

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

School of Government
The University of North Carolina at Chapel Hill
Legislative Reporting Service, State Legislative Building, Raleigh, NC 27601
Phone 919.733.2484 ~ Fax 919.715.3464 ~ www.dailybulletin.unc.edu

House Legislative Day 42

Vol. 2011, No. 42-Part 2

Senate Legislative Day 42

Friday, April 8, 2011

Table of Contents

Summaries of Bills Filed _____	1
Public Bills _____	1
Local Bills _____	12
Action on Bills _____	12
Summaries of Amendments and Committee Substitutes _____	13
Legislation Enacted _____	16
Index by Keyword _____	16
Notes _____	16
Next Sessions _____	17

SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 813. [ESC/JOBS REFORM](#). Filed 4/6/11. *TO REFORM THE EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA BY CREATING THE DIVISION OF EMPLOYMENT SECURITY WITHIN THE DEPARTMENT OF COMMERCE, TRANSFERRING THE FUNCTIONS OF THE EMPLOYMENT SECURITY COMMISSION TO THAT DIVISION, MAKING THE DIVISION SUBJECT TO RULE MAKING UNDER ARTICLE 2 OF CHAPTER 150B OF THE GENERAL STATUTES, AND BY MAKING OTHER MODIFICATIONS AND CONFORMING CHANGES TO ALIGN THE EMPLOYMENT SECURITY FUNCTIONS OF STATE GOVERNMENT UNDER THE DIRECT LEADERSHIP OF THE SECRETARY OF COMMERCE.*

Transfer of Employment Security Commission Functions. Transfers the statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of all funds of the Employment Security Commission (ESC) to the Department of Commerce (Department), as a Type I transfer. Specifies that any previous assignment of duties of a quasi-legislative and quasi-judicial nature by the Governor or General Assembly will continue to be valid under the transfer. States that, except as otherwise provided in this act, each commission, board, office, bureau, or other subunit of state government transferred to the Secretary of Commerce

© 2011 School of Government
The University of North Carolina at Chapel Hill

This work is copyrighted and subject to "fair use" as permitted by federal copyright law. No portion of this publication may be reproduced or transmitted in any form or by any means without the express written permission of the publisher. Distribution by third parties is prohibited. Prohibited distribution includes, but is not limited to, posting, e-mailing, faxing, archiving in a public database, installing on intranets or servers, and redistributing via a computer network or in printed form. Unauthorized use or reproduction may result in legal action against the unauthorized user.

and the Department of Commerce, Division of Employment Security (DES), is a continuation of the former entity for purposes of succession to all rights, powers, duties, and obligations of the former entity. All references to the former entity are now directives to the Secretary of Commerce and the DES. Specifies that no action or proceeding pending on January 1, 2012, brought by or against the ESC will be affected by this act, but the same action or proceeding may be prosecuted or defended by DES, with the Secretary or Department of Commerce substituted as required. Provides that any business or other matter conducted by any state program or office or contract transferred by this act to the Employment Safety and Security Commission pending on the date this act becomes effective may be conducted and completed by the Employment Safety and Security Commission in the same manner as if conducted by the original program, office, commissioners, or directors. Amends GS 143B-431 to add employment security and the administration of unemployment insurance to the list of Department functions. Deletes the ESC from the list of Department agencies. Amends GS 143B-433, by adding the Division of Employment Security to the list of Department agencies and deleting the Employment Security Commission. Makes a conforming change to GS 143B-343(c). Amends GS 143B-438.10(b)(1) to include the Assistant Secretary of Commerce in charge of the DES (rather than the Chair of the ESC) as a member on the Commission on Workforce Development. Makes conforming changes by substituting DES for ESC in GS 143B-438.16 and 143B-438.17(c). Deletes the ESC from the list of agencies exempted under the Administrative Procedure Act in GS 150B-1(c), and amends GS 150B-1(e) to exempt Department hearings and appeals authorized under GS Chapter 96 (DES) from the contested case provisions. Makes the DES subject to the rule-making provisions in Article 2A of GS Chapter 150B, and specifies that any existing rule not readopted by December 31, 2012 will expire.

