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SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 522. [MIDWIFERY LICENSING ACT](#). Filed 3/30/11. *TO ESTABLISH THE CERTIFIED PROFESSIONAL MIDWIVES LICENSING ACT.*

Enacts new Article 10B, *Certified Professional Midwives*, to GS Chapter 90. Prohibits any person from practicing or offering to practice midwifery, on or after January 1, 2012, without a license, as provided in new Article 10B. Exempts the following circumstances from the licensure requirement: (1) an individual approved to practice midwifery under Article 10A (Midwifery Practice Act), (2) a physician licensed to practice medicine, (3) the performance of medical acts by a physician assistant or nurse practitioner as specified, (4) the practice of nursing by a registered nurse as allowed under Article 9A (Nursing Practice Act), (5) the rendering of childbirth assistance in emergency situations, and (6) individuals present or assisting the certified professional midwife during the birth process as specified.

Sets forth the General Assembly's findings and includes definitions applicable to Article 10B. Defines *certified professional midwife* as a person with national certification from the North American Registry of Midwives (NARM). Defines *midwifery* as the act of providing prenatal, intrapartum, postpartum, newborn and

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interconceptional care, but not the practice of medicine by a physician licensed to practice medicine when engaged in the practice of medicine, the performance of medical acts by a physician assistant or nurse practitioner when performed in accordance with the rules of the North Carolina Medical Board, the practice of nursing by a registered nurse engaged in the practice of nursing, or the rendering of childbirth assistance in an emergency situation.

Creates a seven-member North Carolina Council of Certified Professional Midwives (Council), with members appointed by the Secretary of Health and Human Services and initial members appointed on or before October 1, 2011. Details Council member requirements and term limits and includes provisions for compensation, meeting procedures, and Council administration. Enumerates 13 powers and duties of the Council, in consultation with the Division of Health Service Regulation, Department of Health and Human Services, and with guidance from the National Association of Certified Professional Midwives Standards of Practice.

Lists the following requirements for licensure as a certified professional midwife: (1) a completed application; (2) certification from NARM and currently holds the title of certified professional midwife; (3) graduated from a Midwifery Education and Accreditation Council accredited school, on or after December 31, 2013; (4) submits proof to the Council of current cardiopulmonary resuscitation certification and neonatal resuscitation certification; (5) has read, understands, and agrees to practice under Article 10B and (6) pays required fees. Lists 10 responsibilities of a licensed certified professional midwife, including the responsibility to provide care for the healthy woman who is expected to have a normal pregnancy, labor, birth, and postpartal phase in the setting of the mother's choice, and the responsibility to order routine antepartal or postpartal screening or lab analysis at a licensed facility and inform the parents about newborn screening. Directs a midwife licensed under Article 10B to display the license at all times in a conspicuous place where the midwife is practicing. Sets forth provisions for license renewal, periods of lapsed licensure, and granting inactive status. Authorizes the Council to grant a license to a person residing in NC licensed, certified, or registered to practice as a certified professional midwife in another jurisdiction if that jurisdiction's standards are substantially equivalent, and the person submits an application and required fees. Directs the Council to set all fees under Article 10B, and to pay all expenditures out of funds from the fees or other funds. Allows the Council to discipline applicants or licensees, after a hearing, under seven specified circumstances.

Allows a certified professional midwife licensed under Article 10B to receive third-party reimbursement from private agencies providing coverage for maternity and obstetrical care. Specifies that a managed care organization or insurance company may not require a patient use a certified professional midwife instead of a licensed physician or nurse practitioner. Authorizes the Council to apply to superior court to enjoin violations of Article 10B. Provides that no health care provider will be liable for an injury to a woman or infant arising during childbirth and resulting from an act or omission by a licensed certified professional midwife.

Intro. by Wilkins, Hurley, GS 90 Health, Social Services, and Aging
Current, Carney.

H 525. HOKE COUNTY'S 100TH ANNIVERSARY. Filed 3/30/11. *HONORING HOKE COUNTY'S ONE HUNDREDTH ANNIVERSARY.*

As title indicates.

Intro. by Pierce. HOUSE RES General Assembly

H 526. HONOR WAGRAM'S 100TH ANNIVERSARY. Filed 3/30/11. *HONORING THE TOWN OF WAGRAM ON THE TOWN'S ONE HUNDREDTH ANNIVERSARY.*

As title indicates.

Intro. by Pierce. HOUSE RES General Assembly

H 529. SWINE HOUSE RENOVATIONS/SITE LIMITS. Filed 3/30/11. *TO FACILITATE IMPROVED OPERATIONS AND CONDITIONS AT CERTAIN PREEXISTING SWINE FARMS BY PROVIDING FOR THE CONSTRUCTION OR RENOVATION OF SWINE HOUSES AT THOSE FARMS.*

Enacts new GS 106-806 to allow a swine house that is a component of a preexisting swine farm to be constructed or renovated as long as the construction or renovation: (1) does not result in an increase in the permitted capacity; (2) does not result in requiring an increase in the total permitted capacity of the animal waste management systems; and (3) does not result in any portion of the constructed or renovated swine house being located any closer to the building or property that is the object of the siting requirement that the house fails to meet, if the swine house fails to meet siting requirements under GS 106-803. With written permission from the property owner that is recorded with the register of deeds, allows construction or renovation that results in part of the swine house being located closer to a residence, school, hospital, church, or a property boundary. Provides

that the act does not apply to the construction or renovation of a swine house that is a component of a new swine farm. Applies to construction or renovation that occurs on or after the date that the act becomes effective.

Intro. by Dixon.

GS 106

Agriculture, Environment, and
Natural Resources

H 530. CONFORMING CHANGES/PERSONS W/DISABILITIES ACT (=S 384). Filed 3/30/11. *AMENDING THE NORTH CAROLINA PERSONS WITH DISABILITIES PROTECTION ACT TO CONFORM WITH FEDERAL CHANGES UNDER THE AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT OF 2008 (ADAAA).*

Identical to S 384, filed 3/21/11.

Intro. by Blackwell.

GS 168A

State Government

H 531. INVOLUNTARY ANNEXATION REFORM. Filed 3/30/11. *TO PROVIDE ONE PROCESS FOR INVOLUNTARY ANNEXATION FOR ALL MUNICIPALITIES AND TO MAKE OTHER CHANGES TO THE ANNEXATION PROCESS IN NORTH CAROLINA.*

Extension of Corporate Limits by Petition. Amends GS 160A-31(a) (annexation by petition), adding that the petition presented to the governing board of a municipality need not be signed by the owners of real property if the real property is wholly exempt from property taxation under the Constitution and laws of NC. Enacts new subsection (b1) to GS 160A-31, directing the governing board of a municipality to annex by ordinance any area, one-third of the aggregate external boundaries of which are contiguous to the municipality's boundaries, upon presentation of a petition signed by the owners of at least 75% of the real property parcels in that area, if 51% of the households in the area petitioning for annexation have incomes 200% or less than the most recently published U.S. Census Bureau poverty thresholds. New GS 160A-31(b2) sets out the corresponding petition format. Enacts new subsection (i) to GS 160A-31, authorizing the governing board of any municipality to annex by ordinance any distressed area, defined as an area in which at least 51% of the households have incomes 200% or less than the most recently published U.S. Census Bureau poverty thresholds, contiguous to the municipality's boundaries upon presentation of a petition signed by at least one adult resident of at least 75% of the resident households in the relevant area. New GS 160A-31(j) sets out the corresponding petition format. Enacts new subsection (k) to GS 160A-31, requiring petitioners petitioning under subsection (b1) or (i) to submit to the governing board any reasonable evidence to demonstrate the area meets the required poverty thresholds. Permits petitioners to submit names, addresses, and social security numbers to the clerk, who will submit the information to the Department of Revenue (Department). Directs the Department to provide a summary report to the municipality listing incomes for households in the petitioning area. Makes a conforming change to GS 160A-31(c), requiring the clerk to receive the Department's report before certifying the petition. Amends GS 160A-31(d), clarifying that persons residing or owning property in or near the area described in the petition and persons residing or owning property in the municipality will have the opportunity to be heard at the public hearing. Authorizes the governing board to make the annexing ordinance effective immediately or on the next June 30 following the ordinance's passage (currently, on any specified date within six months after passage). Amends GS 160A-31(f), clarifying that an area is contiguous if the area either abuts directly on the municipal boundary or is separated from the municipal boundary by the *width of a street or street right-of-way, a creek, or river not exceeding 120 feet in width*, or one of the other listed structures. Adds that a connecting corridor consisting solely of a street or street right-of-way may not establish contiguity for annexation purposes. Makes other conforming changes.

Involuntary Annexation by Cities. Repeals Part 2 of Article 4A of GS Chapter 160A, which provided for annexation by cities of less than 5,000. Changes the title of Part 3 of Article 4A of GS Chapter 160A to *Involuntary Annexation by Cities*. Amends GS 160A-46 (authority to annex), authorizing the governing board of any municipality to extend the corporate limits of the municipality to include contiguous areas needing meaningful services that cannot be resolved without extension of municipal services under Part 3. Specifies that the municipality bears the burden of proving that the annexation is in the owners' best interests, and the municipality must show that it is competent and able to provide all meaningful services to the entire area proposed to be annexed. Amends GS 160A-47, clarifying that a municipality exercising authority under Part 3 must show that previous annexations are substantially completed, defined as at least 85% implemented, make plans to extend meaningful services to areas needing such services, and prepare a planning report to provide services. Requires the plan for extending municipal services to also provide for extending water and sewer services, in addition to services currently extended. Specifies that a contract with the sheriff for additional police patrol by the sheriff's department will qualify as police protection under Part 3. Clarifies that a contract with a rural fire department to provide fire protection is an acceptable method of providing fire protection *only* until waterlines are made available under existing municipal policies for the extension of waterlines and the rural fire department is similarly equipped with fire suppression equipment and staff as the existing municipal fire protection services. Also clarifies that a

contract with a private firm for solid waste collection services is an acceptable method of providing solid waste collection services *only* if the contract is one of the methods of solid waste collection services throughout the municipality or the area proposed to be annexed at the time of the resolution to consider annexation. Clarifies that when the municipality can demonstrate by a preponderance of the evidence that the installation of sewer is not physically (currently, economically) feasible or would be environmentally damaging due to the unique topography or environmental qualities of the area, the municipality must provide septic system maintenance and repair service until sewer service is provided to properties similarly situated. Requires plans to call for construction of trunk water mains, sewer outfall lines, and sewer and water lines to be completed within three (rather than two) years. Specifies that a contract with a county authority or other third party water/sewer authority qualifies as the provision of meaningful services by the municipality. Requires a rural fire department to make available to the city not later than 60 days (rather than 30 days) all information related to the annexation's impact, upon request. Clarifies that the municipality's report must include a statement showing the annexation's impact on city finances and services projected over five years, beginning with the first-year expenditures for meaningful services. Makes other clarifying and conforming changes.

Amends GS 160A-48 (character of area to be annexed), clarifying that at least one-third (rather than one-eighth) of the aggregate external boundaries of the area to be annexed must coincide with the municipal boundary, as a standard of annexation. Adds that a majority of property owners must have existing water service, sewer or septic service, police protection, or fire protection that is inadequate and clearly poses a threat to the health and safety of the area, as certified by the county health director or the State Health Director, and the property owners cannot remedy the threat through public or private means, as another standard of annexation. Requires that an area developed for urban purposes must meet the following standards: (1) the area has a total resident population equal to at least three persons (rather than two and three tenths persons) for each acre of land included in the area's boundaries, *and* (2) the area is developed so at least 60% of the total number of lots and tracts are used for residential, commercial, industrial, institutional, or governmental purposes (deletes other standards). Clarifies that "necessary land connection" means an area that does not exceed 10% (rather than 25%) of the total area to be annexed. Makes conforming and clarifying changes.

Enacts new GS 160A-48.5, requiring a municipality located wholly or primarily in another county to have approval by resolution of that county's board of commissioners before the municipality annexes real property in the county. Directs the county board of commissioners to conduct a public hearing before the adoption of a resolution approving annexation, with notice provided at least 30 days but not more than 45 days before the hearing in a newspaper with general circulation in the county.

Amends GS 160A-49 (procedure for annexation), requiring any municipal governing board wishing to annex territory under Part 3 to pass a resolution of consideration (currently, the resolution must state the intent to consider annexation) and send notification to the board of commissioners in the county in which the territory to be annexed is located and to the affected property owners by certified mail. Requires the resolution to also include a detailed map and a metes and bounds description of the area under consideration. Directs the applicable county board of commissioners to set a date for a public hearing on the question of annexation. Requires the notice of public hearing to state that the report supplied by the municipality will also be available at the public library closest to the municipal clerk's office. Requires the notice to be posted on the municipality's website at least 30 days before the public informational meeting, if applicable. Also requires the notice to include current zoning and pending zoning changes, and the name, email, and telephone number for a contact person of the municipality. Requires the notice of the public informational meeting, which occurs before the public hearing, to include four specified items. Provides that, after approval by the voters, if required, and after one year elapses after the date of adoption of the resolution of consideration, the municipal governing board may adopt a resolution stating the board's intent to consider annexation of the approved territory. Authorizes the governing board to adopt an ordinance extending the municipality's corporate limits at any regular or special meeting held no sooner than 45 days following the adoption of the resolution of intent (rather than the tenth day following the public hearing) and not later than 90 days following the public hearing. Requires the annexation ordinance fix the effective date of annexation on June 30 next following adoption of the ordinance (currently, fixed on any date not less than 70 days nor more than 400 days from passage). Makes taxation of real and personal property subject to GS 160A-58.10 (tax of newly annexed territory) on the effective date of annexation. Authorizes a person to apply for a writ of mandamus not earlier than two years (rather than one year) and not later than 48 months (rather than 15 months) from the annexation effective date, if the person owning property in the annexed territory believes the municipality has not followed through on plans to provide services. Permits the judge of superior court to grant relief by requiring the municipality to complete service infrastructure within a stated time, as specified. Makes other conforming and clarifying changes. Amends GS 160A-49(k), permitting a property owner to petition the Local Government Commission for abatement of taxes as described, if all necessary water or sewer lines are not complete at the end of three years (rather than two years) after the annexation ordinance effective date, provided

the petition is filed not more than 90 days (rather than 60 days) following the expiration of the three year period. Makes a conforming change, replacing two year period with three year period throughout subsection (k). Enacts new GS 160A-49(m), requiring a city to complete at least 85% of the plan to provide water or sewer services to an annexed area and have remaining items on the plan prepared for completion before adopting a subsequent plan to provide services. Allows a city to have only two incomplete plans to provide services at any given time.

Amends GS 160A-49.3(b) requiring the city to provide written notice of the resolution of intent to annex to all private solid waste collection firms serving the area, at least four weeks before the hearing (rather than the informational meeting).

Amends GS 160A-50 (appeal) to allow any person owning property in the annexed territory who believes the person will suffer material injury, as specified, to file a petition in the appropriate superior court within 90 days (rather than 60 days) following the passage of the annexation ordinance. Makes conforming and technical changes.

Amends GS 160A-53 (definitions applicable to Part 3) to define *meaningful services* as (1) central water and sewer services; (2) municipal police protection; (3) fire protection; and (4) at least two of: land use planning, street lights, street maintenance, or parks and recreation. Adds a definition for an *area in need of meaningful services*. Makes other clarifying changes.

