and while enrolled in and attending a public school was determined to require an individualized education program; (4) is a dependent, which entitles the taxpayer to deduct a personal exemption under section 151,(c) of the Internal Revenue Code for the taxable year; and (5) for one or two semesters during the taxable year is enrolled in and attending grades K through 12 in a nonpublic school or in a public school at which tuition is charged in accordance with GS 115C-366.1. Requires that the child have been enrolled in and attended at least the preceding two semesters in a public school for initial eligibility. The credit is equal to the amount the taxpayer paid for tuition and special education and related services expenses up to \$3,000 per

semester. Provides that, for home schools, the credit is equal to the amount the taxpayer paid for special education and related expenses up to \$3,000 per semester. Defines *semester* for purposes of the credit. Provides for disqualification and reduction of the credit. Enumerates information to be provided to the Secretary of Revenue (Secretary) in order to claim the credit. Provides for a refund if the credit exceeds the amount of income tax imposed on the taxpayer. Requires that the Secretary transfer to the Fund for Special Education and Related Services (Fund) from the net individual income tax collections an amount equal to \$2,000 multiplied by the number of credits taken during the fiscal year.

Effective for taxable years beginning on or after January 1, 2016, and applying to semesters beginning on or after July 1, 2016, further amends proposed GS 105-151.33(h) to require an eligible dependent child to have been enrolled in and attended at least the preceding semester in a public school for initial eligibility.

Enacts a new Article 32D in GS Chapter 115C to create the Fund to be established as a special, nonreverting revenue fund, with interest and other investment income accrued to it, under the control and direction of the State Board of Education (Board). Requires the Board to use revenue in the Fund for special educational and related services for children with disabilities.

Requires the Department of Revenue to report to the Revenue Laws Study Committee and Joint Legislative Education Oversight Committee on the administration of the credit by January 1, 2012, with specific information to be included.

Unless otherwise indicated, effective for taxable years beginning on or after January 1, 2011, and applies to semesters beginning on or after July 1, 2011, except transfers of funds under GS 105-151.33(h) are not to be made before the 2012-13 fiscal year.

Intro. by Stam, Randleman, GS 105, 115C Education; Taxation
Jordan, Jones.

H 345. MODIFY MOVE OVER LAW. Filed 3/14/11. *TO MODIFY THE MOVE OVER LAW TO INCLUDE ALL HIGHWAY MAINTENANCE VEHICLES AND UTILITY VEHICLES.*

Amends GS 20-157(f) as the title indicates. Provides that for purposes of the provisions of subsection (f), which directs motorists to move over or if it is not possible to do so, slow the vehicle speed and be prepared to stop when encountering a public service vehicle parked or standing within 12 feet of a roadway, *public service vehicle* includes a vehicle being used to restore utility service, including electric, cable, phone or gas utility or is a highway maintenance vehicle owned and operated by the state or a local government (was electric utility service only). Effective October 1, 2011, and applies to offenses on or after that date.

Intro. by Randleman. GS 20 Transportation

H 346. POL. COMM. TREAS. TRAINING/ORG. RPT REQ. Filed 3/14/11. *RELATING TO POLITICAL ACTION COMMITTEE TREASURER TRAINING AND TO REQUIRE THE FILING OF AN ORGANIZATIONAL REPORT PRIOR TO BEING PLACED ON THE BALLOT.*

Amends GS 163-278.7(f) to require that the treasurer of a political action committee (PAC) which files its organizational report before the start of the time period for filing a notice of candidacy participate in training as to the duties of the office within three months of the appointment as treasurer and at least once every four years thereafter (was, every treasurer of a PAC had to participate in training within three months of appointment and at least once every four years thereafter). Additionally requires that a treasurer of a PAC that files its organizational report during or after the time for filing a notice of candidacy to participate in training within 45 days of appointment and at least once every four years thereafter.

Amends GS 163-278.9(a)(1) to provide that any candidate who has not filed the organizational report within the required time period is not eligible to be placed on the ballot. Makes a conforming change to GS 163-165.5.