Amendments and Conforming Changes to the Employment Security Laws. Amends various provisions of GS Chapter 96 (Employment Security Law) to substitute the Department of Commerce, Division of Employment Security (DES) for the Employment Security Commission (ESC), and to make conforming changes. Deletes all provisions of GS 96-3 and instead provides that DES is created within the Department of Commerce to administer GS Chapter 96 under the supervision of the Assistant Secretary of Commerce through the Employment Security Section, which will administer employment services, and the Employment Insurance Section, which will administer unemployment taxation and assessment. Amends GS 96-4(a) to state that it is the duty of the Secretary of the Department to administer GS Chapter 96 and to appoint an Assistant Secretary to implement employment security laws and to oversee the DES. Directs the Governor to appoint a three person Board of Review to determine appeals policies and procedures and to hear appeals arising from the decisions and determinations of the DES sections. Specifies board membership. Amends GS 96-4(d) by deleting all provisions and instead provides that rules adopted to implement the employment security laws will be made under the Administrative Procedure Act. Enacts new subsection (j) to direct the Assistant Secretary to appoint hearing officers or appeals referees to hear contested matters arising from the DES sections, with their appeals heard by the Board of Review. Makes additional conforming, clarifying, and organizational changes to GS 96-4.

Makes conforming changes to various provisions of GS Chapter 96, by substituting references to the ESC with references to the DES, and references to the Commission with references to the Secretary, as appropriate and as applicable. Adds definitions for *Department, Division or DES, EIS, ESS, and Secretary* to GS 96-8. Repeals GS 96-8(2) (definition for the ESC). Amends GS 96-10 and 96-11 to substitute references to the ESC with references to the DES or to the Department of Revenue, as applicable. Amends GS 96-13 (benefit eligibility conditions) to make conforming changes; amends GS 96-13(a)(3) (ability and availability for work), to provide that, for the purposes of that subdivision, no individual is deemed to be available for work during any week that the person is incarcerated or has received notice to report or is otherwise detained in any jail or penal institution, and that an individual is exempted for any week that the individual participates in the Trade Jobs for Success initiative. Amends GS 96-14(2) (pertaining to disqualification for benefits) by deleting the current definition for misconduct connected with the work and instead defining it as intentional acts or omissions evidencing disregard of an employer's interest or standards of behavior by which the employer has a right to expect or has explained orally or in writing to an employee or evidencing carelessness or negligence of such degree as to manifest equal disregard. Clarifies that "discharge for misconduct with the work" includes, among other things, separation initiated by an employer for violating the employer's written alcohol or illegal drug policy, being terminated or suspended from employment after arrest or conviction for an offense involving listed crimes, any physical violence as specified, inappropriate comments or behavior as detailed, theft in connection with the employment, forging or falsifying documents or data, violation of an absenteeism policy, refusing to perform assigned tasks, and the failure to perform other duties as evidenced by specified written reprimands. Deletes provisions in GS 96-15(e) and instead permits the Board of Review to, on its own motion, affirm, modify, or set aside any decision of an appeals referee, hearing officer, or other employee assigned to make a decision, as detailed. Amends GS 96-15(h), clarifying that any decision of the DES in the absence of judicial review *or in the absence of an interested party filing a request for reconsideration*, will become final 30 days after the earlier of the date of notification or the

notification mailing. Provides that questions regarding the requirements of subsection (h) will be determined by the superior court.

Makes conforming changes to various provisions of GS Chapter 96 to reference the Employment Security Section rather than the Employment Service Division, where applicable. Makes conforming changes to various Chapters of the General Statutes to substitute references to ESC and related terms with references to DES and related terms, as applicable and as appropriate. Makes additional clarifying, conforming, and technical changes.

Additional Matters. Requires the Board of Review established by this act to be appointed, with staff assigned, by October 1, 2011. Directs the Secretary of the Department of Commerce to make a detailed written report to specified legislative entities on the consolidation of the ESC and on any recommended changes, by June 30, 2012. Authorizes the Revisor of Statutes to make additional conforming statutory changes to delete references to ESC and derivatives and substitute with references to DES

Intro. by Howard.