Referendum before Involuntary Annexation Ordinance. Enacts new GS 160A-58.11, permitting any registered voter in the proposed annexation area subject to an involuntary annexation to request a referendum petition containing the description and a legible map of the area to be annexed, following the adoption of the resolution to consider annexation. Directs the municipal governing board to provide the registered voter referendum petition forms that meet eight enumerated criteria. Requires the governing board to notify and provide the board of elections a map and description of the proposed annexation area. Sets forth applicable timelines and signature requirements for the referendum petition, and directs the board of elections to investigate and certify the sufficiency of the petition within 15 days following filing. Details procedures for abandoning the proposed involuntary annexation or for setting a date for the referendum to coincide with the next general municipal election. Includes format to be included on the ballot. If the referendum for annexation does not receive a majority of votes cast or results in a tie, then the municipal governing body cannot adopt the annexation ordinance or begin a separate involuntary annexation process for the same area for at least 60 months.

Makes additional conforming changes, and repeals SL 1985-92 (annexation referendum in Craven County). Specifies that any reference to Part 2 of Article 4A in GS Chapter 160A is a reference to Part 3, as detailed.

Enacts new GS 160A-58.12 (applicable to annexation of noncontiguous areas), requiring a municipality located wholly or primarily in another county to have approval by resolution of that county's board of commissioners before the municipality annexes real property in the county. Directs the county board of commissioners to conduct a public hearing before the adoption of a resolution approving annexation, with notice provided at least 10 days but not more than 30 days before the hearing in a newspaper with general circulation in the county.

Applies to any annexation with a resolution adopted before the date the act becomes law, and applies to any annexation that is not yet effective.

Intro. by L. Brown, Dollar, GS 69, 105, 160A, 162A Local Government
LaRoque.

H 535. JUROR PRIVACY (=S 133). Filed 3/30/11. *TO ELIMINATE THE REQUIREMENT THAT THE ADDRESS OF EACH QUALIFIED PERSON SELECTED FOR THE JURY LIST APPEAR ON THE LIST FILED WITH THE REGISTER OF DEEDS, IN ORDER TO ALLAY JUROR PRIVACY CONCERNS.*

Identical to S 133, filed 2/24/11.

Intro. by Cotham, M. Alexander. GS 9 Courts

H 538. REMOVE RESTRICTION/LEO DISABILITY BENEFITS (=S 443). Filed 3/30/11. *TO REMOVE THE REQUIREMENT THAT LAW ENFORCEMENT OFFICERS HAVE ONE YEAR OF CREDITABLE SERVICE IN ORDER TO QUALIFY FOR DISABILITY RETIREMENT BENEFITS UNDER THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR INJURIES INCURRED IN THE LINE OF DUTY.*

Identical to S 443, filed 3/28/11.

Intro. by Randleman, Dollar, GS 128 Employment and Retirement;
Cotham, Faircloth. Emergency Services

H 540. REMOVE ADULT CARE HOMES FROM CON REVIEW. Filed 3/30/11. *TO REMOVE ADULT CARE HOMES FROM THE CERTIFICATE OF NEED APPROVAL PROCESS.*

As title indicates. Amends GS 131E-176 to remove adult care homes from the definition of health service facility and from the definition of health service facility bed. Repeals GS 131E-176(1) (defining adult care home) and GS 131E-184(e)(1)a.2. (removing adult care homes from provision concerning certificate of need review for a capital expenditure). Applies to the construction, development, establishment, and expansion of adult care homes on or after October 1, 2011. Defines adult care homes as facilities with seven or more beds licensed under GS Chapter 131D, Article 1, Part 1 or GS Chapter 131E, that provide residential care for aged or disabled persons whose principal need is a home providing supervision and care appropriate to their age and disability and for whom medical care is only occasional or incidental.

Intro. by Cook.

GS 131E

Health, Social Services, and Aging

H 541. CAP-MR/DD WAIVER CHANGE/RESIDENTIAL SUPPORTS. Filed 3/30/11. *TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MEDICAL ASSISTANCE, TO AMEND THE CAP-MR/DD WAIVER TO EXPAND THE TYPE OF FACILITIES IN WHICH A RECIPIENT MAY RECEIVE RESIDENTIAL SUPPORTS.*

Directs the Department of Health and Human Services, Division of Medical Assistance (Division), to amend the CAP-MR/DD waiver as follows: (1) current and future recipients may elect to receive residential supports in a licensed residential setting with six or fewer beds, as indicated; (2) current and future recipients may elect to receive residential supports in a licensed residential setting with six or more beds if the recipient's plan of care clearly identifies and documents the resident's unique circumstances, as described; and (3) individuals currently residing in a licensed group home or a licensed adult care home with more than six beds, who received services under CAP-MR/DD on November 1, 2008, may elect to receive residential supports.

Requires the Division to submit an application for approval to the Centers for Medicare and Medicaid Services by August 1, 2011, if required.

Intro. by Hurley.

UNCODIFIED

Health, Social Services, and Aging

H 542. TORT REFORM FOR CITIZENS AND BUSINESSES. Filed 3/30/11. *TO PROVIDE TORT REFORM FOR NORTH CAROLINA CITIZENS AND BUSINESSES.*

Amends Article 4 (Relevancy and Its Limits) of GS Chapter 8C (Evidence Code) adding a new Rule 414, *Evidence of medical expenses*, to provide that evidence offered to prove past medical expenses may include (1) all bills reasonably paid and (2) a statement of the amounts needed to satisfy the bills that have been incurred but not yet paid. Provides that evidence of the source of payment and the rights of subrogation related to the payment are admissible.

Amends GS 1-289 to clarify that in an appeal from a money judgment, a stay of execution on the money judgment requires execution of a written undertaking executed on the part of the appellant by one or more sureties as set forth in this statute. Provides that when there is a money judgment, the court is to specify the amount of the undertaking that is required to stay execution of the judgment pending appeal. Directs the court to determine the required amount of the undertaking after providing notice and a hearing that is proper and reasonable to secure the rights of the adverse party. Requires the court to consider relevant factors in making the determination.

Deletes provision setting a fixed amount of the undertaking to stay execution of a judgment in the amount of \$25 million or more and deletes provision requiring the appellant to make an undertaking in the full amount otherwise required under this statute if the appellee proves by a preponderance of the evidence that the appellant is acting to evade the judgment.

Adds a new Article 7D to GS Chapter 8 to make certain collateral source payments admissible as evidence. Defines *collateral source payments* to mean a payment for any of a list of specified damages for which recovery is permitted in a civil action that is made to or for the benefit of a plaintiff or is otherwise available to the plaintiff. Specifies that a collateral source payment does not include gifts, gratuitous contributions or assistance, or payments arising from the assets of the plaintiff. Provides additional criteria regarding the admissibility of collateral source payments.

Amends GS 8C-702(a) to provide that an expert witness may testify in the form of an opinion or otherwise if all of the following apply: (1) the testimony is based upon sufficient facts or data; (2) the testimony is the product of reliable principles and methods; and (3) the witness has applied the principles and methods reliably to the facts of the case (was, an expert witness may testify in the form of an opinion).

Amends GS 1A-1, Rule 42(b) to direct the court to order separate trials for the issue of liability and the issue of damages upon the motion of any party in a tort action in which the plaintiff seeks damages exceeding \$75,000. Prohibits admission of evidence relating only to compensatory damages until the trier of fact has determined that the defendant is liable. Requires the same trier of fact that tries the issues relating to liability to try the issues relating to damages.

Amends GS 1D-25 (Limitation of amount of recovery) to require that punitive damages awarded in excess of \$100,000 be awarded by the presiding judge as follows: (1) 25% of the amount over \$100,000 remitted to the plaintiff in accordance with applicable law and (2) 75% of the amount over \$100,000 remitted to the Civil Penalty and Forfeiture Fund.

Amends GS 1A-1, Rule 9(j) to provide for the dismissal of any complaint alleging medical malpractice that does not specifically assert in the pleading that all medical records pertaining to the alleged injury that are then available to the plaintiff after reasonable inquiry have been reviewed by a person (1) who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence or (2) whom the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence.

Amends the definitions in GS 90-21.11 to include *adult care home* as licensed under GS Chapter 131D in the definition for the term *health care provider*. Makes conforming changes regarding the term adult care home. Expands the definition of *medical malpractice action* to include a civil action against a hospital, a nursing home, or an adult care home licensed under GS Chapter 131D for damages for personal injury or death when the civil action makes certain allegations and arises from the same facts or circumstances as a claim under subdivision a. of subdivision (2) of GS 90-21-11.

Amends GS 90-21.12 to make conforming changes incorporating use of the term *health care provider* and *medical malpractice action* as amended in this act. Amends the standard of health care measure to require findings by the greater weight of the evidence that the care of the health care provider was not in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities *under the same or similar circumstances* at the time of the alleged act giving rise to the cause of action. Provides that a defendant health care provider is not liable for damages in a malpractice action arising out of the provision of or failure to provide services for an emergency medical condition unless the trier of fact finds by the greater weight of the evidence that the health care providers deviation from the standard of care constitutes gross negligence, wanton conduct, or intentional wrongdoing. Provides that nothing in new subsection (b) of GS 90-21.12 is to be construed to change, alter, override, or otherwise affect the provisions of GS 90-21.14 (First aid or emergency treatment; liability limitation), 90-21.15 (Emergency treatment using automated external defibrillator; immunity), 90-21.16 (Volunteer health care professionals; liability limitation), or 20-166 (Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability). Effective October 1, 2011 and applies to causes of actions arising on or after that date.

Enacts new GS 90-21.19, to establish limited liability for noneconomic damages. Provides that the total amount of noneconomic damages for which judgment is entered against all defendants in a medical malpractice action is not to exceed \$250,000 per defendant. On January 1 of every third year, beginning with January 1, 2014, requires the Administrative Office of the Courts to reset the limitation on damages for noneconomic loss to be equal to \$250,000 times the ratio of the Consumer Price Index for November of the prior year to the Consumer Price Index for November 2011. Directs the court to modify any judgment as necessary to fit the requirements of this section. Provides definitions for *consumer price index* and *noneconomic damages*. Directs the court not to instruct a jury as to the limit set on noneconomic damages and prohibits a witness or an attorney for any party from informing the jury or potential jury members of that limit. Provides that any award of damages in a medical malpractice action is to be stated in accordance with new GS 90-21.19B, which requires that any verdict or award of damages in a medical malpractice action specifically indicate what amounts are awarded for each of the following: (1) noneconomic damages, (2) present economic damages, (3) future economic damages, (4) loss of future earnings, and (5) loss of future household services. Provides, if applicable, the court is to instruct the jury on the definition of noneconomic damages under GS 90-21.19(b) and the definition of future economic damages under GS 90-21.19A(a). Effective October 1, 2011 and applies to causes of actions arising on or after that date.

Amends GS 1A-1, Rule 26(f1) regarding the medical malpractice discovery conference to set requirements for designated expert witnesses. Requires that the designation as an expert witness be accompanied by a written report prepared and signed by the designated witness. Specifies information to be contained in the written report.

Amends GS 99B-1 to add a definition for *government agency* meaning this State or the United States or any agency of this state or the United States, or any entity vested with the authority of the United States to issue rules, regulations, orders, or standards concerning products or services.

Enacts GS 99B-12 to provide that a manufacturer or seller meeting regulatory compliance standards as specified in subsection (a) of this statute cannot be held liable in any product liability action. Provides that if the claimant proves that the manufacturer or seller engaged in specified acts at any time before the event occurred that allegedly caused the harm then the immunity from liability in subsection (a) does not apply. Provides that nothing this statute is to be construed as (1) expanding the authority of any state agency or state agent to adopt or promulgate standards or regulations where no such authority to do so previously existed, (2) reducing the scope of any limitation on liability based on compliance with the rules or regulations of a government agency

applicable to a specific act, transaction, person, or industry; or (3) affecting the liability of a service provider based on rates filed with and reviewed or approved by a government agency. Effective October 1, 2011 and applies to causes of actions arising on or after that date.

Amends GS 6-21.1 to provide an allowance of attorneys' fees in certain cases. Provides that where there was an unwarranted refusal by the defendant (was, insurance company) to negotiate or pay (was, pay) the claim that is the basis for the suit, the amount of damages is \$15,000 (was, \$10,000) or less, and the damages recovered exceed the highest offer made by the defendant prior to the start of the trial, the presiding judge may, at the judge's discretion, allow a reasonable attorneys' fee to the duly licensed attorney representing the litigant obtaining a judgment for damages in the lawsuit. Limits the amount of the attorneys' fees awarded to no more than \$5,000 or 50% of the damages awarded. Requires the presiding judge who determines that attorneys' fees are to be awarded under this statute to issue a written order that includes findings of fact detailing the factual basis for the judge's decision to award attorneys' fees.

Enacts a new GS Chapter 38B, the Trespasser Responsibility Act. Provides that as a general rule a possessor of land, including an owner, lessee, or other occupant does not owe a duty of care to a trespasser and is not liable for any injury to a trespasser. Provides exceptions to the general rule, declaring that a possessor of land may be liable for the physical injury or death of (1) a trespasser intentionally caused by the possessor, or resulting from the possessor's willful or wanton conduct, and (2) trespassing children resulting from an artificial condition of the land of which the possessor had certain specified knowledge and control. Provides definitions for (1) child trespasser, (2) possessor, and (3) trespasser. Effective October 1, 2011 and applies to causes of actions arising on or after that date.

This act includes a severability clause.

Except as otherwise indicated, effective October 1, 2011 and applies to actions commenced on or after that date.

Intro. by Rhyne, McComas, Brisson, Crawford. GS 1, 1A, 6, 8, 8C, 10, 38B, 90, 99B Civil Law and Procedure; Courts; Business and Commerce

H 544. LOCAL GOVERNMENT E-MAIL LISTS. Filed 3/30/11. *TO MAKE EFFECTIVE STATEWIDE A LOCAL ACT PROVIDING THAT A LIST OF THE E-MAIL ADDRESSES OF PERSONS SUBSCRIBING TO LOCAL GOVERNMENT E-MAIL LISTS IS OPEN TO PUBLIC INSPECTION BUT IS NOT REQUIRED TO BE PROVIDED, AND TO PROVIDE THAT THE LOCAL GOVERNMENT MAY USE THAT LIST ONLY FOR THE PURPOSE THAT IT WAS SUBSCRIBED TO.* As title indicates.

Intro. by Samuelson, Cotham, Iler. UNCODIFIED Local Government; State Government

H 547. ABC LAW/EASTERN BAND OF CHEROKEE INDIANS. Filed 3/30/11. *TO AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS, A FEDERALLY RECOGNIZED INDIAN TRIBE AND SOVEREIGN NATION, TO ESTABLISH A TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION TO REGULATE THE PURCHASE, POSSESSION, CONSUMPTION, SALE, AND DELIVERY OF ALCOHOLIC BEVERAGES AT RETAIL AND TO RECEIVE SHIPMENTS OF SPIRITUOUS LIQUOR AND FORTIFIED WINES FROM THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION.*

Enacts new GS 18B-112, authorizing the Eastern Band of Cherokee Indians to establish a tribal alcoholic beverage control commission to regulate alcoholic beverages on any land designated as Indian Country, as indicated. Requires adoption of and compliance with GS Chapter 18B (regulation of alcoholic beverages). Authorizes the North Carolina Alcoholic Beverage Control Commission (ABC Commission) to enter into agreements with the tribal commission, but no sooner than July 1, 2013. Sets forth additional details related to the tribal commission, failure to comply with state law, and providing that federal law controls in the case of conflict of laws.