Effective January 1, 2012, and applies to elections held on or after that date.

Intro. by Randleman. GS 163 Elections Law

H 347. NOTIFICATION TO TREAT MINORS/12 OR YOUNGER. Filed 3/14/11. *REQUIRING PHYSICIANS TO NOTIFY THE PARENT OR GUARDIAN OF A MINOR TWELVE YEARS OF AGE OR YOUNGER AFTER TREATING THE MINOR FOR VENEREAL DISEASE, PREGNANCY, ABUSE OF CONTROLLED SUBSTANCES OR ALCOHOL, OR EMOTIONAL DISTURBANCE.*

Amends GS 90-21.4 to require that a physician notify a parent, legal guardian, person standing in loco parentis, or a legal custodian other than a parent of a minor 12 years of age or younger when granted specific authority in a custody order to consent to medical or psychiatric treatment, without the permission of the minor, concerning the medical health services set out in GS 90-21.5(a) after treating the minor, unless notification would, in the opinion of the physician, pose a serious risk to the life or physical health of the minor. Requires notification to be given within 48 hours after the minor receives treatment. Makes conforming and technical changes. Current

law prohibits a physician from notifying a parent, legal guardian, person standing in loco parentis, or a legal custodian other than a parent when granted specific authority in a custody order to consent to medical or psychiatric treatment, without the permission of the minor, concerning the medical health services set out in GS 90-21.5(a), unless the situation in the opinion of the attending physician indicates that notification is essential to the life or health of the minor.

Amends GS 90-21.5 to provide that any minor older than 12 years of age (was, any minor) may give effective consent to a licensed physician for medical health services for the prevention, diagnosis, and treatment of (1) venereal disease and other diseases reportable under GS 130A-135, (2) pregnancy, (3) abuse of controlled substances or alcohol, and (4) emotional disturbance, *if the physician notifies the minor's parent, legal guardian, person standing in loco parentis, or a legal custodian other than a parent when granted specific authority in a custody order to consent to medical or psychiatric treatment within 48 hours after the minor receives the services.*

Intro. by Randleman.

GS 90

Health, Social Services, and Aging;
Children and Juvenile Law

H 348. OFFENDERS/NO ACCESS TO PERSONNEL RECORDS. Filed 3/14/11. *TO PROVIDE THAT OFFENDERS ARE PROHIBITED FROM OBTAINING PUBLIC EMPLOYEES' PERSONNEL RECORDS, TO PROVIDE CRIMINAL PENALTIES FOR PROVIDING SUCH PROHIBITED INFORMATION TO OFFENDERS, AND TO MAKE IT A MISDEMEANOR FOR OFFENDERS TO POSSESS SUCH INFORMATION.*

Amends GS 126-23 (certain records to be kept by state agencies open to inspection) by enacting new (d) to provide that individuals in the custody of, or under the supervision of, the Department of Corrections and those in the custody of local jails are not entitled to access to and are prohibited from obtaining the records that are made public under the statute.

Enacts new GS 126-28.1 to make it a Class 3 misdemeanor, with a fine of up to \$500, for any public official or employee to knowingly and willingly provide access to or custody or possession of any portion of a public employee record to persons prohibited from obtaining them under new GS 126-23(d). Amends GS 14-258.1 to make it a Class 1 misdemeanor to knowingly (1) give public employee records obtained under GS 126-23 to those prohibited from obtaining them under new (d) or (2) give or sell those records to a person for delivery to persons who are prohibited from obtaining those records under (d). Also makes it a Class 1 misdemeanor for a person in the custody or under the supervision of the Department or Correction or in the custody of a local jail to possess public employee records that the individual is prohibited from obtaining. Effective December 1, 2011.

Intro. by Randleman.