GS 52C, 58, 7A, 96, 150B, 84, 94, Employment and Retirement; State
95, 105, 105A, 108A, 110, 113, Government
132, 135, 138A, 143B, 147, 158,
165

H 823. GOVERNANCE OF THE DEP'T OF PUBLIC INSTRUCTION. Filed 4/6/11. *TO AMEND THE NORTH CAROLINA CONSTITUTION TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION THE HEAD OF THE DEPARTMENT OF PUBLIC INSTRUCTION, TO MAKE THE STATE BOARD OF EDUCATION AN ADVISORY BODY, TO MODIFY THE MEMBERSHIP OF THE STATE BOARD OF EDUCATION, AND TO MAKE CONFORMING CHANGES TO THE GENERAL STATUTES.*

Amendments to the Constitution. Subject to approval by the voters at the November 6, 2012 statewide election, amends Section 4 and Section 5 of Article IX of the North Carolina Constitution to (1) make the Superintendent of Public Instruction (Superintendent) the head of the Department of Public Instruction (DPI), (2) to make the State Board of Education (SBE) an advisory body, and (3) to modify the membership of the SBE to include the Lieutenant Governor, the Treasurer, Superintendent and three appointees by the Governor, four appointees by the Speaker of the House of Representatives, and four appointees by the President Pro Tempore of the Senate. Provides that if a majority of votes are cast in favor of these proposed constitutional amendments that the amendments become effective January 1, 2013. Under current law, the SBE is the head of DPI, the SBE is a decision making body with regards to public education, and the Governor appoints eleven members of the SBE, the additional members are the Lieutenant Governor and the Treasurer. Currently, the Superintendent serves as the secretary and chief administrative officer of the SBE.

Conforming changes to the statutes. Amends GS 143A-44.2 to provide that all the duties, powers, rights, and obligations of the SBE are transferred to the Superintendent and that wherever the SBE is referred to by law, contract, or other document, that reference applies to the Superintendent. Amends GS 143A-44.3 to provide that the SBE as provided for by Article IX, Section 4 of the Constitution, as amended in this act, is located in the Department of Public Instruction. Also provides that the SBE is to serve in an advisory capacity to the Superintendent on the supervision and administration of the free public school system and educational funds provided for its support. Makes conforming changes to multiple Chapters of the General Statutes to reflect the proposed constitutional change in the powers, duties, and responsibilities of the Superintendent and the SBE, transferring the powers, duties, and responsibilities vested in the SBE to the Superintendent and identifying the Superintendent as the appropriate decision making authority with regards to the supervision and administration of the free public school system in this state and the educational funds provided for its support. Provides that these changes become effective only if the qualified voters approve the constitutional amendments set out in this act. Provides that if the voters approve the constitutional amendments, the conforming changes become effective January 1, 2013.

Intro. by Holloway.

GS 143A, 115C, 14, 20, 58, 66, 90, Constitutional Amendment;
90B, 115D, 116, 116C, 120, 121, Education
122C, 126, 130A, 135, 138A,
143, 143B, 146, 148, 150B, 158,
CONST

H 827. REQUIRE SURETY OPTIONS FOR DEVELOPERS. Filed 4/6/11. *RELATING TO THE FINANCIAL ASSURANCES SPECIFIED BY LOCAL GOVERNMENTS AS PERFORMANCE GUARANTEES UNDER SUBDIVISION CONTROL ORDINANCES.*

Under current law, GS 153A-331(c) (counties) and GS 160A-372(c) (cities), a local government may adopt a subdivision control ordinance and require developers to provide performance guarantees. If the ordinance requires a performance guarantee, the local government must provide a range of options for the guarantee and

the developer has the option of choosing the type of guarantee to provide. Amendments to those two sections provide that if the local government's range of performance guarantee options includes a letter of credit, the developer may choose to obtain a surety bond in lieu of the letter of credit. Provides that while the local government is authorized to establish reasonable requirements governing the surety, certain sureties (those listed annually as acceptable on federal bonds) are deemed acceptable. Applies to any range of performance guarantee options specified by a local government on or after the date when this act becomes law.

Intro. by Collins.