Makes a conforming change to GS 18B-203(a)(17) (powers and duties of the ABC Commission).

Intro. by Haire. GS 18B Alcoholic Beverage Control

H 549. COUNTIES MAY REQUIRE SOLID WASTE SERVICES. Filed 3/30/11. *ALLOWING COUNTIES TO REQUIRE THE USE OF SOLID WASTE AND RECYCLING COLLECTION SERVICES.*

Enacts GS 153A-292.1 to allow a county, by ordinance, to require an owner of improved real property to: (1) place solid waste in specified places or receptacles; (2) separate materials before collection; (3) participate in a recycling program by requiring separation of materials before disposal (also provides for the ownership of recovered materials and prohibits requiring an owner from conveying, selling, donating, or transferring recovered materials to the county); and (4) participate in any solid waste collection service provided by the county or by a

person the county contacts with if the property owner or occupant has not otherwise contracted for solid waste collection. Allows a county to impose a fee for solid waste collection, not to exceed the cost of collection.

Intro. by Iler.

GS 153A

Local Government

H 551. [DISCOVERY/MEDICAL PEER REVIEW](#). Filed 3/30/11. *REPEALING THE PROHIBITION OF DISCOVERY IN CIVIL ACTIONS OF INFORMATION OBTAINED IN PEER REVIEW PROCEEDINGS.*

Amends GS 131E-95(b) (pertaining to medical review committees) to provide as title indicates. Clarifies that the proceedings of a medical review committee and the records and materials the committee produces and considers are not public records, *but are* subject to discovery or introduction into evidence in any civil action as indicated. Provides that a person in attendance at a committee meeting may be required to testify in any civil action as to any evidence or other matters (current law prohibits a person from testifying) produced or presented during the meeting or as to any action of the committee or committee members whenever the patient whose care is a subject of the committee's consideration consents to that person's testimony. Adds that any confidential patient information acquired or used in good faith by the committee will remain confidential when the patient does not consent to disclosure, and will not be subject to discovery or subpoena in a civil action without the patient's written consent. Clarifies that a committee member or a person who testifies before the committee may testify in a civil action and may be asked about the person's testimony from the committee meeting (current law prohibits asking about the person's testimony) or any opinions formed after committee hearings, other than testimony or opinions that would reveal confidential patient information without patient consent. Enacts new subsection (b1), stating that a patient who requests information related to the patient's own medical treatment that was the subject of evaluation and review has the right to receive such information from the committee and to use the information in any civil proceeding without restriction. Applies to civil actions commenced on or after the date the act becomes law.

Intro. by Faison.

GS 131E

Civil Law and Procedure

H 554. [RESIDENTIAL BUILDING INSPECTIONS](#). Filed 3/30/11. *REQUIRING COUNTIES AND CITIES TO HAVE REASONABLE CAUSE BEFORE INSPECTING RESIDENTIAL BUILDINGS OR STRUCTURES.*

Amends GS 153A-364 (pertaining to counties) and GS 160A-424 (pertaining to cities) as the title indicates.

Provides that a local government inspection department may make periodic inspections only when there is *reasonable cause* to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions exist in the building. Defines *reasonable cause* to mean that (1) landlord or owner has a substantial history of noncompliance with unit's ordinances on unsafe buildings, (2) there has been a report that substandard conditions exist within the building or an occupant has requested that the building be inspected, or (3) the inspection department has actual knowledge of unsafe conditions within the building that was acquired as a result of "routine business activities" conducted by the local government. Prohibits an inspection department from "discriminating" between single-family and multi-family buildings or between owner-occupied and tenant-occupied buildings. Adds a new GS 160A-424(b) and GS 153A-364(b) to allow local governments to require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a Community Development Block Grant area that has been designated by the governing board, the Division of Community Assistance (Department of Commerce), or the U.S. Department of Housing and Urban Development. Adds a new GS 153A-364(c) and GS 160A-424(c) to prohibit a local government from (1) requiring registration of residential rental property, (2) adopting or enforcing a local ordinance that requires any owner or manager of a rental property to obtain any permit or permission from local government to lease residential real property, (3) requiring an owner or manager of residential rental property to enroll in any governmental program as a condition of obtaining a Certificate of Occupancy, or (4) levying a special fee or tax on residential rental property that is not also levied against other commercial and residential properties.

Intro. by Committee on Rules, Calendar, and Operations of the House.

GS 153A, 160A

Local Government

H 555. [2011 SPEAKER'S APPOINTMENTS BILL](#). Filed 3/30/11. *TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.*

Blank bill.

Intro. by Rules, Calendar, and Operations of the House.

UNCODIFIED

General Assembly

H 556. VOLUNTEER SERVICE IN RETIREMENT. Filed 3/30/11. *TO AMEND THE DEFINITION OF RETIREMENT TO CLARIFY THAT SERVICE AS AN UNPAID VOLUNTEER IS NOT CONSIDERED SERVICE FOR THE PURPOSE OF THAT DEFINITION.*

Amends the definition of *retirement* in GS 135-1(20), as the title indicates. Effective from and after March 24, 2009.

Intro. by Committee on Rules, Calendar, and Operations of the House. GS 135 Employment and Retirement

H 559. STUDY/MUNICIPAL ELECTRIC UTILITIES. Filed 3/30/11. *CREATING THE MUNICIPAL ELECTRIC POWER STUDY COMMISSION TO STUDY THE ELECTRIC RATES CHARGED AND SERVICE PROVIDED BY THE CITIES AND TOWNS IN EASTERN NORTH CAROLINA THAT COMPRISE THE NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY.*

Creates the 16 member Municipal Electric Power Study Commission (Commission) to study electric rates charged and service provided by the towns and cities in eastern NC that own an electric utility and are members of the NC Eastern Municipal Power Agency. Sets forth details on Commission members, meeting guidelines, and additional Commission administration. Directs the Commission to submit a final report, including any proposed legislation, to the 2012 Regular Session of the 2011 General Assembly, and to terminate upon the earlier of the report filing or the 2012 session convening.

Intro. by Farmer-Butterfield. STUDY Energy and Utilities

H 560. HONOR JEANNE FENNER. Filed 3/30/11. *HONORING THE LIFE AND MEMORY OF JEANNE TUCKER FENNER, FORMER MEMBER OF THE GENERAL ASSEMBLY.*

As title indicates.

Intro. by Farmer-Butterfield. HOUSE RES General Assembly

H 563. HONOR RALPH CAMPBELL. Filed 3/30/11. *HONORING THE LIFE AND MEMORY OF RALPH CAMPBELL, JR., FORMER STATE AUDITOR.*

As title indicates.

Intro. by Michaux, Ross, Martin, Weiss. HOUSE RES General Assembly

H 564. SCHOOL CAPITAL FUND FORMULA/LOTTERY PROCEEDS. Filed 3/30/11. *TO CHANGE THE SCHOOL CAPITAL CONSTRUCTION FORMULA IN THE STATE LOTTERY ACT TO PROVIDE FOR DISTRIBUTION OF ALL OF THE FUNDS BASED ON AVERAGE DAILY MEMBERSHIP.*

Amends GS 115C-546.2, as title indicates. Effective July 1, 2011.

Intro. by Hilton, Fisher, Keever, Moffitt. GS 115C Education

H 567. MOUNTAIN RESOURCES COMM'N/STAGGERED TERMS. Filed 3/30/11. *TO PROVIDE FOR STAGGERED TERMS FOR THE MOUNTAIN RESOURCES COMMISSION ESTABLISHED BY CHAPTER 153B OF THE GENERAL STATUTES.*

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

Intro. by McGrady, Rapp. GS 153B Agriculture, Environment, and Natural Resources

H 568. LEGISLATIVE MILEAGE. Filed 3/30/11. *TO UPDATE THE LEGISLATIVE MILEAGE RATE.*

Effective upon the convening of the 2013 Regular Session of the General Assembly, amends GS 120-3.1 to update the legislative mileage rate to that set by the Internal Revenue Service on December 20, 2010 (was, December 27, 1993).

Intro. by Womble. 120 General Assembly

H 569. HUNTING PROTECTION ACT (=S 429). Filed 3/30/11. *TO REGULATE TRESPASSING TO HUNT IN ORDER TO PROTECT RESPONSIBLE HUNTERS.*

Identical to S 429, filed 3/24/11.

Intro. by Lewis. GS 14 Criminal Law, Procedure, and Sentencing

H 570. TANF BLOCK GRANT FUNDS/BOYS & GIRLS CLUB (=S 383). Filed 3/30/11. *TO APPROPRIATE FEDERAL FUNDS UNDER THE TANF BLOCK GRANT FOR BOYS AND GIRLS CLUBS.*

Identical to S 383, filed 3/21/11.

Intro. by T. Moore, Lewis. APPROP Budget and Appropriations; Health, Social Services, and Aging

H 571. PREPAID WIRELESS/POINT OF SALE COLLECTION (=S 302). Filed 3/30/11. *IMPOSING A SERVICE CHARGE OF ONE AND TWO-TENTHS PERCENT ON THE PURCHASE OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE FOR ANY PURPOSE OTHER THAN RESALE OCCURRING IN THIS STATE, REQUIRING THAT THE SERVICE CHARGE BE COLLECTED BY THE SELLER OF PREPAID WIRELESS TELECOMMUNICATION SERVICE AND REMITTED TO THE DEPARTMENT OF REVENUE, AND PROVIDING THAT THE DEPARTMENT OF REVENUE SHALL TRANSFER ALL SERVICE CHARGES COLLECTED, MINUS THE COSTS OF COLLECTION, TO THE 911 FUND TO SUPPORT 911 SERVICES IN THE STATE.*

Identical to S 302, filed 3/9/11.

Intro. by Sager, Justice, Bryant, Brawley. GS 62A, 105 Energy and Utilities; Taxation

H 572. ACCOUNTABILITY FOR PUBLICLY FUNDED NONPROFITS. Filed 3/30/11. *TO PROVIDE GREATER ACCOUNTABILITY FOR NONPROFIT ENTITIES THAT RECEIVE PUBLIC FUNDING.*

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

Intro. by Justice, Sager, Stevens, West. GS 55A Business and Commerce

H 574. DISTRIBUTION MOD TO EXCISE TAX ON CONVEYANCES. Filed 3/31/11. *TO MODIFY THE DISTRIBUTION OF PROCEEDS OF THE EXCISE TAX LEVIED ON INSTRUMENTALITIES BY WHICH INTERESTS IN REAL PROPERTY ARE CONVEYED TO ANOTHER.*

Amends GS 105-228.30(b) directing the Department of Revenue to credit, from funds remitted to the Department from excise taxes on conveyances, 50% to the NC Housing Trust Fund, 37% (rather than 75%) to the Parks and Recreation Trust Fund, and 13% (rather than 25%) to the Natural Heritage Trust Fund. Applies to instruments recorded on or after July 1, 2011.

Intro. by Hall, Killian. GS 105 Taxation

SENATE BILLS

S 432. REVISE PROBATE CODE. Filed 3/28/11. *TO AMEND THE JURISDICTIONAL AND PROCEDURAL PROVISIONS OF THE PROBATE CODE AND RELATED STATUTES TO PROVIDE UNIFORMITY IN ESTATE MATTERS, TO DEFINE THE JURISDICTION OF THE CLERK OF SUPERIOR COURT CONSISTENT WITH THE PROVISIONS OF THE UNIFORM TRUST CODE, TO RECODIFY CERTAIN PROVISIONS RELATING TO THE PROBATE OF WILLS, AND TO UPDATE AND AMEND THE PROCEDURE FOR CLAIMING SPOUSAL AND CHILDREN'S ALLOWANCES.*

Makes the following amendments to GS 1-301.3. Changes the catch line to read, "appeal of *trust and* estate matters determined by clerk" (was, estate matters). Provides that the section applies to the administration of trusts (was, testamentary trusts) and of estates of decedents, incompetents and minors. Provides that a party wishing to appeal an order or judgment by the clerk may file a written notice of appeal containing a short and plain statement of the basis for the appeal (was, required written notice to specify the basis for the appeal) within ten days of the entry of the order or judgment *after service of the order on that party*. Provides that in an appeal to superior court, if the record is insufficient, the judge of superior court may receive additional evidence on the factual (was evidentiary) issue in question.

Under current law, GS 7A-307 list the costs assessed in administration of estates. Amends GS 7A-307 to add estate proceedings under new GS 28A-2-4 (subject matter jurisdiction of the clerk of superior court in estate proceedings) to the list of those whose costs are assessed under this section. Adds that the cost assessed for the filing of a caveat to a will is \$200. Provides that the only cost assessed with reopening an estate administration under GS 28A-23-5 is forty cents per \$100, or major fraction, of any additional gross estate, including income,

coming into the hands of the fiduciary after the estate is reopened; caps the total cost assessed, including the total cost assessed in all previous administrations of the estate, at \$6,000.

Definitions and other general provisions of GS Chapter 28A. Expands the definitions under GS 28A-1-1 to include (1) *estate proceeding*, meaning a matter initiated by petition related to the administration, distribution, or settlement of an estate, other than a special proceeding; (2) *party*, meaning a party joined as a petitioner or respondent in the context of a contested or uncontested estate proceeding under GS 28A-2-6; and (3) *person*, meaning an individual and any other legal or commercial entity such as a corporation, an estate, or a governmental subdivision, agency, or instrumentality. Deletes the definition for *service*.

Enacts new GS 28A-2-4 providing that the clerks of superior court of North Carolina, as ex-officio judges of probate, have original jurisdiction of estate proceedings. Provides types of estate proceedings under the subject matter jurisdiction of the clerk of superior court. Also provides criteria regarding the transfer of an estate proceeding to superior court. Provides that Article 26 of GS Chapter 1 applies to a trust proceeding pending before the clerk of superior court to the extent consistent with Article 1 of GS 28A. Provides that nothing in this section affects a person's right to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26, GS Chapter 1. Provides additional specifications regarding requests for declaratory relief and motions for a transfer of proceedings to superior court. Declares that the clerk of superior court does not have jurisdiction of (1) actions by or against creditors or debtors of an estate except as provided in Article 19 of GS Chapter 28A; (2) actions involving claims for monetary damages; (3) caveats, except as provide under GS 31-36; (4) proceedings to determine venue; and (5) recovery of property transferred or conveyed by a decedent with the intent to hinder, delay, or defraud creditors, pursuant to GS 28A-15-10(b). Enacts new GS 28-2-5 to provide that the clerk of superior court has jurisdiction over special proceedings and that nothing in the statute is to be construed as limiting the jurisdiction of the clerk of superior court in special proceedings.