GS 14, 126

Criminal Law, Procedure, and
Sentencing

H 349. PROMOTE GREEN ROOFS ON BUILDINGS. Filed 3/14/11. *TO PROMOTE GREEN ROOFS IN ORDER TO REDUCE STORMWATER RUNOFF, MITIGATE THE SIGNIFICANT WARMING THAT OCCURS IN METROPOLITAN AREAS RELATIVE TO THE SURROUNDING RURAL AREAS, AND REDUCE ENERGY CONSUMPTION, BY CREATING CERTAIN INCENTIVES TO INSTALL GREEN ROOFS.*

To be summarized in tomorrow's *Daily Bulletin*.

Intro. by K. Alexander.

GS 105, 143, 153A, 160A, 162A

Taxation; Energy and Utilities;
Agriculture, Environment, and
Natural Resources

H 350. CLARIFY PROPERTY TAX FOR CONSERVATION LAND. Filed 3/14/11. *TO MODIFY THE CLASSES OF PROPERTY EXCLUDED FROM THE TAX BASE.*

To be summarized in tomorrow's *Daily Bulletin*.

**Intro. by McGrady, Starnes,
Brubaker, Harrison.**

GS 105

Taxation

H 351. RESTORE CONFIDENCE IN GOVERNMENT. Filed 3/14/11. *TO RESTORE CONFIDENCE IN GOVERNMENT BY (1) REQUIRING THAT VOTERS PROVIDE PHOTO IDENTIFICATION BEFORE VOTING; (2) REQUIRING CANDIDATES AND TREASURERS TO TAKE IMMEDIATE ACTION TO CORRECT CAMPAIGN FINANCE VIOLATIONS AND REQUIRING LIABILITY OF CANDIDATES FOR CIVIL PENALTIES FOR CAMPAIGN FINANCE VIOLATIONS OF CANDIDATE CAMPAIGN COMMITTEES; (3) LIMITING THE CHAIR OF THE STATE BOARD OF ELECTIONS TO TWO TWO-YEAR TERMS IN THAT OFFICE; (4) PROHIBITING PIECE-WORK PAYMENT FOR VOTER REGISTRATION DRIVES; (5) PREVENTING CONFLICT OF INTEREST AND ITS APPEARANCE INVOLVING POLITICAL CONTRIBUTIONS BY STATE CONTRACTORS; AND (6) ALLOWING VOTERS MORE FLEXIBILITY IN APPLYING FOR ABSENTEE BALLOTS.*

To be summarized in tomorrow's *Daily Bulletin*.

Intro. by Lewis, T. Moore,
Killilan.

GS 20, 163

Elections Law; Transportation

SENATE BILLS

S 338. TOBACCO PRODUCTS TAX INCREASE (=H 341). Filed 3/14/11. *TO PROTECT HEALTH AND TO PREVENT DEATH, DISABILITY, AND DISEASE AMONG NORTH CAROLINA RESIDENTS BY INCREASING THE TAX ON TOBACCO PRODUCTS.* Identical to H 341, filed 3/14/11.

Intro. by Purcell.

GS 105

Taxation

S 339. MODIFY DRIVER EDUCATION PROGRAM. Filed 3/14/11. *TO REQUIRE THE DEPARTMENT OF PUBLIC INSTRUCTION TO PROVIDE ADDITIONAL FISCAL AND TECHNICAL OVERSIGHT OF THE DRIVER EDUCATION PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.*

Deletes subsections (a), (b), and (b1) from GS 20-88.1 (Driver education). Moves those deleted subsections to GS 115C-215 with changes as follows. Directs the State Superintendent of Public Instruction (Superintendent), in accordance with criteria and standards approved by the State Board of Education (SBE), to organize and administer a *standardized* driver education program to be offered at the public high schools of the state to students meeting age and additional specified requirements who are enrolled in a public or private school within the state (was, required a program of driver training and safety to be organized under the *general supervision* of the Superintendent). Directs the SBE to establish and implement a strategic plan for the driver education program. Specifies that the strategic plan must at minimum include goals and performance indicators and identifies those which must be addressed. Further amends GS 20-88.1 to clarify that the expenses incurred by the driver education program administered by DPI under GS 115C-215, as amended, are to be paid out of the Highway Fund. Makes conforming and technical changes to GS 20-88.1.