GS 153A, 160A

Local Government

H 828. WAGE THEFT AMENDMENTS. Filed 4/6/11. *TO AMEND THE LABOR LAWS PERTAINING TO THE RECOVERY OF UNPAID WAGES.*

Amends GS 95-25.13 to add that an employer must notify employees of the full name, mailing address, and telephone number of the employer and the federal and state tax ID number of any employer who is not a natural person. Adds new GS 95-25.23D to provide a cause of action for violations of the notification provision. Remedies that may be awarded by a court include actual damages (lost wages and benefits plus interest), statutory damages, and injunctive or declaratory relief. Reasonable attorney fees and costs may be awarded to a prevailing plaintiff or to a defendant if the court determines the action was frivolous. Actions may be initiated by the Commissioner of Labor, who may also determine and supervise payments to employees who agree to waive the right to bring an action. Prior to initiating any action, the Commissioner must exhaust all administrative remedies, including giving the employer notice of the pending action and the opportunity to be heard on matters at issue. Actions must be brought within four years or within one year after notification to the employee of final disposition by the State of a complaint for the same violation, whichever is later.

Amends GS 95-25.22 to provide that actions for recovery of unpaid wages must be brought within two years or within one year after notification to the employee of final disposition by the State of a complaint for the same violation, whichever is less.

Intro. by Glazier.

GS 95

Employment and Retirement

H 829. STREAMLINE EDUCATION PLANNING RESPONSIBILITY. Filed 4/6/11. *TO STREAMLINE PUBLIC SCHOOL PLANNING RESPONSIBILITY.*

Amends GS 115C-12, which outlines the powers and duties of the State Board of Education (Board), to include a new requirement that the Board consolidate all plans that affect the school community, including plans for safety, technology and gifted students. Requires the Board report to the Joint Legislative Education Oversight Committee by November 15 of every year. Effective beginning with the 2011-12 school year.

Intro. by Cotham.

GS 115C

Education

H 830. TAX AMNESTY PROGRAM. Filed 4/6/11. *TO CREATE A TAX AMNESTY PERIOD FOR TAXPAYERS WITH OVERDUE TAX DEBTS.*

Establishes a new program to be administered by the Department of Revenue (Department) during the period of July 1, 2011 through June 30, 2012. Under the program, if a person has an overdue tax debt, as defined by GS 105-243.1, incurred between January 1, 2008 and December 31, 2011, the Department (1) may not initiate a new criminal prosecution for failure to report or pay taxes and (2) must waive all penalties if the person pays in full the taxes due, plus 50% of the interest due. Tax preparers involved with preparing returns related to such unreported or underreported taxes under the program are also exempt from criminal prosecution. Requires taxpayers to file necessary paperwork and make required payments by June 30, 2012. Authorizes the Department to draw up to \$1,100,000 from collections to pay for the new program.

Intro. by Moffitt.

UNCODIFIED

Taxation

H 831. MULTIPLE BIRTH SIBLING CLASSROOM PLACEMENT. Filed 4/6/11. *TO ALLOW PARENTS OR GUARDIANS TO MAKE THE DECISION REGARDING CLASSROOM PLACEMENT FOR MULTIPLE BIRTH SIBLINGS.*

Enacts new GS 115C-366.3 to require elementary schools to allow parents of multiple birth siblings assigned to the same grade to request that the children be placed in the same classroom or in different classrooms. Requires the school to comply with the request, subject to limited exceptions. Allows the school to change the classroom assignment after the first grading period under certain circumstances but provides that the parent may appeal the decision. New requirement does not affect school discipline policies. Effective beginning with the 2011-12 school year.

Intro. by Murry.

GS 115C

Education

H 832. ALLOW NONATTORNEY OWNERSHIP OF PC LAW FIRMS (=S 254). Filed 4/6/11. *TO ALLOW NONATTORNEY OWNERSHIP OF PROFESSIONAL CORPORATION LAW FIRMS, SUBJECT TO CERTAIN REQUIREMENTS.* Identical to S 254, filed 3/8/11.

Intro. by Brubaker, McComas. GS 55B Business and Commerce

H 833. HONOR STATE CAPITAL. Filed 4/6/11. *RECOGNIZING THE IMPORTANCE OF THE STATE CAPITOL.* As title indicates.

Intro. by Starnes, Stam, Dollar, Torbett. HOUSE RES General Assembly; State Government

H 834. REDUCE OVERPOPULATION OF REINSURANCE FACILITY (=S 477). Filed 4/6/11. *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.* Identical to S 477, filed 3/30/11.

Intro. by Rhyne. GS 58 Business and Commerce; Transportation

H 835. LRC STUDY METH LABS. Filed 4/6/11. *TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROLIFERATION OF METH LABS IN NORTH CAROLINA AND THE DANGERS AND HAZARDS POSED BY THOSE LABS TO THE SAFETY AND HEALTH OF CHILDREN.*

As title indicates. Requires a report to the 2013 General Assembly.