Enacts new GS 28A-2-6. Provides directives for the commencement of contested and uncontested estate proceedings. Additionally, provides directives regarding pleadings, extensions of time, consolidation of an estate proceeding and a civil action involving a common question of law or fact, joinder of claims, and providing notice of transfer. Provides that unless otherwise directed by the clerk of superior court, Rules 4.5, 6(a), 6(d), 6(e), 18, 19, 20, 21, 24, 45, 56, and 65 of G.S. 1A-1, the Rules of Civil Procedure, apply to estate proceedings. Also provides that the clerk may further direct that any or all of the remaining rules apply. Provides criteria governing the issuing of orders by the clerk or the judge upon the consolidation, joinder, or transfer of an estate proceeding.

Enacts additional new statutory provisions regarding representation of parties (GS 28A-2-7), waiver of notice (GS 28A-2-8), appeals of estate proceedings and special proceedings (GS 28A-2-9), and approval of family settlement agreements by the clerk (GS 28A-2-10).

Probate of Will. Amends GS Chapter 28A, recodifying Article 5 of GS Chapter 31, GS 31-12 through GS 31-31.2 as Article 2A of GS Chapter 28A, GS 28A-2A-1 through GS 28A-2A-23.

Makes the following changes to new Article 2A of GS Chapter 28A.

Authorizes the clerk of superior court to shorten the initial 60-day period during which the executor may apply to have the will proved, if good cause is shown. Enacts new GS 28A-2A-7 to provide that a person entitled to apply for probate of a will under GS 28-2A-1 or GS 28A-2A-2 may file a petition for probate of the will in solemn form, and the matter will proceed as an estate proceeding governed by Article 2 of GS Chapter 28A. Provides directives regarding probate of a will in solemn form and regarding contesting the validity of a will by an interested party.

Administration of Decedents' Estates. Amends GS 28A-3-2 to provide that any interested person may file a petition to determine the proper venue for the administration of the estate. Amends GS 28A-4-1 to provide that any interested person may file a petition under Article 2 of GS Chapter 28 alleging that a person or persons is (are) disqualified to serve as administrator of the estate in accordance with the listing of disqualified persons to serve as a personal representative under GS 28A-4-2.

Amends GS 28A-5-1 regarding the implied renunciation by a named or designated executor, providing the procedures to be followed should a person named or designated as an executor fail to qualify or renounce the office of executor within 30 days after the will has been admitted to probate. Amends GS 28A-5-2 regarding the implied renunciation of the right to administer an estate by a person entitled to apply for letters of administration, providing the procedures to be followed should a person so entitled fail to apply for letters of administration within 30 days from the date of death of the intestate decedent. Amends both GS 28A-5-1 and GS 28A-5-2 to delete provision authorizing the clerk of superior court to issue a citation against a person who has failed to qualify or renounce to show cause that the person should not be determined to have renounced the office of executor; instead provides for the clerk of superior court to issue a notice to that person to qualify or move for an extension of time to qualify within 15 days. Also provides that any interested person may file a petition in accordance with Article 2 of GS Chapter 28A seeking an order finding that the person be deemed to have renounced the office of executor.

Amends GS 28A-6-1 to provide that the clerk of superior court may rely on the following as evidence of death: (1) a certified or authenticated copy of a death certificate purported to be issued by an official or agency of the place where the death purportedly occurred, (2) a certified or authenticated copy of any record or report of a domestic or foreign governmental agency evidencing the date of death, (3) a certificate or authenticated copy of medical records evidencing the date of death, or (4) any other evidence that clerk of superior court deems sufficient to confirm the date of death.

Amends GS 28A-6-2 to provide that letters of administration or testamentary letters may be issued without notice including upon a finding of implied renunciation under GS 28A-5-1(b) and GS 28A-5-2(b). Provides that all persons entitled to an equal or higher preference for appointment than an applicant who is not entitled to a priority of appointment under GS 28A-4-1 are to be given 15 days prior written notice of the application of the person who is not entitled to a priority of appointment, unless the persons with an equal or higher preference have renounced in accordance with the provisions of Article 5 of GS Chapter 28A.

Amends GS 28A-6-4 to clarify that before letters of administration or letters testamentary are issued, any interested person may by written petition (was, objection), filed with the clerk of superior court and served on interested persons as directed by the clerk of superior court, contest the issuing of letters of administration or letters testamentary to a person who is otherwise entitled to apply for the letters. Directs the clerk of superior court to conduct a hearing to determine to whom the letters are to be issued and provides that an appeal from the order may be taken as in an estate proceeding under GS 1-301.3.

Amends GS 28A-8-1 to provide that no bond is required for a personal representative who is a trust institution licensed under GS 53-159 (was, a national banking association having its principal place of business in this state or a state bank acting under GS 53-159).

Amends GS 28A-8-3 to provide that upon receipt of a verified petition filed by an interested party requesting modification of bond requirements, the clerk of superior court (clerk) is to conduct a hearing in accordance with Article 2 of GS Chapter 28A (was, required the clerk to issue a citation requiring the personal representative to show cause why the bond should not be modified). Amends GS 28A-8-4 to provide that if any personal representative fails to comply with an order by the clerk regarding additional bond or new bond within the time specified in the order (not less than five days or more than 15 days), the clerk is to proceed as provided in GS 28A-9-2.

Amends GS 28A-8-5 to direct the clerk conduct a hearing under Article 2 of GS Chapter 28A upon verified petition from any surety, on the bond of a personal representative, who is in danger of loss of the surety's suretyship. Amends subsection (b) of GS 28A-9-1 to allow the clerk to conduct a hearing, on the clerk's own motion or upon the verified petition of any person interested in the estate, in accordance with Article 2 of GS Chapter 28A to determine if any of the grounds for revocation of letters of administration, letters testamentary, or letters of collection as indicated in subsection (a) of this section exist. Provides that notice of the hearing is to be provided in accordance with Article 2 of GS Chapter 28A. Amends GS 28A-9-4 and GS 28A-10-6 to clarify that (1) an appeal from the order of the clerk granting or denying revocation and (2) an appeal from an order of the clerk denying or allowing the resignation of a personal representative are special proceedings pursuant to GS 28A-2-9(b). Authorizes the clerk to issue a stay of an order of revocation or of an order allowing resignation upon the appellant posting an appropriate bond set by the clerk until such time as the cause is heard and determined upon appeal.

Amends GS 28A-13-3. Current law requires a personal representative to petition the clerk to obtain an order authorizing the personal representative's custody, control, or possession over real property of the estate. Makes an exception for real property that is given to the personal representative in the deceased person's will, or real property to which the personal representative acquires title during the administration of the estate, providing that the personal representative is immediately entitled to custody, possession, and control of real property meeting this exception and may institute an estate proceeding under subsection (d) of this section to enforce those rights. Subsection (d) provides that the personal representative may institute an estate proceeding under Article 2 of GS Chapter 28A. Also provides that if the real property is occupied by a tenant or lessee, the personal representative may seek ejectment of the tenant or lessee only through the summary ejectment provisions of Article 3 of GS Chapter 42.

Amends GS 28A-13-6(c1), replacing the word *trust* where it occurs with the word *estate*. Amends GS 28A-15-12, changing the catch line to *Actions to recover property of decedent* (was, Examination of persons or corporations believed to have possession of property of decedent). Deletes subsection (a) and replaces it with subsection (a1) providing that a personal representative or collector has the right to sue in superior court to recover any property of any kind that belongs to the estate of the decedent and is entitled to provisional remedies as provided for under Subchapter 13 of GS Chapter 1. Also deletes subsection (b) and replaces it with subsection (b1) providing a personal representative, collector, or any interested person has the right to file a verified petition

to institute an estates proceeding for examination of any persons reasonably believed to be in possession of property of any kind belonging to the decedent's estate and to make a demand for the recovery of that property.

Amends GS 28A-19-1 to provide that in a pending legal action against the decedent at the time of the decedent's death, which survives the decedent's death, the court may order, on motion, the substitution of the personal representative or collector for the decedent and that motion will constitute the presentation of a claim providing that the substitution occurs within the time specified for the presentation of claims under GS 28A-19-3.

Amends GS 28A-19-3 to clarify that except as otherwise specifically provided in this section, the limitations on presentation of claims set out in this section apply to claims by the State of North Carolina, its subdivisions, and its agencies. Amends GS 28A-19-5 providing that the clerk may provide for the payment of contingent and unliquidated claims via transfer of a petition filed under subsection (b) of GS 28A-19-5 to the superior court trial division for a determination of the validity or priority of the claim. Provides basis for a claimant securing of a hearing by filing a petition with the clerk with respect to a contingent or unliquidated claim rejected by a personal representative under GS 28A-19-16.

Amends GS 28A-19-8 to provide that funeral expenses of a decedent advanced by a health care agent exercising authority described in GS 32A-19(b) are to be considered as an obligation of the estate regardless as to whether or not a personal representative of the estate has been appointed at the time the expenses are incurred. Amends GS 28A-19-9 to authorize a decedent's health care agent duly appointed under Article 3 of GS Chapter 32A to purchase a gravestone and provide a suitable burial place and receive reimbursement for the expenses incurred subject to the monetary limitations and procedures contained in this section. Amends GS 28A-19-16 to provide that a claimant must begin an action for recovery with regards to a claim that is presented and rejected within three months of receiving written notice of the rejection (was, after due notice in writing or after some part of claim becomes due). Provides that in the cares of a contingent or unliquidated claim, the claimant must file a petition for an order from the clerk pursuant to GS 23A-19-5(b).

Amends GS 28A-21-2 to provide that absent an extension by the clerk of the time for filing the final account the personal representative or collector must file the final account for settlement within one year after qualifying or within six months after receiving a state estate or inheritance tax release, or *in the time period for filing an annual account under GS 28A-21-1*, whichever is later.

Enacts new GS 28A-21-6 to provide that the personal representative or collector *may* give written notice (but is not required to do so) of a proposed final account under GS 1A-1, Rule 4, to all devisees of the estate in the case of a will, and to all heirs of the state when the decedent was without a will, indicating the date and place of the filing of the final account. Provides guidelines regarding the permissive notice of final accounts.

Amends GS 28A-23-1 to direct the clerk, upon reviewing and approving the personal representative's or collector's final account, to enter an order discharging the personal representative or collector from further duties and liabilities (was, liabilities), including those set out in Article 13 of GS Chapter 28A. Prohibits the discharge order from including a release or discharge of liability for any breach of duty by a personal representative or collector as set forth in GS 28A-13-10(c).

Amends GS 28A-25-1 regarding the collection of property through used of an affidavit when the decedent dies intestate. Provides that when the person collecting the property by affidavit is the surviving spouse and only heir of the decedent, and not disqualified under GS 28A-4-2, the property that may be collected under this section may be more than \$20,000 in value but may not exceed \$30,000 in value, *after reduction for any spousal allowance paid to the surviving spouse under GS 30-15*.

Makes conforming and clarifying changes to GS Chapter 28A.

Intestate Succession. Enacts new GS 29-12.1 to provide that controversies arising under GS Chapter 29 are to be determined as an estate proceeding under Article 2 of GS Chapter 28A except for controversies arising under Article 8 of GS Chapter 29 (Election to Take Life Interest in Lieu of Intestate Share), which are to be determined as set out in GS Chapter 29. Amends GS 29-30 to provide that when a surviving spouse of an intestate decedent elects to take a life estate in the dwelling house and the value of that life estate is less than one-third in value of all the real estate, the surviving spouse may elect to take a life estate in other real estate of the intestate decedent so as to make the aggregate life estate of the surviving spouse equal to a life estate that is one-third in value of all the real estate. Provides that the election of the surviving spouse to take a life estate in one-third value of all the real estate of the decedent is to be made by the filing of a petition (was filing of a notice) in accordance with Article 2 of GS Chapter 28A with the clerk of superior court in the appropriate county. Also lists applicable time periods for making the election and requires that the election be made before the shorter of the applicable time periods. Directs that no provisions in subsection (c) of GS 29-30 extends the time period for a surviving spouse to petition for an elective share under Article 1A of GS Chapter 30. Provides for service of the petition in accordance with GS 1A-1, Rule 4. Makes conforming changes replacing *notice of election* with the term *petition*. Provides that the rules of procedure relating to partition proceedings under GS Chapter 46 apply to the election and procedure to allot and set apart the life estate, except to the extent they would be inconsistent with

the provisions of this section. Provides that a determination of the life estate under this section may be appealed in accordance with GS 1-301.3.

Amends GS 30-3.4 to provide that an elective share proceeding is an estate proceeding and is to be conducted under the procedures of Article 2 of GS Chapter 28A (was, an estate matter to be conducted under GS 1-301.3). Makes additional conforming changes.

Year's Allowance. Amends GS 30-17 regarding surviving children who are entitled to an allowance to delete reference to the authority of the guardian or next friend acting on behalf of the child and replacing it with simply, guardian. Makes conforming changes to occurrences of the phrase *guardian or next friend* in GS Chapter 30. Current law provides that the clerk or on assignment by the clerk, the magistrate of the county in which administration was granted or the will was probated is to ascertain the value of the personal property from which the allowance is assigned. Provides for a right of appeal from the assignment by filing a copy of the assignment and a notice of appeal within 10 days after the assignment, and directs that the appeal is to be heard as provided in GS 1-301.2 at the next available session of superior court. Deletes provision requiring the appellant to file a copy of the assignment with the clerk and a statement of the appellant's exceptions and declaring that the issues raised will be decided *de novo*.

Amends GS 30-27 to provide that a surviving spouse or child may apply to superior court after specified conditions are met and within one year after the decedent's death to have a year's support assigned at an amount other than prescribed in GS 30-15 (when spouse entitled to allowance) and GS 30-17 (when children entitled to an allowance). Provides for the nature of the proceedings (GS 30-28) requiring that application be by petition in a special proceeding before the clerk of superior court and specifies persons to be made parties to the special proceeding, including all known creditors, heirs, and devisees. Makes conforming changes to GS 30-29 replacing *complaint* with *petition* and *plaintiff* with *petitioner*. Provides that the clerk is to hear the matter and determine if the petitioner is entitled to the relief sought (GS 30-30). Provides that any judgment rendered in favor of the petitioner is subject to the same priority over other debts and claims against the estate as an allowance assigned under GS 30-15 or GS 30-17. Amends GS 30-31 to provide that the clerk may assign a value sufficient for the support of the petitioner to the petitioner. Amends GS 30-31.1 to require the petitioner to serve the clerk's judgment on all other parties and requires the judgment to be filed in the estate file of the deceased. Provides that any aggrieved party may appeal the judgment under GS 1-301.2. Provides that if the judgment is not appealed that the judgment is to be executed. Makes additional conforming changes to Article 4 of GS Chapter 30.

Wills. Provides that GS 31-12 through GS 31-31.2 are recodified as Article 2A of GS Chapter 28A by Section 3 of this act. Amends GS 31-32 as follows. Changes the catch line to *Filing of caveat* (was, when and by whom caveat filed). Declares that if any person who is entitled to file a caveat is within the age of 18 years, or *incompetent as defined in GS 35A-1101(7) or (8)* (was, insane, or imprisoned) then that person may file a caveat within three years after the removal of the disability. Requires the caveat to be placed in the decedent's estate file and directs the clerk of superior court (clerk) to give notice of the filing by making an entry on the page of the will book where the will is recorded that includes the date of the filing (this provision was previously codified in GS 31-37). Provides that if a will has been probated in solemn form under GS 28A-2A-7, any party that was properly served in that probate in solemn form is prohibited from filing a caveat.