Amends GS 115C-216 to direct local boards of education to offer in high schools noncredit driver education courses that use the standardized curriculum provided by the Department of Public Instruction (DPI) (was, required the SBE and local boards of education to provide a course of training and instruction in the operation of motor vehicles in the state's public high schools). Makes a conforming change.

Directs the SBE to report to the Joint Legislative Program Evaluation Oversight Committee by July 15, 2011, on the status of implementation of Section 7.12 of SL 2010-31, which mandates the creation of a standard curriculum to be used for the driver education program in DPI. Prohibits the use of state funds for the 2011-12 school year for driver education programs that do not use the standard driver education curriculum created in accordance with Section 7.12 of SL 2010-31.

Directs the SBE to establish a pilot program, consisting of at least five local school administrative units, to use electronic means to deliver driver education. Provides that funds appropriated for driver education are to be used to implement the pilot program. Requires the SBE to report by February 15, 2012, on the implementation of the pilot program to the Joint Education Oversight Committee and the Joint Legislative Program Evaluation Oversight Committee (Committees) and specifies that the report is to contain (1) the cost per student of the program and (2) the success rate of participants in receiving a driver's license. Also directs the SBE to report by February 15, 2012, to the Committees on (1) the most cost-effective method of providing driver education and (2) the strategic plan adopted by the SBE in accordance with GS 115C-215, as amended.

Intro. by Hartsell.

GS 20, 115C

Education; Transportation

S 340. STATE HISTORIC SITES SPECIAL FUND. Filed 3/14/11. *ESTABLISHING THE STATE HISTORIC SITES FUND IN THE DIVISION OF STATE HISTORIC SITES.*

Enacts new GS 121-7.6 establishing the State Historic Sites Fund (Fund) as a special, interest-bearing, non-reverting fund in the Division of State Historic Sites (Division) to provide funds for operation, interpretation, maintenance, preservation, development, and expansion at all state historic sites. Appropriates funds annually. Requires receipts from the lease or rental of property or facilities, disposition of structures or products of the land, and admissions and fees collected at the sites owned or controlled by the Division to be credited to the Fund. Requires the Division to report on the Fund to specified legislative entities by September 30 of each year. Excludes the Bentonville Battlefield Historic Site from the statute. Effective July 1, 2011.

Intro. by Hartsell.

GS 121

State Government

S 341. AFRICAN-AMERICAN HERITAGE COMN FUNDS (=H 254). Filed 3/14/11. *TO PROVIDE FUNDING FOR THE AFRICAN-AMERICAN HERITAGE COMMISSION.* Identical to H 254, filed 3/8/11.

Intro. by McKissick. APPROP Budget and Appropriations

S 342. APPROPRIATIONS ACT OF 2011. Filed 3/14/11. *TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.* Blank bill.

Intro. by Hunt. APPROP Budget and Appropriations

S 343. COMMUNICATIONS REGULATORY REFORM. Filed 3/14/11. *ESTABLISHING THE COMMUNICATIONS REGULATORY REFORM AND INVESTMENT ACT OF 2011.*

Enacts new subsection (l) under GS 62-133.5 to provide that a local exchange company may elect alternative regulation under this proposed section providing that it meets specified criteria including foregoing funding from a state universal service fund or alternate funding mechanism and having territory open to competition from competing local providers. Provides that the election of the alternative regulation is effective immediately upon the filing of the local exchange company. Adds subsection (k1) to provide that a local exchange company that has made an alternative election under proposed subsection (l) is no longer subject to the requirement to report annually to the General Assembly on or after the third anniversary following the date of the local exchange company's election. Provides that a local exchange company's election of the alternative regulation under new GS 62-133.5(l) does not affect (1) the obligations or rights of an incumbent local exchange carrier as defined under federal law and regulations nor (2) North Carolina Utilities Commissions (Commission) jurisdiction concerning specified enforcement and regulatory authority. Provides that a local exchange company's election under this proposed subsection does not prevent a consumer from seeking the assistance of the Commission to resolve a complaint with the local exchange company as provided in GS 62-73.1. Makes conforming changes to GS 62-133.5 and 62-302(b)(4)b. Amends GS 62-110(f1) to provide that a local exchange that has chosen alternative regulation under proposed GS 62-133.5(l) does not have any carrier of last resort obligations.