Intro. by Horn. JOINT RES General Assembly; Health, Social Services, and Aging

H 836. COMPENSATION STUDY/STATE BDS. AND COMMS. Filed 4/6/11. *CREATING THE STUDY COMMITTEE ON THE COMPENSATION OF STATE BOARD AND COMMISSION EMPLOYEES.*

Establishes new 15-member study committee charged with examining compensation of employees serving on state boards and commissions and to determine whether compensation schemes should be modified to maximize the efficiency and effectiveness. Requires a final report to the 2013 General Assembly upon its convening, at which time the committee terminates.

Intro. by McElraft. STUDY State Government

H 837. COMPLETION OF CPR BY STUDENTS REQUIRED. Filed 4/6/11. *TO MAKE SUCCESSFUL COMPLETION OF INSTRUCTION IN CPR A REQUIREMENT FOR HIGH SCHOOL GRADUATION.*

Amends GS 115C-81 (Basic Education Program) and GS 115C-238.29F(d) (general requirements for charter schools) as title indicates. Requires that (1) the instruction include hands-on training and (2) the schools maintain documentation that students have successfully completed the instruction. Effective when the act becomes law; applies beginning with the 2011-12 school year.

Intro. By Carney, Justice. GS 115C Education; Health, Social Services, and Aging

H 838. PROTECT YOUTH/FARM FAMILY EMPLOYMENT. Filed 4/6/11. *TO PROTECT CHILDREN FROM INJURY AND DEATH AT AGRICULTURAL ESTABLISHMENTS AND TO PRESERVE THE TRADITIONAL ROLE OF EMPLOYMENT ON THE FAMILY FARM.*

Under current law, GS 95-25.14(a) includes an exemption to the state laws governing minimum wage, overtime, youth employment, and recordkeeping for a person employed in agriculture (as defined by federal law). Act amends the agricultural exemption to limit it to circumstances where the person is employed on a farm owned or operated by the person's family or legal guardian or a person standing in loco parentis to the person. Also amends GS 95-25.5(c), which provides restrictions and conditions for employment of youth, to allow youth who are 14 or 15 years old to be employed in agriculture if certain conditions related to the youth's working hours are satisfied. Applies to youths employed on or after the date when the Act becomes law.

Intro. by Jordan, Parfitt. GS 95 Agriculture, Environment, and Natural Resources; Employment and Retirement

H 839. EXTEND SANITARY LANDFILL BUFFER REQUIREMENTS. Filed 4/6/11. *TO PROVIDE THAT SEPTAGE LAND APPLICATION SITES MAY NOT BE PERMITTED.*

Amends GS 130A-291.1 to prohibit the issuance of a permit for a septage land application site if, at the time of the permit application, any portion of the proposed septage land application site would be located within: (1) five miles of the outermost boundary of a National Wildlife Refuge; (2) one mile of the outermost boundary of a state gameland owned, leased, or managed by the Wildlife Resources Commission; or (2) two miles of the outermost boundary of a component of the State Parks System. Applies to any application for a permit for a septage land application site that is pending as of July 1, 2011.

Intro. by Hill.

GS 130A

Agriculture, Environment, and
Natural Resources

H 840. HEALTHIER AND GREENER SCHOOLS ACT. Filed 4/6/11. *TO ENACT THE HEALTHY SCHOOLS ACT OF 2011.*

New Article 17A of GS Chapter 115C sets nutritional standards for school meals, promotes local food sourcing, sets minimum physical and health education activities, provides for the development of school gardens and local wellness policies, and establishes the Healthy Schools Fund (fund) to support these activities. The non-reverting Fund would be funded by annual appropriations and administered by the State Board of Education.