Amends GS 31-33 as follows. Directs the clerk to transfer the cause to superior court upon the filing of a caveat. Requires service of the caveat on all interested parties in accordance with GS 1A-1, Rule 4 of the Rules of Civil Procedure (Rules), after which the caveator is responsible for causing notice of hearing to be served on all parties in accordance with Rule 5 of the Rules. Provides that at the alignment hearing, all of the interested parties who wish to be aligned are to appear in court and be aligned by the court as parties with the caveator or parties with the propounders of the will. Directs the judge to dismiss from the proceeding an interested party who does not appear to be aligned or chooses not to be aligned. Deletes provisions requiring that the caveator and all interested parties who wish to be aligned by the court as parties in the action to file bond as directed by the court. Provides that the court, upon motion of an aligned party, may require a caveator to provide security in an amount determined by the court. Provides that the court is to consider relevant facts related to the need for a bond and the amount of any bond. Permits any interested party who was aligned to file a responsive pleading to caveat within 30 days following the entry of an order aligning the parties. Provides that failure to respond to any claim or averment of the caveat is not deemed to be an admission. Provides that an extension of time to file a responsive pleading may be granted as provided by Rule 6 of the Rules.

Current law provides that questions regarding the use, location, and disposition of assets that cannot be resolved by the parties are to be decided by the clerk. Amends GS 31-36 to provide that decisions of the clerk may be appealed to superior court pursuant to GS 1-301.3.

Amends GS 31-37.1 to clarify that a settlement agreement entered into by the parties must be approved by the superior court and the judgment entered by the court. Provides that the consent of parties that are not aligned as prescribed in GS 31-33 is not necessary for a settlement agreement under this section. Requires the clerk to

file a copy of the judgment entered by the superior court in a caveat proceeding in the estate file and to make an entry on the page of the will book where the will is recorded declaring that the final judgment has been entered either sustaining or setting aside the will (was, contested will) (this provision was previously codified in GS 31-37).

Makes conforming changes deleting GS 31-34 and GS 31-37.

Amends GS Chapter 31A by enacting new GS 31A-16 to provide that any controversies arising under GS Chapter 31A are to be determined as estate proceedings under GS 28A-2-4; however, nothing in this Chapter affects the right of a person to file an action for declaratory relief under Article 26 of GS Chapter 1.

Current law provides a fiduciary may institute a proceeding for review of renunciation. Amends GS 31B-1.2 to provide that if the fiduciary is a trustee, the proceeding is governed by GS Chapter 36C; however, if the fiduciary is a personal representative, then the proceeding is governed by GS Chapter 28A.

Amends GS 32A-20(b) to provide that a health care power of attorney is effective following the death of the person granting the authority (principal) without regard to the principal's understanding or capacity when the principal was living for the purpose of exercising the authority described in GS 32A-19(b), which provides that a health care power of attorney may authorize the health care agent to exercise any and all rights the principal may have with respect to anatomical gifts, the authorization of any autopsy, and the disposition of remains.

Amends GS 36C-2-205(d) to delete restriction that extensions of time not be granted more than once under Article 2 (Judicial Proceedings) of GS Chapter 36C and to provide that the court may enlarge an extension of time beyond 10 days if the court finds that justice requires that the time be extended beyond that time.

Amends GS 36C-2-205(e) to add Rules 4, 56, and 65 to the list of Rules of Civil Procedure that apply to trust proceedings unless the clerk directs otherwise. Provides that the clerk may direct that any or all of the remaining Rules of Civil Procedure apply, including discovery rules.

Amends GS 36C-6-604 to provide that the notice informing a person of the existence of a trust must be written notice pursuant to GS 1A-1, Rule 14 of the Rules of Civil Procedure.

Makes additional conforming and technical changes.

Effective January 1, 2012, and applies to estates of decedents dying on or after that date.

Intro. by Hartsell.

GS 1, 7A, 28A, 29, 30, 31, 31A,
31B, 32A, 36C

Trusts, Estates, and Wills; Courts;
Family Law

S 461. AMEND WEIGHT LIMITS FOR FARM PRODUCTS (=H 468). Filed 3/30/11. *TO ALLOW AN EXEMPTION FROM VEHICLE WEIGHT LIMITS FOR A PERSON HAULING LIVE POULTRY FROM THE FARM WHERE THE LIVE POULTRY IS RAISED TO ANY PROCESSING FACILITY WITHIN ONE HUNDRED FIFTY MILES OF THAT FARM.*

Identical to H 468, filed 3/24/11.

Intro. by Tucker.

GS 20

Transportation; Agriculture,
Environment, and Natural
Resources

S 462. DISTRIBUTION OF EXCISE TAX ON TITLE INSTRUMENTS. Filed 3/30/11. *TO BOLSTER AFFORDABLE HOUSING THROUGH EQUITABLE DISTRIBUTION OF THE EXCISE TAX.*

Amends GS 105-228.30(b), directing the Department of Revenue to credit, from funds remitted to the Department from excise taxes on conveyances, 50% to the NC Housing Trust Fund, 37% (rather than 75%) to the Parks and Recreation Trust Fund, and 13% (rather than 25%) to the Natural Heritage Trust Fund. Applies to instruments recorded on or after July 1, 2011.

Intro. by Mansfield, Gunn, Clary. GS 105

Taxation; Property, Land Use, and
Housing

S 463. ACCOUNTABILITY FOR TAXPAYER INVESTMENT ACT. Filed 3/30/11. *TO REQUIRE CERTAIN STATE AGENCIES AND CERTAIN NON-STATE ENTITIES TO DEVELOP, IMPLEMENT, AND MAINTAIN INFORMATION SYSTEMS THAT PROVIDE UNIFORM, PROGRAM-LEVEL ACCOUNTABILITY INFORMATION REGARDING THE PROGRAMS OPERATED BY THOSE AGENCIES.*

Enacts new Article 2E, *Accountability for Taxpayer Investment Act*, to GS Chapter 143 to require uniform, program-level accountability information in state government. Article 2E applies to any state agency in the executive branch, and also applies to any non-state entity that receives state funds. Defines *non-state entity* as any of the following that is not a state agency and that is discretely presented as a component unit in the State Comprehensive Annual Financial Report by the Governmental Accounting Standards Board: an individual, firm, partnership, association, corporation, or any other organization or group acting as a unit. Includes additional definitions applicable to Article 2E.

Effective July 1, 2011, creates the Taxpayer Investment Accountability Board (Board), with nine members as specified. Details meeting requirements, additional administration criteria, and Board responsibilities. Directs the Board to publish an annual report by January 1 of each year, detailing the standards, policies, and procedures to establish, implement, and maintain the required information systems.

Directs each state agency, and each non-state entity receiving state funds, to establish, implement, and maintain a system to provide uniform, program-level accountability information that accurately conveys the mission, responsibilities, and activities of the state agency or entity and any other information required by the Board. Requires the system to comply with Board guidelines, be updated on a timely basis, and be accessible to NC citizens. Makes the principal executive officer of each state agency and each non-state entity responsible for compliance with Article 2E. Enumerates items to be included in the information system, including performance measures for each program to determine listed functions, revenues by source and expenditures by purchasing category, and a listing of all employees.

Directs the State Auditor to verify compliance with Article 2E on an annual basis, and to report noncompliance as indicated. Permits any person to institute a suit in superior court requesting a judgment that the state agency or non-state entity failed to comply with Article 2E, and granting specific performance. Specifies that the plaintiff need not allege or prove special damage different from damage suffered by the public. Sets forth additional provisions related to actions for noncompliance. Directs the Office of State Personnel to adopt rules concerning the organization charts and manager-to-employee ratios, as required, and to provide templates and technical assistance. Also directs the Office of State Budget and Management and the Office of Information Technology to provide technical assistance and software as required.

Makes a conforming change to GS 150B-1(c), exempting the Board from the Administrative Procedure Act.

Directs each state agency or non-state entity subject to proposed Article 3E to revise its current information system to comply with Article 3E, and to use existing resources to do so.

Effective July 1, 2012, unless otherwise provided.

Intro. by Mansfield.

GS 143, 150B

State Government

S 464. [DEBT REDUCTION ACT OF 2011](#). Filed 3/30/11. *TO ENACT THE DEBT REDUCTION ACT OF 2011.*

Amends Section 27.8(a) of SL 2008-107, as amended, allowing NC to issue or incur special indebtedness (1) in the maximum aggregate principal amount of \$10 million (rather than \$25 million) to finance capital improvement costs of acquiring state land throughout the University of North Carolina, and (2) in the maximum aggregate principal amount of \$10 million (rather than \$50 million) to finance the capital improvement costs of acquiring state park lands and conservation areas for the Land of Tomorrow initiative in the Department of Environment and Natural Resources. Makes conforming changes. Deletes provision authorizing special indebtedness to finance a horse park in Rockingham County for NC Agricultural and Technical State University. Repeals Sections 30.4(b), 30.7, and 30.11 in SL 2010-31. Prohibits the reauthorization or funding for any of the projects deauthorized by this act, to the extent of the deauthorization.

**Intro. by Hunt, Brunstetter,
Stevens.**

UNCODIFIED

Budget and Appropriations; State
Government

S 465. [BEHAVIORAL HEALTH MANAGEMENT](#). Filed 3/30/11. *TO ALLOW AREA AUTHORITIES ORGANIZED UNDER CHAPTER 122C OF THE GENERAL STATUTES THAT ARE OPERATING UNDER MEDICAID MANAGED CARE WAIVERS TO ORGANIZE UNDER CHAPTER 131E OF THE GENERAL STATUTES, THE HOSPITAL AUTHORITIES ACT.*

Enacts new GS 131E-35 to allow for the creation of a behavioral health authority (authority) when a county board of commissioners finds and adopts a resolution finding that it is in the interest of public health and welfare to create the authority to operate a behavioral health program under a Medicaid 1915 (b)/(c) waiver program. Requires an authority to be created in the same manner as a hospital authority and subject to the same provisions except GS 131E-20 (boundary of the authority).

Intro. by Hartsell.

GS 131E

Health, Social Services, and Aging

S 466. [MODIFY TEACHER CAREER STATUS LAW](#). Filed 3/30/11. *TO MODIFY THE LAW RELATING TO CAREER STATUS FOR PUBLIC SCHOOL TEACHERS.*

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

Intro. by Hartsell, Tillman.

GS 115C

Education

S 467. [NATUROPATHIC LICENSING ACT](#). Filed 3/30/11. *TO ESTABLISH THE NORTH CAROLINA NATUROPATHIC DOCTORS LICENSURE ACT.*

Adds new Article 43, *North Carolina Naturopathic Doctors Licensure Act*, to GS Chapter 90. Prohibits a person from practicing on or after January 1, 2012, as a naturopathic physician without a state license issued pursuant to the bill, with specified exemptions. Defines *naturopathic medicine* generally as a system of natural health care that employs diagnosis and treatment using natural therapies and diagnostic techniques. Sets out the techniques that may and that may not be used by naturopathic physicians. Makes violation of proposed GS 90-734 a Class 1 misdemeanor. Establishes the NC Naturopathic Physicians Licensing Board (Board), with seven members (three appointed by the Governor and two each upon recommendation of the Speaker of the House of Representative and the President Pro Tem. of the Senate, with each member having to come from specified groups (to be appointed by January 1, 2012). Charges Board with administration of the licensing program. Sets out qualifications for licensure as a naturopathic physician, fees that may be charged by the Board, and the Board's disciplinary authority. Permits criminal record checks for licensees and persons seeking licenses. Creates an Advisory Council to assist the Board in administration of the licensing program.

Intro. by Hartsell, Apodaca. GS 90, 114 Health, Social Services, and Aging

S 468. JUROR QUALIFICATIONS/DISABILITIES (=H 234). Filed 3/30/11. *TO AMEND THE QUALIFICATIONS FOR PROSPECTIVE JURORS IN ORDER TO ALLOW HEARING-IMPAIRED PERSONS TO SERVE AS JURORS AND TO PROVIDE FOR PERSONS WITH DISABILITIES TO APPLY FOR EXEMPTIONS FROM JURY DUTY.*

Substantively identical to H 234, filed 3/3/11.

Intro. by Clodfelter. GS 9 Courts

S 469. SMOKING BAN/EXEMPT AGE-RESTRICTED VENUES. Filed 3/30/11. *TO EXEMPT AGE-RESTRICTED VENUES FROM THE SMOKING BAN.*

Enacts new GS 130A-496(b)(4) and new GS 130A-498(b)(9) to permit smoking in an age-restricted venue that is structurally separated and ventilated to prevent smoke from migrating into an enclosed area where smoking is prohibited. Amends GS 130A-492 (definitions) to define *age-restricted venue* as a public place, including a bar or restaurant, that restricts entry to persons 18 years of age or older, including employees, as indicated. Defines *structurally separated* as a manner of construction including a stud wall, covered with drywall or other building material, or another barrier which, when completed, extends from the floor to ceiling, resulting in a physically separated room. Effective October 1, 2011.

Intro. by East. GS 130A Health, Social Services, and Aging

S 470. MODIFY COMM. COLLEGE CONSTRUCTION PROCESS. Filed 3/30/11. *RELATING TO CAPITAL IMPROVEMENTS AT COMMUNITY COLLEGES.*

Amends GS 115D-9(b), allowing the State Board of Community Colleges (State Board) to perform three detailed actions with respect to design, construction, repair, renovation of buildings, utilities, and other state funded (currently, state or non-state funded property) property developments of the Community College System requiring the estimated expenditure of public money of \$4 million (currently, \$1 million) or less. Enacts new subsection (h), stating that GS 143-341(3) (Department of Administration's architecture and engineering power) does not apply to capital improvement projects funded with non-state funds if the State Board determines the college has the required expertise to manage the project. Applies to projects initiated on or after the date the act becomes law.

Intro. by Tillman, Hartsell. GS 115D Education

S 471. YOUTH SKIN CANCER PREVENTION ACT. Filed 3/30/11. *TO RAISE THE AGE FOR WHICH USE OF TANNING EQUIPMENT REQUIRES A WRITTEN PRESCRIPTION.*

Amends GS 104E-9.1 to prohibit allowing a person 18 (was, 13) years of age or younger from using tanning equipment without a written doctor's prescription.

Intro. by Purcell, Mansfield, Forrester. GS 104E Business and Commerce; Health, Social Services, and Aging

S 472. NORWOOD WATER LINES. Filed 3/20/11. *TO AUTHORIZE ADDITIONAL CONNECTIONS TO WATER SUPPLY LINES FUNDED BY THE CLEAN WATER AND NATURAL GAS CRITICAL NEEDS BOND ACT OF 1998.*

Requires the Secretary of Environment and Natural Resources to grant a waiver allowing additional connections to a bond funded water line in an area designated as WS-I or the critical area of an area designated as WS-II, WS-III, or WS-IV, if the design capacity and size of the existing bond funded line can accommodate the additional connections and the purpose of the additional connection is to address an existing threat to water

quality or public health, or to provide water to a habitable structure that is located on a lot zoned for single family residence if the lot was platted at the time of the construction of the water line.

Intro. by Purcell.