Intro. by Brown. GS 62 Energy and Utilities

S 344. GOVERNMENT TRANSPARENCY ACT OF 2011. Filed 3/14/11. *TO STRENGTHEN CONFIDENCE IN GOVERNMENT BY INCREASING ACCESSIBILITY TO PUBLIC PERSONNEL HIRING, FIRING, PERFORMANCE RECORDS, AND OTHER GOVERNMENTAL RECORDS AND MEETINGS.*

Amends the following statutes to provide that a general description of the reasons for each employee's promotion, demotion, transfer, suspension, separation, or other change in position classification with the applicable entity will be subject to inspection (expands information currently subject to inspection): GS 126-23(a) (state employee personnel records); GS 115C-320(a) (local boards of education); GS 115D-28(a) (community college employee personnel records); GS 122C-158(b) (employees under the Mental Health, Developmental Disabilities, and Substance Abuse Act); GS 153A-98(b) (county employees); GS 160A-168(b) (city employees); and GS 162A-6.1(b) (water and sewer authority employees). Adds that the performance of the employee, to the extent that the entity has the performance records in possession, will also be subject to inspection.

Deletes provisions of GS 143-318.16B (assessments and awards of attorneys' fees) and replaces them with the following new provisions. Allows a party who substantially prevails in seeking compliance with the open meetings law by public bodies to recover reasonable attorneys' fees if the fees are attributable to that noncompliance, in any action brought under Article 33C of GS Chapter 143, as specified. Prohibits the court from assessing attorneys' fees against the governmental body or unit if the court finds that the body or unit acted in reasonable reliance on: (1) a judgment or order of a court applicable to the body or unit; (2) the published opinion of an appellate court, an order of the NC Business Court, or a final order of the Trial Division of the General Court of Justice; or (3) a written opinion, decision, or letter of the Attorney General. Details additional guidelines for the payment of fees, and specifies that a court may not assess attorneys' fees against a public hospital, as defined, if the court finds that the action was brought by or on behalf of a competing health care provider for obtaining information used to gain a competitive advantage.

Effective December 1, 2011.

Intro. by Clary, Tucker, Goolsby. GS 115C, 115D, 122C, 126, 143, 153A, 160A, 162A Education; Employment and Retirement; State Government; Local Government

S 345. ENCOURAGE INVEST TO RETAIN ART 3A INSTALLMENT. Filed 3/14/11. *TO RETAIN AND ENCOURAGE INVESTMENT IN ECONOMICALLY DISTRESSED TIMES TO REMAIN ELIGIBLE TO TAKE AN INSTALLMENT OF A CREDIT EARNED UNDER THE BILL LEE ACT.*

Amends the expiration provision of GS 105-129.12A (credit for substantial investment in other property) to provide that the credit expires and the taxpayer may not take any remaining installments of the credit in one of the years in which the installment of a credit accrues and by which the taxpayer is required to have created 200 new jobs at the property if (1) the total number of employees employed at the property with respect to which the credit is claimed is less than 200 *and* (current law only includes requirement #1) (2) the taxpayer has failed within two years of the date that the employment fell below 200 to invest at the property at least twice the value of the remaining credit installments. Effective for taxable years beginning on or after January 1, 2009.

Intro. by Garrou, Allran.