In addition to meeting federal nutritional standards, breakfast and lunch meals served to students in public schools must meet standards set forth in the act for maximum saturated fat, trans fat, and sodium. Sets additional requirements for public school meals, including giving students at least 30 minutes to eat, offering free breakfast to all students, and providing meals that meet the dietary needs of children with diagnosed medical conditions. Sets standards for beverages and snack foods provided by or sold through vending machines, fund-raisers, snacks, and after-school programs. Requires each local school administrative unit to establish a facility for preparing, processing, growing, and storing healthy and nutritious foods and requires public disclosure of the ingredients and nutritional content of food menu items. Requires schools to serve locally grown, locally processed, and unprocessed foods from growers engaged in sustainable agriculture practices whenever possible. Requires the Department of Public Instruction (DPI), in conjunction with the Department of Health and Human Services, Department of Agriculture and Consumer Services, community organizations, food services providers, and public schools to develop programs to promote the benefits of purchasing and eating locally grown and unprocessed foods from growers engaged in sustainable agriculture practices.

Sets minimum minutes required per week for physical education and health education in public schools and charter schools. Requires students with disabilities to have suitably adapted physical education incorporated in their individualized education plans. Requires the State Board of Education to annually report to the General Assembly on school compliance with physical and health education standards.

Establishes an environmental programs office in DPI to, among other things, develop a master recycling plan for public schools, analyze utility usage, establish an integrated pest management program, test drinking water, and post environmental testing online. Requires the State Board of Education to report by December 31, 2011, to the General Assembly on implementation of recycling, composting, energy reduction, pest management, air quality, and environmentally friendly cleaning supplies in public schools.

Requires DPI, in conjunction with the Department of Environment and Natural Resources to develop an environmental literacy plan for public and charter schools. Establishes a School Gardens Program to develop and integrate gardens into school curricula. Requires the development of local wellness policies that include goals for improving the environmental sustainability of schools, increasing the use of locally grown, locally processed, and unprocessed foods, and increasing physical activity. Requires schools to submit annually to DPI a report profiling information (specified in the act) about their health programs, nutrition programs, physical and health education, and wellness policies. Requires the Department of Health and Human Services (DHHS), in conjunction with local school administrative units, charter schools, and DPI, to develop a plan to establish and operate school health centers in public schools and public charter schools by December 31, 2016. Provides that the square footage of a nurse's suite must not be a determining factor as to whether or not a school nurse is placed at a public charter school. Establishes the Healthy Youth and Schools Commission to advise the State Board of Education and the General Assembly on health, wellness, and nutritional issues concerning youth and schools in the state. The State Board of Education must appoint the 13 Commission members, who must be experts in health, wellness, or nutrition, parents, teachers, or students. Commission members will serve no more than two, three-year terms.

Requires, when economically feasible, all elementary and secondary public schools, and all non-public schools with 50 or more students, to establish a green cleaning policy and exclusively purchase and use environmentally sensitive cleaning products pursuant to guidelines and specifications developed by the Healthy Youth and Schools Commission, DHHS, the State Board of Education, and other stakeholders. No State funds may be appropriated to implement this portion of the act.

Intro. by Harrison.

GS 115C

Education

H 841. GLOBAL TRANSPARK PED STUDY (=S 409). Filed 4/6/11. *TO PROVIDE THAT THE PROGRAM EVALUATION DIVISION OF THE NORTH CAROLINA GENERAL ASSEMBLY SHALL CONDUCT A COMPREHENSIVE PROGRAM AND FINANCIAL REVIEW OF THE NORTH CAROLINA GLOBAL TRANSPARK AUTHORITY.* Identical to S 409, filed 3/23/11.

Intro. by Howard.

STUDY

General Assembly

H 842. IMMUNITY FOR PROPERTY OWNERS IN EMERGENCIES. Filed 4/6/11. *TO STRENGTHEN AND CLARIFY THE IMMUNITY OF PROPERTY OWNERS WHO ALLOW THEIR PROPERTY TO BE USED FOR ACTIVITIES OR FUNCTIONS RELATING TO EMERGENCY MANAGEMENT.*

Amends GS 166A-15, which extends immunity to owners of real or personal property in some situations, to clarify that the immunity applies anytime the property is used for activities or functions related to emergency management as provided for in state law. Clarifies that the immunity applies only if the use of the property is used pursuant to a request of the State government or a local subdivision of the State.

Intro. by Martin.