UNCODIFIED

Agriculture, Environment, and
Natural Resources

S 473. THE SOLAR JOBS BILL (=H 495). Filed 3/30/11. (1) *TO REDUCE THE AMOUNT OF PURCHASED RENEWABLE ENERGY CERTIFICATES DERIVED FROM OUT-OF-STATE NEW SOLAR FACILITIES THAT MAY BE USED TO COMPLY WITH THE REPS REQUIREMENT THROUGH THE USE OF SOLAR ENERGY RESOURCES AND (2) TO DOUBLE THE REPS REQUIREMENT FOR THE USE OF SOLAR ENERGY RESOURCES AND EXPAND THE COMPLIANCE SCHEDULE.*

Identical to H 495, filed 3/28/11.

**Intro. by Apodaca, Stein,
Brunstetter.**

GS 62

Energy and Utilities

S 474. PHOTO ID FOR CERTAIN CONTROLLED SUBSTANCES. Filed 3/30/11. *TO DIRECT PHARMACIES TO REQUIRE PHOTO IDENTIFICATION PRIOR TO DISPENSING SCHEDULE II CONTROLLED SUBSTANCES.*

Enacts new GS 90-106.1, directing each pharmacy to require the person seeking dispensation to present one of four valid forms of government-issued photographic identification, before dispensing a Schedule II controlled substance. Requires the pharmacy to document the person's name, type of identification, and identification number, and retain all collected information as part of the pharmacy's business records for three years. Directs the pharmacy to make the identifying information available to any authorized person in the controlled substances reporting system within 72 hours after a request. Effective January 1, 2012.

Intro. by Apodaca, Hise.

GS 90

Health, Social Services, and Aging

S 475. FUNDING FOR ONE LEA PER COUNTY. Filed 3/30/11. *DIRECTING THE STATE BOARD OF EDUCATION TO PROVIDE FUNDS FOR ONLY ONE LOCAL SCHOOL ADMINISTRATIVE UNIT PER COUNTY.*

Directs the State Board of Education (SBE) to allot state funds on the basis of one local school administrative unit (LEA) per county. Requires the SBE to change allotment formulas as necessary and as specified. Details provisions for LEAs located in more than one county and for counties containing more than one LEA. Specifies that the act does not apply to allotments to the Nash-Rocky Mount, Edgecombe County, Cleveland County, or the Gaston County school administrative units. Effective July 1, 2011.

Intro. by Apodaca.

UNCODIFIED

Education

S 476. NEW HOME PURCHASE STIMULUS (=H 485). Filed 3/30/11. *TO STIMULATE NEW HOME PURCHASES.*

Identical to H 485, filed 3/25/11.

Intro. by Apodaca.

GS 105

Taxation; Property, Land Use, and
Housing

S 477. REDUCE OVERPOPULATION OF REINSURANCE FACILITY. Filed 3/30/11. *TO REDUCE THE EXCESSIVE NUMBER OF NORTH CAROLINA DRIVERS INSURED BY THE NORTH CAROLINA REINSURANCE FACILITY BY PROVIDING FOR FILE AND USE RATE DEVIATIONS FOR AUTOMOBILE LIABILITY INSURANCE AND BY PROVIDING A FIVE-YEAR PHASEOUT OF THE "CLEAN RISK" SUBCLASSIFICATION WITHIN THE REINSURANCE FACILITY.*

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

Intro. by Apodaca.

GS 58

Business and Commerce;
Transportation

S 478. OFFICE OF PROSECUTION SERVICES. Filed 3/30/11. *TO ESTABLISH AN OFFICE OF PROSECUTION SERVICES TO PROVIDE OVERSIGHT OF VARIOUS DISTRICT ATTORNEY OFFICES.*

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

Intro. by Bingham.

GS 7A, 7B, 14, 15A, 120, 143,
153A, 160A, 164

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

*Local Bills***HOUSE BILLS**

H 523. [CHANGE WINSTON-SALEM/FORSYTH ELECTION METHOD.](#) Filed 3/30/11. *TO CHANGE THE ELECTION YEAR FOR THE CITY OF WINSTON-SALEM AND THE ELECTION METHOD FOR THE WINSTON-SALEM/FORSYTH COUNTY BOARD OF EDUCATION.*

Amends GS 163-279(b) to require that regular municipal primaries and elections in Winston-Salem be held at the time of the primary and election for county officers in 2012 and quadrennially thereafter, and that officers elected at that time serve terms that expire at the organizational meeting of the city council after the general election. Further provides that terms for mayor and council members elected in 2009 expire at the organizational meeting after the 2012 regular municipal election.

Amends SL 1961-112, as amended, to require the Winston-Salem/Forsyth County Board of Education to be elected on a partisan basis. Requires that candidates be nominated at the same time and in the same manner as other county officers and requires each candidate to certify the location of their residence. Further amends the session law to provide that the terms of the Board of Education members elected in 2010 for two year terms expire on the first Monday in December of 2014 and deletes provisions for the year 2014 concerning term lengths based on the number of votes received.

Makes conforming changes.

Effective July 1, 2011.

Intro. by Folwell, McGee, L. Brown. FORSYTH Forsyth

H 524. [DURHAM CO./PISTOL PURCHASE PERMIT APP. FEE \(=S 298\).](#) Filed 3/30/11. *TO IMPOSE AN APPLICATION FEE OF TEN DOLLARS FOR A PERMIT OR LICENSE TO PURCHASE A PISTOL IN DURHAM COUNTY.*

Identical to S 298, filed 3/9/11.

Intro. by Hall, Luebke, Michaux. DURHAM Durham

H 527. [GREENSBORO MOTOR VEHICLE LEVY.](#) Filed 3/30/11. *TO AUTHORIZE THE CITY OF GREENSBORO TO INCREASE ITS MOTOR VEHICLE TAX BY UP TO AN ADDITIONAL SIX DOLLARS PER YEAR.*

Repeals SL 1991-31, which allowed Greensboro to charge a vehicle tax of up to \$5 a year for general purposes and up to an additional \$5 a year for local public transportation purposes. Amends GS 20-97(b) to allow Greensboro to levy a motor vehicle tax of no more \$16 a year and allows up to \$5 of the tax to be used for any lawful purpose. Requires the proceeds of the tax from any levy above \$5 and up to \$16 to be used for local public transportation purposes. The repeal of SL 1991-31 is effective on the date that Greensboro levies a tax under GS 20-97(b). Provides that the act does not affect the rights or liabilities of the state, taxpayer, or another person arising under a statute amended or repealed by the act before the effective date. The act also does not affect the right to any refund or credit of a tax that accrued under the repealed or amended statute before the effective date.

Intro. by Adams. GUILFORD Guilford

H 528. [DUPLIN ELECTIONS.](#) Filed 3/30/11. *TO ADD AN ADDITIONAL MEMBER TO THE DUPLIN COUNTY BOARD OF EDUCATION AND THE BOARD OF COMMISSIONERS OF DUPLIN COUNTY, AND TO CONFIRM THAT NORMAL REDISTRICTING REQUIREMENTS APPLY TO THOSE UNITS.*

Amends SL 1987-966, Section 1, to increase the membership of the Duplin County Board of Commissioners and Board of Education to seven members each, effective the first Monday in December of 2012, with one individual elected from the county at large. Further amends Sections 5 and 6 of the Session Law to require in 2012 and every four years thereafter that one commissioner and one member of the Board of Education be elected at large. Provides that GS 153A-22 (redefining electoral district boundaries) applies to the Board of Commissioners and GS 115C-37(i) (requiring the local board of education to revise electoral district boundaries) applies to the Board of Education.

Intro. by Dixon. DUPLIN Duplin

H 532. GRAHAM COUNTY/CEMETERY TAX BY GENERAL LAW. Filed 3/30/11. *PROVIDING FOR THE MAINTENANCE OF CEMETERIES IN GRAHAM COUNTY FROM AD VALOREM TAXES UNDER GENERAL LAW.*

As title indicates.

Intro. by West.

GRAHAM

Graham

H 533. CERRO GORDO/FAIR BLUFF/UTILITY LIENS. Filed 3/30/11. *PROVIDING THAT UNPAID CHARGES FOR UTILITY SERVICE IN THE TOWNS OF CERRO GORDO AND FAIR BLUFF SHALL CONSTITUTE A LIEN UPON THE REAL PROPERTY SERVED AND THE TOWNS MAY COLLECT THE LIENS IN THE SAME MANNER AS UNPAID PROPERTY TAXES.*

As title indicates. Provides that the charge becomes a lien if it is not paid within 10 days after it becomes due. Allows the charge to be collected by suit under the name of the city or the city's tax collector, by sale of the property upon which the lien attaches. Provides for advertising of the sale. Requires the sale to be made under the same rules and regulations and subject to the same costs and penalties and to the same rights of redemption as provided for the foreclosure of the lien on real estate for taxes. Effective July 1, 2011.

Intro. by Hill.

COLUMBUS

Columbus

H 534. MECKLENBURG/JUROR PRIVACY. Filed 3/30/11. *TO ELIMINATE THE REQUIREMENT THAT THE ADDRESS OF EACH QUALIFIED PERSON SELECTED FOR THE JURY LIST APPEAR ON THE LIST FILED WITH THE REGISTER OF DEEDS IN MECKLENBURG COUNTY, IN ORDER TO ALLAY JUROR PRIVACY CONCERNS.*

As title indicates.

Intro. by Cotham, M. Alexander.

MECKLENBURG

Mecklenburg

H 536. LINCOLN SCHOOL BOARD DISTRICTS. Filed 3/30/11. *REQUIRING LINCOLN COUNTY BOARD OF EDUCATION TO REVISE ITS RESIDENCY DISTRICTS AFTER EACH CENSUS AS IF THEY WERE ELECTORAL DISTRICTS.*

Amends SL 1973-876, as amended, as the title indicates. Requires that the district revisions begin in 2011. Prohibits the board of education from revising the districts again until a new federal census of population is taken. Requires the population of each district to be within 5% of the ideal population, which is one-sixth of the county's total population.

Intro. by Rhyne.

LINCOLN

Lincoln

H 537. WILKES FIRE TAX DIST. BOUNDARIES. Filed 3/30/11. *TO ESTABLISH THE BOUNDARY BETWEEN THE BROADWAY AND MORAVIAN FALLS FIRE TAX DISTRICTS IN WILKES COUNTY.*

As title indicates, describes the boundaries. Provides that subject to the new boundary line, the 1975 extension of the Broadway Fire Tax District and the 2002 extension of the Moravian Falls Fire Tax District are valid and lawful, as are all prior collections of fire tax revenues by Wilkes County in the areas subject to the extensions. Provides that the act does not prohibit a subsequent change in the Broadway Fire Tax District or the Moravian Falls Fire Tax District.

Intro. by Randleman.

WILKES

Wilkes

H 539. BUILDING CODE/WEBB ROAD FLEA MARKET. Filed 3/30/11. *TO EXEMPT FLEA AND FARMERS' MARKETS IN ROWAN COUNTY FROM CERTAIN REQUIREMENTS OF THE NORTH CAROLINA BUILDING CODE.*

Exempts buildings in Rowan County used for flea markets, farmers' markets or similar events where vendors rent space to sell goods or agricultural products and the spaces are open to the exterior areas surrounding the building from requirements for temperature control.

Intro. by Steen, H. Warren.

ROWAN

Rowan

H 543. CHARLOTTE/E-MAIL SUBSCRIPTION LIST. Filed 3/30/11. *PROVIDING THAT A LIST OF E-MAIL ADDRESSES OF PERSONS SUBSCRIBING TO E-MAIL LISTS KEPT BY THE CITY OF CHARLOTTE SHALL BE OPEN TO PUBLIC INSPECTION BUT THE CITY IS NOT REQUIRED TO PROVIDE A COPY OF THE LIST, AND PROVIDING THAT THE CITY MAY USE THE LIST ONLY FOR THE PURPOSES THAT IT WAS SUBSCRIBED TO.*

Amends SL 2010-83, to add Charlotte to the act, as title indicates.

Intro. by Samuelson.

MECKLENBURG

Mecklenburg

H 545. AMEND MOORE COUNTY OCCUPANCY TAX. Filed 3/30/11. *TO MODIFY THE MOORE COUNTY OCCUPANCY TAX.*

Authorizes the Moore County Board of Commissioners to levy a room occupancy tax of up to 3%. Provides that the tax must be levied, administered, collected, and repealed as provided in GS 153A-155 (uniform provisions for room occupancy taxes). Directs Moore County to remit quarterly to the Moore County Tourism Development Authority (TDA) the net proceeds of the occupancy tax. Requires the TDA to use at least two-thirds of the occupancy tax proceeds to promote travel and tourism in the county and the remainder for tourism-related expenditures. Details composition of the TDA members. Directs the TDA to make reports quarterly and at the end of the fiscal year to the county commissioners on its receipts and expenditures in such detail as required by the county. Makes conforming change to GS 153A-155(g). Provides that SL 1987-188, as amended, is rewritten and recodified as Sections 2 and 3 of the act.

Intro. by Boles.

MOORE

Moore

H 546. ALTERNATIVE SALARY PLANS/CHARLOTTE-MECK. SCH. Filed 3/30/11. *AUTHORIZING THE CHARLOTTE-MECKLENBURG SCHOOLS TO DEVELOP AND IMPLEMENT ALTERNATIVE SALARY PLANS FOR INSTRUCTIONAL PERSONNEL AND SCHOOL ADMINISTRATORS.*

Directs the State Board of Education to establish a pilot program authorizing the Charlotte-Mecklenburg Schools (CMS) to develop and implement alternative salary plans for teachers and administrators to improve student performance and teacher effectiveness through a performance-based compensation system. Specifies that CMS will receive funds for 2011-12 and for subsequent school years based on the 2011-12 allocation to develop and implement the compensation system. Requires the performance-based pay schedule: (1) align annual salary adjustments for teachers and administrators with documented student growth in learning, and (2) evaluate teachers and administrators at the local level to measure student academic growth based on an evaluation system including specified components. Requires that CMS ensure a part of the teacher evaluation will be based on data and indicators of student learning growth assessed as specified. Directs CMS to annually submit to the Department of Public Instruction an evaluation of the performance-based compensation system, including aggregate performance results of teachers and administrators. Directs the State Board of Education to grant waivers of laws, rules, policies, procedures, and practices to enable CMS to implement and sustain the compensation system, and to allow CMS flexibility in allocating mandated state increases to employees.

Intro. by Samuelson.

MECKLENBURG

Mecklenburg

H 548. SWAIN/GRAHAM COUNTY LINE. Filed 3/30/11. *TO CLARIFY THE LOCATION OF THE BOUNDARY BETWEEN THE COUNTIES OF GRAHAM AND SWAIN.*

As title indicates.

Intro. by Haire.

GRAHAM, SWAIN

Graham; Swain

H 550. ASHEVILLE-BUNCOMBE REGIONAL PARK AUTHORITY. Filed 3/30/11. *TO CREATE THE ASHEVILLE-BUNCOMBE REGIONAL PARK AUTHORITY.*

Establishes the Asheville-Buncombe Regional Park Authority (Park Authority), with jurisdiction over the property allocated to the Park Authority by the respective member jurisdictions of the Park Authority.

Intro. by Fisher, Kever.