GS 105

Taxation

Local Bills

HOUSE BILLS

H 338. BURKE SCHOOL BOARD RECALL. Filed 3/11/11. *TO ALLOW RECALL OF MEMBERS OF THE BURKE COUNTY BOARD OF EDUCATION.*

Permits removal from office by recall election any member of the Burke County Board of Education. Provides that any registered voter of the Burke County School Administrative Unit (LEA) may file an affidavit containing the name of the member to be removed and a general statement of the grounds for removal. Directs the supervisor of elections to provide the person submitting the affidavit with printed copies of a recall petition form to be used in demanding such a removal. Provides that a recall election may be held upon the filing of a recall petition within 30 days that contains signatures of at least 15% of the registered voters of the LEA. Sets forth additional petition and election criteria and provides criteria for filling vacancies resulting from the removal from office of a member via a recall election. Prohibits the filing of a petition to recall a member within either the first or last six months of the member's term of office. Provides that if a member is subject to an unsuccessful recall election that another such recall election for that same member may not take place until at least one year after the previous recall election and that any subsequent recall petition needs the signatures of at least 20% of the registered voters of the LEA to be sufficient to initiate a recall election. Effective January 1, 2012.

Intro. by Blackwell.

BURKE

Burke

H 352. DELAY KANNAPOLIS ANNEXATION. Filed 3/14/11. *AT THE REQUEST OF THE CITY OF KANNAPOLIS TO DELAY FOR TWO YEARS THE LEGISLATIVE ANNEXATION OF THE SOUTHLAND DEVELOPMENT TRACTS IN SOUTHERN ROWAN COUNTY.*

Amends Section 2 of SL 2009-113, to extend the effective date to September 30, 2013, as the title indicates.

Intro. by Steen.

CABARRUS, ROWAN

Cabarrus; Rowan

ACTION ON BILLS

March 14, 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

| | |
|--|----------------------------|
| H0006 House Pensions Committee Duties. | S Reconsidered 2nd Reading |
| | S Passed 2nd & 3rd Reading |
| H0021 County Administration of Municipal Elections. | H Passed 2nd Reading |
| 03-10-11 | |

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|---|---|---|
| H0033 State Law to Provide for Acceptable ID's. | H | Withdrawn From Com |
| | H | Re-ref Com On Judiciary Subcommittee A |
| 02-28-11 | | |
| H0045 Accelerate Cleanup of Industrial Properties. | H | Placed On Cal For 3/15/2011 |
| 03-03-11, 03-10-11 | | |
| H0049 Laura's Law. | H | Passed 3rd Reading |
| 02-24-11, 03-09-11 | | |
| H0123 Business Entity Changes. | H | Pres. To Gov. 3/14/2011 |
| H0124 IRC Update. | H | Ratified |
| 02-24-11 | | |
| H0219 Sex Offender Registry Amendments. | S | Rec From House |
| | S | Passed 1st Reading |
| | S | Ref To Com On Judiciary II |
| 03-09-11 | | |
| H0315 Taxpayer Information Act. | H | Passed 1st Reading |
| | H | Ref To Com On Finance |
| H0317 NC Family & Consumer Services 100th. | H | Passed 1st Reading |
| | H | Ref To Com On Rules, Calendar, and Operations of the House |
| H0318 State Treasurer's Investments.-AB | H | Passed 1st Reading |
| | H | Ref To Com On Finance |
| H0319 Restore Cigarette Tax Stamps. | H | Passed 1st Reading |
| | H | Ref to the Com on Commerce and Job Development, if favorable, Finance |
| H0320 Continue P3 Study. | H | Passed 1st Reading |
| | H | Ref To Com On Rules, Calendar, and Operations of the House |
| H0321 Grifton Shad Festival. | H | Passed 1st Reading |
| | H | Ref To Com On Rules, Calendar, and Operations of the House |
| H0323 Decrease Corporate Income Tax Rate. | H | Passed 1st Reading |
| | H | Ref To Com On Rules, Calendar, and Operations of the House |
| H0324 Amend Possession of Marijuana. | H | Passed 1st Reading |
| | H | Ref To Com On Rules, Calendar, and Operations of the House |
| H0325 Judicial Appointment/Voter Confirmation. | H | Passed 1st Reading |
| | H | Ref To Com On Rules, Calendar, and Operations of the House |
| H0329 Bldg. Codes/Expand Equine Exemption. | H | Passed 1st Reading |
| | H | Ref To Com On Agriculture |
| H0330 Nonresident Scholarship/Out- of-State Tuition. | H | Passed 1st Reading |
| | H | Ref To Com On Education |
| H0331 Allow PAs and NPs to Sign Death Cert. | H | Passed 1st Reading |
| | H | Ref To Com On Judiciary Subcommittee A |
| H0332 Clarify Development Moratoria | H | Passed 1st Reading |