GS 166A

Emergency Services; Property,
Land Use, and Housing

H 843. MODERNIZE NC EMERGENCY MANAGEMENT ACT. Filed 4/6/11. *TO MODERNIZE THE NORTH CAROLINA EMERGENCY MANAGEMENT ACT AND RELATED STATUTES.*

Repeals Article 1 of GS Chapter 166A, the NC Emergency Management Act of 1977, with the exception of GS 166A-6.1, which is recodified as GS 166A-29. Enacts new Article 1A of GS Chapter 166A, entitled the NC Emergency Management Act. The new Article is largely a reorganization of existing law.

Part 1 of new Article 1A outlines the purposes of the Act (GS 166A-19.1) and specifies several limitations on the scope of the Act (GS 166A-19.2). It also defines key terms used in the Act, including emergency, and state of emergency (GS 166A-19.3). Notably, the term "emergency" is defined to be synonymous with the term "disaster."

Part 2 governs the emergency management system at the state level, specifying the respective powers of the Governor (GS 166A-19.10), the Secretary of Crime Control and Public Safety (GS 166A-19.11), and the Division of Emergency Management (GS 166A-19.12).

Part 3 (GS 166A-19.15) addresses local emergency management authority. Holds governing bodies of counties responsible for local emergency management and allows for local emergency management agencies (county, city, or joint city-county). Specifies additional emergency powers granted to local governments and requirements that govern county eligibility for state and federal financial assistance.

Part 4 governs declarations of states of emergency. GS 166A-19.20 authorizes the Governor or the General Assembly (by resolution) to declare a state of emergency and specifies several different categories of emergencies, the conditions that apply to such emergencies and the expirations of such declarations. Identifies a new category of emergency ("Type L Emergency"). While the category of emergency is new, the authority provided for in this category already exists in current GS 14-288.15. GS 166A-19.21 outlines the authority of local governments to declare a state of emergency including the geographical area covered by such declarations, the expiration of the declarations and the effect of the declaration.

Part 5 specifies additional powers granted to the Governor during a state of emergency (GS 166A-19.30). Also authorizes local governments to enact ordinances governing states of emergency and specifies limitations placed on such ordinances.

Part 6 governs funding of emergency preparedness and response. GS 166A-19.40 outlines when the Governor may use certain funds and GS 166A-19.41 specifies when the Governor may make state funds available for certain types of emergency assistance. GS 166A-19.42 establishes the State Emergency Response Account as a reserve in the General Fund and authorizes the Governor to use funds in the account under certain circumstances.

Part 7 addresses immunity and liability of governmental officials and private entities involved in emergency management activities governed by the Act (consistent with current law).

Part 8 includes several miscellaneous provisions addressing issues such as curfews and ensuring availability of supplies during emergencies, accepting gifts, grants and loans, mutual aid agreements with other states and the federal government, compensation for the taking and use of property, nondiscrimination, and emergency management personnel.

Adds new GS 14-288.20A to make it a Class 2 misdemeanor for violations of requirements in ordinances, declarations or executive orders issued or adopted under the emergency management authority or to willfully refuse to leave a building as directed by an evacuation order issued by the Governor.

Makes conforming changes to multiple statutory sections. With the exception of one provision, changes are

effective October 1, 2011. A conforming change to GS 14-415.4(e)(6) related to a petitioners request to restore rights to carry firearms is effective February 1, 2011.

Intro. By Martin.

GS 166A, 14, 20, 42A, 58, 75, 83A, Emergency Services
89C, 122C, 131D, 131E, 143C,
166A, 18B, 70, 74F, 90, 93E,
114, 115C, 121, 143, 143B,
143A, 160A

H 844. MOUNTAINS-TO-SEA TRAIL SPECIAL PLATE. Filed 4/6/11. *TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO PRODUCE A SPECIAL PLATE FOR THE FRIENDS OF THE MOUNTAINS-TO-SEA TRAIL, INC.*

Amends GS 20-79.4(b) to add a special registration plate that bears the phrase "Mountains-to-Sea Trail" with a background designed by the Friends of the Mountains-to-Sea Trail, Inc. Amends GS 20-79.7 to establish a special plate fee of \$30. Distributes \$10 of the fee amount to the Special Registration Plate Account and \$20 to the Collegiate and Cultural Attraction Plate Account (CCAPA). Amends GS 20-81.12 to direct the Division of Motor Vehicles to make a quarterly transfer of the money in the CCAPA earned from the sale of the Mountains-to-Sea plates to the Friends of the Mountains-to-Sea Trail, Inc., to be used to fund trail projects and related administrative and operating expenses. Provides that the development of the plate is contingent on receiving at least 300 plate applications. Effective July 1, 2011.