BUNCOMBE

Buncombe

H 552. GREATER ASHEVILLE REG. AIRPORT AUTHORITY. Filed 3/30/11. *TO CREATE THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY.*

Establishes the Greater Asheville Regional Airport Authority (authority), consisting of seven members who must meet specified qualifications. Provides for events that disqualify an individual from serving on the Authority, membership terms, membership suspension, membership voting, authority meetings, and membership compensation. Establishes the authority's 18 duties, including purchasing, acquiring, establishing, constructing, owning, controlling, leasing, equipping, improving, maintaining, operating and regulating airports or landing fields for use by airplanes and other aircraft and all facilities incidental to their operation, within the limits of Buncombe and Henderson counties. Authorizes the authority to acquire any real or personal property from Buncombe and Henderson counties or the city of Asheville, which may be necessary for the construction, operation, and maintenance of any airport or facilities located in Buncombe or Henderson counties. Requires Asheville and Buncombe and Henderson counties to transfer the Asheville Regional Airport to the authority within 90 days after enactment of the act, unless approval of a federal agency is required, then the time period is extended to within 90 days of the agency's approval. Provides for the acquisition of private property. Prohibits the authority from levying any taxes. Requires the authority to make an annual report to the Buncombe County Board of Commissioners, the Asheville City Council, and the Henderson County Board of Commissioners. Provides for

entering into contracts, leases, conveyances, and other agreements. Requires the authority's powers to be construed liberally in favor of the authority and include a severability clause.

Intro. by Moffitt, McGrady.

BUNCOMBE, HENDERSON

Buncombe; Henderson

H 553. SCHOOL CALENDAR PILOT PROGRAM/STANLY COUNTY. Filed 3/30/11. *AUTHORIZING A SCHOOL CALENDAR PILOT PROGRAM IN THE STANLY COUNTY SCHOOLS.*

Directs the State Board of Education (SBE) to establish a school calendar pilot program in the Stanly County schools to determine whether and to what extent a local school administrative unit (LEA) can save money by consolidating the calendar. Requires the school calendars for 2011-12 and 2012-13 to include a minimum of 180 days or 1,000 hours of instruction covering nine calendar months, with the opening date for students not before August 24. Allows the Stanly County Board of Education to add instructional hours to previously scheduled school days, and provides that the LEA is deemed to have 180 days of instruction and teachers employed for a 10-month term are deemed employed for those days, in such a situation. Instructs the SBE to report to the Joint Legislative Education Oversight Committee by March 15, 2012 and by March 15, 2013, on the pilot program, cost savings, and student achievement.

Intro. by Burr.

STANLY

Stanly

H 557. EXEMPT ROWAN COUNTY/LOCAL MATCH/HCCBG FUNDS. Filed 3/30/11. *TO EXEMPT ROWAN COUNTY FROM LOCAL MATCH REQUIREMENTS FOR HOME AND COMMUNITY CARE BLOCK GRANT FUNDS UPON WITHDRAWAL OF MEMBERSHIP FROM THE LEAD REGIONAL ORGANIZATION AND TO DIVEST ROWAN COUNTY OF ANY RIGHT OR DUTY TO UTILIZE THE LEAD REGIONAL ORGANIZATION FOR GRANT WRITING ASSISTANCE.*

Provides that if Rowan County decides not to participate as a member of a lead regional organization (LRO), or council of government (COG), but remains a part of a planning and service area designated by the Division of Aging and Adult Services of the Department of Health and Human Services for federal Old Americans act funding, then (1) funds allocated to the county from federal Home and Community Care Block Grant (HCCBG) funds do not require a local match, and (2) the county is not entitled to or required to accept assistance from the LRO or COG for any HCCBG services.

Intro. by Steen, H. Warren.

ROWAN

Rowan

H 558. FORSYTH/WINSTON-SALEM ZONING AMENDMENTS. Filed 3/30/11. *TO AMEND THE ENABLING LAWS RELATING TO CITY-COUNTY PLANNING AND ZONING IN FORSYTH COUNTY AND THE CITY OF WINSTON-SALEM.*

Amends Section 24 of SL 1947-677, as amended, to permit the Building Inspector or Administrative Officer, or that person's designee, to notify a chronic violator of Winston-Salem's zoning ordinance that if the violator's property violates the ordinance, Winston-Salem will, without additional notice in the calendar year, take action to remedy the violation, with expense attached as a lien on the violator's property and collected as unpaid taxes. Sets forth details for notice and defines *chronic violator*.

Intro. by Womble, Parmon, L.

FORSYTH

Forsyth

Brown, McGee.

H 561. MEDIANS ON U.S. HIGHWAY 70. Filed 3/30/11. *TO PROHIBIT THE DEPARTMENT OF TRANSPORTATION FROM CONSTRUCTING TRAFFIC MEDIANS ON THAT PORTION OF U.S. HIGHWAY 70 IN LENOIR COUNTY BETWEEN THE INTERSECTIONS OF U.S. HIGHWAY 258 SOUTH AND NC HIGHWAY 58 SOUTH.*

As title indicates.

Intro. by LaRoque.

LENOIR

Lenoir

H 562. ASHEVILLE/WOODFIN BOUNDARY ADJUSTMENTS. Filed 3/30/11. *(1) TO ANNEX TO THE CITY OF ASHEVILLE CERTAIN DESCRIBED STATE-OWNED PROPERTY, (2) TO REMOVE FROM THE CORPORATE LIMITS OF THE TOWN OF WOODFIN AND ANNEX TO THE CITY OF ASHEVILLE OTHER CERTAIN STATE-OWNED PROPERTY, (3) TO ANNEX TO THE TOWN OF WOODFIN CERTAIN DESCRIBED STATE-OWNED PROPERTY, AND (4) TO ALLOW THE CITY OF ASHEVILLE, WITH THE APPROVAL OF THE PROPERTY OWNER AND THE TOWN OF WOODFIN, TO ANNEX ANY PART OF THE TOWN OF WOODFIN THAT IS TOTALLY SURROUNDED BY THE CITY OF ASHEVILLE.*

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

Intro. by Fisher.

BUNCOMBE

Buncombe

H 565. MOREHEAD CITY/BEAUFORT BOUNDARY. Filed 3/30/11. *TO ESTABLISH A BOUNDARY LINE AGREEMENT AND LIMIT THE EXTRATERRITORIAL JURISDICTION AND ANNEXATION AUTHORITY WHICH MAY BE EXERCISED BY THE TOWNS OF MOREHEAD CITY AND BEAUFORT.*

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

Intro. by McElraft. CARTERET Carteret

H 566. GRANTSBORO CHARTER AMENDMENT. Filed 3/30/11. *TO CHANGE THE TERM OF OFFICE OF THE MAYOR AND COUNCIL OF THE TOWN OF GRANTSBORO TO FOUR YEARS.*

Amends SL 1997-446, as title indicates, beginning in 2011. Provides that the act does not affect any current two year term of office.

Intro. by Sanderson. PAMLICO Pamlico

H 573. RALEIGH DEANNEXATION. Filed 3/30/11. *TO REMOVE FROM THE CORPORATE LIMITS OF THE CITY OF RALEIGH PART OF THE RIGHT-OF-WAY OF THE HIGHWAY 98 BYPASS IN WAKE FOREST TOWNSHIP, AS REQUESTED BY THE CITY OF RALEIGH.*

As title indicates. Effective June 30, 2011.

Intro. by Avila. WAKE Wake

ACTION ON BILLS

March 30, 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

H0027 Forensic Sciences Act. 02-09-11, 02-15-11, 03-21-11	H Pres. To Gov. 3/30/2011
H0033 Consular Documents Not Acceptable as ID 02-28-11, 03-24-11	H Passed 3rd Reading
H0090 Confectioners may use up to 5% Alcohol By Vol. 03-17-11	S Passed 2nd & 3rd Reading
H0111 Handgun Permit Valid in Parks & Restaurants. 03-23-11, 03-29-11	H Amend Failed 4 H Passed 3rd Reading H Ordered Engrossed
H0115 North Carolina Health Benefit Exchange Act. 03-30-11	HA Reptd Fav Com Substitute H Re-ref Com On Insurance
H0159 Military Service Notation on Licenses. 03-08-11, 03-09-11	S Reptd Fav
H0162 Exempt Small Ag Processing from Permit Req. 03-30-11	S Reptd Fav Com Substitute SA Com Substitute Adopted S Placed On Cal For 4/7/2011
H0187 Require Labels for Ethanol- Blended Gasoline.	S Passed 2nd & 3rd Reading

H0218	Legislative Task Force on Childhood Obesity.	H	Reptd Fav
		H	Cal Pursuant Rule 36(b)
		H	Placed On Cal For 3/31/2011
H0250	Various Clarifying Militia Law Amendments.	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Judiciary I
	03-24-11		
H0261	Intrastate Motor Carrier Markings.	H	Passed 2nd & 3rd Reading
	03-29-11		
H0263	Retirement Allowance/ Remarriage Option.	H	Reptd Fav
		H	Cal Pursuant Rule 36(b)
		H	Placed On Cal For 3/31/2011
H0312	Register of Deeds.	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Judiciary II
	03-24-11		
H0313	Repeal Savings Bond Payroll Savings Program.-AB	H	Reptd Fav
		H	Re-ref Com On Finance
H0321	Grifton Shad Festival.	H	Reptd Fav
		H	Cal Pursuant Rule 36(b)
H0336	Amend Weight Requirements- Certain Vehicles.	H	Passed 2nd & 3rd Reading
	03-29-11		
H0342	High School Accreditation.	HA	Reptd Fav Com Substitute
		H	Cal Pursuant Rule 36(b)
	03-30-11		
H0357	ECU/Bd of Governors Dental Scholarship-Loan.	HA	Reptd Fav Com Substitute
		H	Re-ref Com On Appropriations
	03-30-11		
H0383	Communications Regulatory Reform.	HA	Reptd Fav Com Substitute
		H	Cal Pursuant Rule 36(b)
		H	Placed On Cal For 3/31/2011
	03-30-11		
H0395	Strengthen Prohibition on Cockfighting.	H	Withdrawn From Com
		H	Re-ref Com On Judiciary
H0499	License Plate Covers Unlawful.	H	Passed 1st Reading
		H	Ref To Com On Rules, Calendar, and Operations of the House
H0500	Funds/Cumberland Intern'l Early College.	H	Passed 1st Reading
		H	Ref To Com On Appropriations
H0501	Credit Union Ownership of Stock Life Ins. Co.	H	Passed 1st Reading
		H	Ref to the Com on Insurance, if favorable, Banking
H0502	Preserve Biological Evidence/ Custodial Agency.	H	Passed 1st Reading
		H	Ref To Com On Judiciary Subcommittee B
H0503	Nutrition Stds./All Foods Sold at School.	H	Passed 1st Reading
		H	Ref To Com On Education
H0505	Stormwater/Certain Development Projects.	H	Passed 1st Reading
		H	Ref To Com On Transportation
H0507	Withdrawing Public Use Dedication.	H	Passed 1st Reading
		H	Ref To Com On Transportation
H0509	Exclusions from Licensure: Home Services.	H	Passed 1st Reading
		H	Ref To Com On Health and

		Human Services
H0512	Rendering Act Amendments.	H Passed 1st Reading H Ref to the Com on Agriculture, if favorable, Judiciary Subcommittee B
H0514	Uniform Military and Overseas Voters Act.	H Passed 1st Reading H Ref to the Com on Homeland Security, Military, and Veterans Affairs, if favorable, Elections
H0515	Comm. Coll. Tuition for Members of Military.	H Passed 1st Reading H Ref to the Com on Homeland Security, Military, and Veterans Affairs, if favorable, Education
H0517	Supervis. of Magistrates/ Juries/Calendaring.	H Passed 1st Reading H Ref To Com On Judiciary Subcommittee B
H0519	Pied. Triad Water Auth./ Control Fishing.	H Passed 1st Reading H Ref To Com On Government
H0522	Midwifery Licensing Act.	H Passed 1st Reading H Ref to the Com on Health and Human Services, if favorable, Finance
H0529	Swine House Renovations/Site Limits.	H Filed
H0530	Conforming Changes/Persons W/ Disabilities Act.	H Filed
H0531	Involuntary Annexation Reform.	H Filed
H0535	Juror Privacy.	H Filed
H0538	Remove Restriction/LEO Disability Benefits.	H Filed
H0540	Remove Adult Care Homes From CON Review.	H Filed
H0541	CAP-MR/DD Waiver Change/ Residential Supports.	H Filed
H0542	Tort Reform for Citizens and Businesses.	H Filed
H0544	Local Government E-Mail Lists.	H Filed
H0547	ABC Law/Eastern Band of Cherokee Indians.	H Filed
H0549	Counties May Require Solid Waste Services.	H Filed
H0550	Asheville-Buncombe Regional Park Authority.	H Filed
H0551	Discovery/Medical Peer Review.	H Filed
H0554	Residential Building Inspections.	H Filed
H0555	2011 Speaker's Appointments Bill.	H Filed
H0556	Volunteer Service in Retirement.	H Filed
H0559	Study/Municipal Electric Utilities.	H Filed
H0560	Honor Jeanne Fenner.	H Filed
H0561	Medians on U.S. Highway 70.	H Filed

H0563	Honor Ralph Campbell.	H	Filed
H0564	School Capital Fund Formula/ Lottery Proceeds.	H	Filed
H0567	Mountain Resources Comm'n/ Staggered Terms.	H	Filed
H0568	Legislative Mileage.	H	Filed
H0569	Hunting Protection Act.	H	Filed
H0570	TANF Block Grant Funds/Boys & Girls Club.	H	Filed
H0571	Prepaid Wireless/Point of Sale Collection.	H	Filed
H0572	Accountability for Publicly Funded Nonprofits.	H	Filed
H0574	Distribution Mod To Excise Tax On Conveyances.	H	Filed
S0005	Honor John McNeill Smith, Jr.	S	Passed 2nd & 3rd Reading
S0018	Clarify Definition/Jud. District/State Bar.	H	Reptd Fav H Cal Pursuant Rule 36(b) H Placed On Cal For 3/31/2011
03-07-11			
S0031	Clarify Penalty Unauth. Practice of Medicine.	H	Reptd Fav H Cal Pursuant Rule 36(b) H Placed On Cal For 3/31/2011
03-03-11			
S0049	Increase Fine for Speeding/ School Zones.	H	Passed 2nd & 3rd Reading
02-28-11, 03-01-11, 03-23-11			
S0051	Charitable Solicitations/ Clarify Exemption.	H	Passed 2nd & 3rd Reading
S0130	Wine Distribution Territories. 03-29-11	S	Passed 2nd & 3rd Reading
S0248	Update Archaic Disability Terms.	H	Reptd Fav H Cal Pursuant Rule 36(b) H Placed On Cal For 3/31/2011
03-17-11			
S0265	State Health Plan/ Appropriations and Transfer.	HA	Reptd Fav Com Substitute H Cal Pursuant Rule 36(b) H Placed On Cal For 3/30/2011 H Amend 1 Offered H Amendment Ruled Out of Order 1 H Passed 2nd Reading
03-22-11, 03-23-11, 03-30-11			
S0340	State Historic Sites Special Fund. 03-29-11	S	Passed 2nd & 3rd Reading
S0346	Exempt Cooking Schools from Food Regulations.	S	Reptd Fav
S0347	Report Health Care-Associated Infections.	S	Reptd Fav
S0384	Conforming Changes/Persons W/ Disabilities Act.	S	Reptd Fav
S0399	Minority Appeal From County Bd Elections.	S	Passed 2nd & 3rd Reading
S0406	Repeal Crossbow Purchase Permit Requirement.	S	Passed 2nd & 3rd Reading