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| Authority. | H | Ref To Com On Government |
| H0333 Adopt Official State Sport. | H | Passed 1st Reading |
| | H | Ref To Com On Rules, Calendar, and Operations of the House |
| H0334 Report on Fitness Testing in Schools. | H | Passed 1st Reading |
| | H | Ref To Com On Education |
| H0335 Maintenance of Prisons. | H | Passed 1st Reading |
| | H | Ref To Com On Government |
| H0336 Amend Weight Requirements- Certain Vehicles. | H | Passed 1st Reading |
| | H | Ref To Com On Transportation |
| H0341 Tobacco Products Tax Increase. | H | Filed |
| H0342 High School Accreditation. | H | Filed |
| H0343 Support Law Enforcement/Safe Neighborhoods. | H | Filed |
| H0344 Tax Credits for Children with Disabilities. | H | Filed |
| H0345 Modify Move Over Law. | H | Filed |
| H0346 Pol. Comm. Treas. Training/ Org. Rpt Req. | H | Filed |
| H0347 Notification to Treat Minors/ 12 or Younger. | H | Filed |
| H0348 Offenders/No Access to Personnel Records.-AB | H | Filed |
| H0349 Promote Green Roofs on Buildings. | H | Filed |
| H0350 Clarify Property Tax for Conservation Land. | H | Filed |
| H0351 Restore Confidence in Government. | H | Filed |
| S0007 Add Controlled Substances. | S | Rec To Concur H Com Sub |
| | S | Placed On Cal For 3/15/2011 |
| 02-23-11, 03-09-11 | | |
| S0022 APA Rules: Limit Additional Costs. | S | Rec To Concur H Com Sub |
| | S | Placed On Cal For 3/15/2011 |
| 02-08-11, 02-09-11, 03-07-11 | | |
| S0032 Hospital Medicaid Assessment/ Payment Program. | H | Placed On Cal For 3/15/2011 |
| 02-22-11 | | |
| S0049 Increase Fine for Speeding/ School Zones. | H | Withdrawn From Com |
| | H | Re-ref Com On Judiciary Subcommittee B |
| 02-28-11, 03-01-11 | | |
| S0058 Modify FMAP Cuts. | H | Placed On Cal For 3/15/2011 |
| 03-10-11 | | |
| S0110 Permit Terminal Groins. | SA | Amend Adopted 1 |
| | S | Passed 3rd Reading |
| | S | Engrossed |
| 03-09-11, 03-14-11 | | |
| S0244 Fire and Rescue/Survivor's Benefit. | S | Withdrawn From Com |
| | S | Re-ref Com On Pensions & Retirement and Aging |
| S0265 Transfer State Health Plan to State Treasurer. | S | Withdrawn From Com |
| | S | Re-ref Com On Insurance |
| S0315 Roadside Campaign Signs. | S | Passed 1st Reading |
| | S | Ref to Transportation. If |

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| | | | fav, re-ref to Finance |
| S0316 | Add'l Section 1915 Medicaid Waiver Sites. | S | Passed 1st Reading |
| | | S | Ref To Com On Health Care |
| S0317 | Amend Law Re: State Info. Technology Services. | S | Passed 1st Reading |
| | | S | Ref To Com On Judiciary I |
| S0318 | Repeal Plastic Bag Ban. | S | Passed 1st Reading |
| | | S | Ref To Com On Rules and Operations of the Senate |
| S0320 | Municipal Systems. | S | Passed 1st Reading |
| | | S | Ref To Com On State and Local Government |
| S0321 | Surplus Lines/Premium Tax.-AB | S | Passed 1st Reading |
| | | S | Ref To Com On Insurance |
| S0322 | Adopt Official State Sport. | S | Passed 1st Reading |
| | | S | Ref To Com On Rules and Operations of the Senate |
| S0323 | Insurance Amendments.-AB | S | Passed 1st Reading |
| | | S | Ref To Com On Insurance |
| S0324 | ABC Law/Eastern Band of Cherokee Indians. | S | Passed 1st Reading |
| | | S | Ref To Com On Rules and Operations of the Senate |
| S0325 | Funds for Step-Down Unit for BART Program. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0326 | Evaluate DD Residential Options for Children. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0327 | Modify MHDDSAS Reporting Requirements. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0328 | Report on Transfer of CAP-MR/DD UR to LMEs. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0329 | Evidence-Based Pract. in Psych. Hospitals. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0330 | Report on MH Services Provided by Hosp. ER's. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0331 | Evaluate Efficacy of CABHA Model. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0332 | Report on NC Clubhouse Programs. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0333 | Revise DD Waiting List Process. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0334 | Expand Inpatient Psychiatric Beds/Funds. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0335 | Apply for TBI Medicaid Waiver. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0336 | Develop Plan for Allocating DD Resources. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health |

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| | | | & Youth Services |
| S0337 | Allow Expansion of Capitated Waiver. | S | Passed 1st Reading |
| | | S | Ref To Com On Mental Health & Youth Services |
| S0338 | Tobacco Products Tax Increase. | S | Filed |
| S0339 | Modify Driver Education Program. | S | Filed |
| S0340 | State Historic Sites Special Fund. | S | Filed |
| S0341 | African-American Heritage Comn Funds. | S | Filed |
| S0342 | Appropriations Act of 2011. | S | Filed |
| S0343 | Communications Regulatory Reform. | S | Filed |
| S0344 | Government Transparency Act of 2011. | S | Filed |
| S0345 | Encourage Invest to Retain Art 3A Installment. | S | Filed |

LOCAL BILLS

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|-------|---|---|---|
| H0068 | Tax Certification - Add Counties. | S | Rec From House |
| | | S | Passed 1st Reading |
| | | S | Ref To Com On State and Local Government |
| | 03-09-11 | | |
| H0322 | Haywood School Board Filing Period. | H | Passed 1st Reading |
| | | H | Ref To Com On Government |
| H0326 | Buncombe Involuntary Annexation Moratorium. | H | Passed 1st Reading |
| | | H | Ref to the Com on Government, if favorable, Finance |
| H0327 | Incorporate Leicester. | H | Passed 1st Reading |
| | | H | Ref To Com On Government |
| H0328 | Wayne Sheriff Vacancies. | H | Passed 1st Reading |
| | | H | Ref To Com On Government |
| H0352 | Delay Kannapolis Annexation. | H | Filed |
| S0081 | Orange County Local Disclosure Act Repeal. | H | Passed 1st Reading |
| | | H | Ref To Com On Government |
| S0082 | Town of Atkinson/Charter Amendment. | H | Passed 1st Reading |
| | | H | Ref To Com On Government |
| S0319 | Wilmington Civil Service Board. | S | Passed 1st Reading |
| | | S | Ref To Com On State and Local Government |

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

SENATE BILLS

S 110. [PERMIT TERMINAL GROINS](#). Filed 2/23/11. Senate amendment makes the following changes to 2nd edition. Prohibits spending state funds for activities related to a terminal groin and accompanying beach fill project permitted under GS 113A-115.1 as amended by the act, unless the General Assembly enacts legislation explicitly

appropriating funds for that purpose. The prohibition does not apply to beach fill or nourishment projects initiated before the act's effective date.

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

Legislation Enacted

None

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Notes

None

NEXT SESSIONS

March 15, 2011

HOUSE convenes at 1:00 pm

SENATE convenes at 3:00 pm