S0416	School Buses/State Vehicles/ Tires.	S	Reptd Fav
S0445	Exempt Pallets for Ag Use From Sales Tax.	S	Passed 1st Reading
S0446	Comm. Coll. Tuition for Members of Military.	S	Ref To Com On Finance
S0447	Rewrite Landscape Contractor Laws.	S	Passed 1st Reading
S0448	Funds/Cumberland Intern'l Early College.	S	Ref To Com On Finance
S0449	Task Force on Fraud Against Older Adults.	S	Passed 1st Reading
S0450	Direct Care Worker Wage and Benefit Study.	S	Ref To Com On Finance
S0451	Extend Reporting on Baby Boomer Preparations.	S	Passed 1st Reading
S0452	Nondiscrimination in State/ Employment.	S	Ref To Com On Finance
S0453	Congressional Districts.	S	Passed 1st Reading
S0454	NC House Districts.	S	Ref To Com On Appropriations/ Base Budget
S0455	NC Senate Districts.	S	Passed 1st Reading
S0456	Candidate List Party or Unaffiliated Status.	S	Ref To Com On Redistricting
S0457	Amend Article 13 of Business Corporation Act.	S	Passed 1st Reading
S0458	Judicial Appointment/Voter Retention.	S	Ref To Com On Redistricting
S0459	Repeal Matching Funds.	S	Passed 1st Reading
S0460	Nonprofits/Criteria to Receive State Funds.	S	Ref To Com On Redistricting
S0461	Amend Weight Limits for Farm Products.	S	Passed 1st Reading
S0462	Distributn of Excise Tax On Title Instruments.	S	Ref To Com On Judiciary I
S0463	Accountability for Taxpayer Investment Act.	S	Passed 1st Reading
S0464	Debt Reduction Act of 2011.	S	Ref To Com On Judiciary I
S0465	Behavioral Health Management.	S	Passed 1st Reading
S0466	Modify Teacher Career Status Law.	S	Ref To Com On Judiciary I
S0467	Naturopathic Licensing Act.	S	Passed 1st Reading
S0468	Juror Qualifications/ Disabilities.	S	Ref To Com On Appropriations/ Base Budget
S0469	Smoking Ban/Exempt Age- Restricted Venues.	S	Filed
S0470	Modify Comm. College Construction Process.	S	Filed
S0471	Youth Skin Cancer Prevention	S	Filed

Act.	
S0472 Norwood Water Lines.	S Filed
S0473 The Solar Jobs Bill.	S Filed
S0474 Photo ID for Certain Controlled Substances.	S Filed
S0475 Funding for One LEA per County.	S Filed
S0476 New Home Purchase Stimulus.	S Filed
S0477 Reduce Overpopulation of Reinsurance Facility.	S Filed
S0478 Office of Prosecution Services.	S Filed

LOCAL BILLS

H0156 Lenoir Fox Trapping.	HA Reptd Fav Com Substitute H Cal Pursuant Rule 36(b) H Placed On Cal For 3/31/2011
03-30-11	
H0201 Bladen Fox Hunting and Trapping.	H Passed 2nd & 3rd Reading
H0212 Town of Cramerton/Regulate Utility Vehicles.	S Rec From House S Passed 1st Reading S Ref To Com On State and Local Government
H0265 Chowan Fox Seasons.	H Passed 2nd & 3rd Reading
H0504 Carrboro Building Codes.	H Passed 1st Reading H Ref To Com On Rules, Calendar, and Operations of the House
H0506 Wrightsville Beach/Abandoned Vessels.	H Passed 1st Reading H Ref To Com On Government
H0508 Modify Mecklenburg County Local Taxes.	H Passed 1st Reading H Ref to the Com on Government, if favorable, Finance
H0510 Reidsville Elections.	H Passed 1st Reading H Ref To Com On Government
H0511 Goldsboro-Wayne Airport Authority.	H Passed 1st Reading H Ref To Com On Government
H0513 Aberdeen/Tree Removal.	H Passed 1st Reading H Ref To Com On Rules, Calendar, and Operations of the House
H0516 Mount Airy Charter Amendments.	H Passed 1st Reading H Ref to the Com on Government, if favorable, Finance
H0518 Authorize Add'l Person County Occupancy Tax.	H Passed 1st Reading H Ref to the Com on Government, if favorable, Finance
H0520 Troutman Voluntary Annexation.	H Passed 1st Reading H Ref to the Com on Government, if favorable, Finance
H0521 Extend Troutman ETJ.	H Passed 1st Reading H Ref to the Com on Government, if favorable, Finance

H0527 Greensboro Motor Vehicle Levy.	H	Filed
H0528 Duplin Elections.	H	Filed
H0532 Graham County/Cemetery Tax By General Law.	H	Filed
H0533 Cerro Gordo/Fair Bluff/ Utility Liens.	H	Filed
H0534 Mecklenburg/Juror Privacy.	H	Filed
H0536 Lincoln School Board Districts.	H	Filed
H0537 Wilkes Fire Tax Dist. Boundaries.	H	Filed
H0539 Building Code/Webb Road Flea Market.	H	Filed
H0543 Charlotte/Email Subscription List.	H	Filed
H0545 Amend Moore County Occupancy Tax.	H	Filed
H0546 Alternative Salary Plans/ Charlotte-Meck. Sch.	H	Filed
H0548 Swain/Graham County Line.	H	Filed
H0552 Greater Asheville Reg. Airport Authority.	H	Filed
H0553 School Calendar Pilot Program/ Stanly County.	H	Filed
H0557 Exempt Rowan County/Local Match/HCCBG Funds.	H	Filed
H0558 Forsyth/Winston-Salem Zoning Amendments.	H	Filed
H0562 Asheville/Woodfin Boundary Adjustments.	H	Filed
H0565 Morehead City/Beaufort Boundary.	H	Filed
H0566 Grantsboro Charter Amendment.	H	Filed
H0573 Raleigh Deannexation.	H	Filed
S0046 Surry Fox and Coyote Trapping Season.	HA	Amend Adopted 1
02-16-11, 03-30-11	H	Passed 2nd & 3rd Reading
S0068 Robeson Hunting and Fishing.	H	Passed 2nd & 3rd Reading
S0081 Orange County Local Disclosure Act Repeal.	H	Passed 2nd & 3rd Reading
S0281 Municipal Service District/ Streets.	S	Passed 2nd Reading
03-29-11		
S0295 Marshville Charter Consolidation.	S	Passed 2nd Reading

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

HOUSE BILLS

H 115. [NORTH CAROLINA HEALTH BENEFIT EXCHANGE \(NEW\)](#). Filed 2/16/11. House committee substitute makes the following changes to 1st edition.

Adds a new section, stating that the purpose of the act is to establish the North Carolina Health Benefit Exchange Authority (Exchange Authority) to facilitate the purchase and role of qualified health plans in the individual and small employer market through education, outreach, and technical assistance.

Definitions. Clarifies that the *SHOP Exchange* is the Small Business Health Options Program established in proposed Part 8 to assist NC Qualified Employers who are small employers to facilitate the enrollment of their employees in Qualified Health Plans. Defines *Individual Exchange* as the Exchange through which Qualified Individuals purchase coverage. Clarifies the definition for *Exchange Authority* (was, *Exchange* in previous edition) and makes a conforming change to all references throughout Part 8. Adds new terms applicable to Part 8 and makes clarifying changes to definitions.

Exchange. Makes organizational and clarifying changes to the provisions establishing the Exchange Authority, the Exchange Authority Board of Directors (Board), and the powers and duties of each. Clarifies that the Exchange Authority is subject to the supervision of the Commissioner of Insurance (Commissioner). Also clarifies that the purpose of the Exchange Authority is to: (1) create and administer an Individual Exchange and a SHOP Exchange as two separate health benefit exchanges; (2) facilitate the purchase and sale of Qualified Health Plans to Qualified Individuals and Qualified Employers; and (3) assist Qualified Individuals and Qualified Employers in enrollment in Qualified Health Plans. Provides that the Board will consist of the Commissioner and the Director of the Division of Medical Assistance as ex officio nonvoting members, and 11 additional, appointed members. Details the appointing authority as follows: (1) four members appointed by the President Pro Tempore of the Senate for three year terms, with appointments made within 30 days after enactment; (2) four members appointed by the Speaker of the House of Representatives for three year terms, with appointments made within 30 days after enactment; and (3) three members appointed by the Governor for two year terms, within 30 days after enactment. Includes additional appointee qualifications and requirements. Details additional powers and duties of the Board.

Requires the Commissioner to review and approve or disapprove the Plan of Operation submitted by the Board within 90 days. Deems the Plan approved if the Commissioner fails to act within 90 days. Allows for resubmission upon disapproval and outlines other procedures related to Plan submission. Clarifies and adds to the list of components included in the Plan of Operation. Clarifies that the Exchange Authority has the authority to contract with an eligible entity, as defined, to perform any functions described in Part 8, take legal action, and enter into information-sharing agreements with federal and state agencies and other state exchanges as specified. Authorizes the Exchange Authority to make a Qualified Health Plan available that may require benefits other than the Essential Health Benefits, as specified. Directs the Executive Director of the Exchange Authority to make an annual report *by March 1* of each year to listed parties, summarizing the activities of the Exchange Authority during the preceding calendar year. Makes the Exchange Authority, the Board, and employees, subject to Article 33C of GS Chapter 143 (provisions for meetings of public bodies). Makes all information in the possession of the Exchange Authority, regardless of physical form, subject to GS Chapter 132 (public records), except protected and confidential information. Clarifies other requirements of the Exchange Authority. Provides additional duties for the Exchange Authority, including the duty to establish an Individual Exchange, to meet specified financial integrity requirements, and to conduct a review of the costs and benefits of collecting and distributing premiums for small businesses. Details reporting requirements.

Health Benefit Plan Certification. Clarifies that the Exchange Authority will certify a Health Benefit Plan as a Qualified Health Plan if the Department of Insurance determines the plan satisfies the enumerated requirements, unless the Exchange Authority determines the plan is not in the interest of Qualified Individuals and Employers. Directs the Exchange to establish and publish a transparent, objective process for denying certification or decertifying Qualified Health Plans, as described. Makes other clarifying changes.

Additional Provisions. Permits a Qualified Employer to either designate one or more Qualified Health Plans from which its employees may choose or designate any level of coverage to be made available to employees through the SHOP Exchange. Permits a Qualified Individual enrolled in any Qualified Health Plan to pay any applicable premium owed to the Health Insurer issuing the plan. Establishes the Individual Exchange and the SHOP Exchange risk pools, as detailed. Provides that the statute does not: prohibit a Health Insurer from offering outside of the Individual Exchange or the SHOP Exchange a health plan to a Qualified Individual or Employer; prohibit a Qualified Individual from enrolling in, or a Qualified Employer from selecting, a health plan outside of the Exchange Authority; limit the operation of any state law for any policy or plan outside the Exchange Authority; or otherwise restrict the choice of any individual to enroll or not enroll. Details circumstances under which a Qualified Individual may enroll in a catastrophic plan. Allows Agents and Brokers to enroll and assist Qualified Individuals and Employers, as described. Requires Agent and Broker compensation to be determined by the insurer.

Codifies the utilization of the funding stream from the NC Health Insurance Risk Pool to support the Exchange Authority. Adds that, beginning in 2015, the funding stream supporting the NC Health Insurance Risk Pool will support those operations of the Exchange Authority that serve individuals with incomes less than or

equal to 400% of the federal poverty level and Qualified Employers receiving a tax credit for the purchase of insurance under federal law. Requires other costs to be funded by an annual user fee paid by the individual or employer to the Exchange Authority, as specified. Requires the Exchange Authority to examine its potential operating costs and propose any additional funding stream changes before the 2013 General Assembly commences. Directs the Exchange Authority to be self-sustaining by January 1, 2015, as required by federal law. Details additional funding criteria and exempts the Exchange Authority from all state taxes. Directs the Commissioner to promulgate necessary regulations. Requires an annual audit of the Exchange Authority. Makes additional clarifying changes.

Changes the title of the act to *AN ACT TO PRESERVE STATE-BASED AUTHORITY TO REGULATE THE NORTH CAROLINA HEALTH INSURANCE MARKET AND TO PREVENT FEDERAL ENCROACHMENT ON STATE AUTHORITY BY ESTABLISHING THE NORTH CAROLINA BENEFIT EXCHANGE*.

Health, Social Services, and Aging;
Business and Commerce

H 156. LENOIR FOX TRAPPING. Filed 2/21/11. House committee substitute makes the following changes to 1st edition. Deletes the requirement that the Wildlife Resources Commission provide for the sale of lawfully taken foxes.

Lenoir

H 162. EXEMPT SMALL AG PROCESSING FROM PERMIT REQ. Filed 2/22/11. Senate committee substitute makes the following changes to 1st edition. Adds a definition of *agricultural products* as horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and any farm products. Adds the requirement that wastewater not be generated by an animal waste management system to the conditions that must be met in order for a permit to not be required for a wastewater management system for the treatment and disposal of wastewater produced from activities related to the processing of agricultural products.

Agriculture, Environment, and
Natural Resources

H 342. HIGH SCHOOL ACCREDITATION. Filed 3/14/11. House committee substitute makes the following changes to 1st edition. Clarifies that the act applies to secondary schools located in North Carolina.

Education

H 357. ECU/BD OF GOVERNORS DENTAL SCHOLARSHIP-LOAN. Filed 3/15/11. House committee substitute makes the following changes to 1st edition. Amends GS 116-40.10 to require the Board of Governors to forgive a dental scholarship loan if, within seven years after graduation, the recipient practices dentistry in a rural or underserved area of the state for four years (current law requires only practicing dentistry in the state for four years). Further amends the statute by removing proposed language limiting loan forgiveness to loans awarded to a study who graduated from the UNC-Chapel Hill School of Dentistry.

Education

H 383. COMMUNICATIONS REGULATORY REFORM. Filed 3/16/11. House committee substitute makes the following changes to 1st edition. Amends proposed language in GS 62-133.5(l) to allow a local exchange company subject to rate of return regulation or subject to another authorized form of regulation who forgoes receiving funding from a state funding mechanism other than interconnection rates that may be established to support universal service (was, forgoes funding from a state universal service fund or alternative funding mechanism) and whose territory is open to competition from competing local providers to elect to have its rates, terms, and conditions determined according to the plan described in the subsection by filing notice of intent. Makes other clarifying changes.

Energy and Utilities

SENATE BILLS

S 46. SURRY FOX AND COYOTE TAKING SEASON. Filed 2/8/11. House amendment makes the following changes to 2nd edition. Deletes the requirement that the Wildlife Resources Commission provide for the sale of lawfully taken foxes. Expands the scope of the act to include Alleghany County.

Previously: Surry;
Now: Alleghany; Surry

S 265. STATE HEALTH PLAN/APPROPRIATIONS AND TRANSFER. Filed 3/8/11. House committee substitute makes the following changes to 3rd edition.

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

Health, Social Services, and Aging;
State Government; Employment
and Retirement

Legislation Enacted

None

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Notes

None

NEXT SESSIONS

March 31, 2011

HOUSE convenes at 1:00 p.m.

SENATE convenes at 11:00 a.m.