Intro. by Dollar, Fisher, Langdon, Carney.

GS 20 Transportation

H 845. REFORM ANNEXATION LAWS. Filed 4/6/11. *TO REFORM THE INVOLUNTARY ANNEXATION LAWS OF NORTH CAROLINA.*

Repeals Part 2 of Article 4A in GS Chapter 160A (annexation by cities of less than 5,000). Enacts new Part 7, *Involuntary Annexation by Municipalities*, to Article 4A of GS Chapter 160A, authorizing the governing board of any municipality to extend the municipality's corporate limits under proposed Part 7. Includes definitions applicable to Part 7. As prerequisites to annexation, requires a municipality exercising authority to annex under Part 7 to make plans to extend services to the area proposed to be annexed, and to prepare a report including the plans before the required public hearing. Requires that the report include: (1) a map or maps of the municipality and adjacent territory showing the present and proposed boundaries, the present locations and proposed extension of major trunk water mains and sewer lines, and the general land-use pattern in the area proposed to be annexed; (2) a statement that the area proposed to be annexed meets specified requirements; (3) a statement showing plans to extend each major municipal service and the method the municipality will use to finance the extension, as detailed; (4) a statement of the annexation impact on any rural fire department providing service in the area proposed to be annexed, and on fire protection and fire insurance rates, as specified; and (5) a statement showing how the proposed annexation will affect the municipality's finances and services, as described.

Authorizes the municipal governing board to extend the municipal corporate limits to include any area that meets four detailed criteria as follows. Requires the area to be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding begins, except as specified. Requires at least one-eighth of the aggregate external boundaries of the area to coincide with the municipal boundary. Specifies that no part of the area can be included within the boundary of another incorporated municipality. Requires the total area to be annexed to meet any of the following requirements: (1) part or all of the area must be developed for urban purposes, as specified; (2) part or all of the area either lies between the municipal boundary and an area developed for urban purposes, as described, or is adjacent, on at least 60% of its external boundary, to any combination of the municipal boundary and the boundary of areas developed for urban purposes, or (3) the total area is completely surrounded by the municipality's primary corporate limits. Requires the municipality to comply with the following six conditions when fixing new boundaries: (1) use recorded property lines and streets as boundaries; (2) do not use a connecting corridor consisting solely of a street or street right-of-way to establish contiguity to a noncontiguous area; (3) do not consider property used for a commercial, industrial, institutional, or governmental purpose if the lot or tract is used only temporarily; (4) acreage used for commercial, industrial, institutional, or governmental purposes must include acreage actually occupied by buildings or other man-made structures, as specified; (5) "necessary land connection" means an area that does not exceed 25% of the total area to be annexed; and (6) the area of an abolished water and sewer district is considered to be a water and sewer district even after abolition under GS 162A-87.2(b).

The act becomes effective July 1, 2011, and applies to annexations for which a petition has been received under Part 1 (extension by petition) or Part 4 (annexation of noncontiguous areas) of Article 4A in GS Chapter

160A on or after that date. Annexations for which a resolution of intent has been adopted under Part 2 (annexation by cities of less than 5,000) or Part 3 (annexation by cities of 5,000 or more) of Article 4A in GS Chapter 160A before July 1, 2011, will terminate and may be reinitiated under new Part 7.

Intro. by LaRoque, Dollar. GS 160A Local Government

H 846. EXPAND ACCESS/DEATH CERTIFICATE/ADULT ADOPTEE. Filed 4/6/11. *TO EXPAND THE SCOPE OF THE LAW THAT ALLOWS AN AGENCY ACTING AS A CONFIDENTIAL INTERMEDIARY TO OBTAIN A COPY OF A DEATH CERTIFICATE OF A BIOLOGICAL PARENT OR AN ADULT ADOPTEE TO INCLUDE A LINEAL ASCENDANT OF A BIOLOGICAL PARENT WHEN IT IS DETERMINED THE BIOLOGICAL PARENT, ADULT ADOPTEE, OR THE LINEAL ASCENDANT OF THE BIOLOGICAL PARENT IS DECEASED.*

Amends GS 48-9-104(d) to provide that if an agency providing confidential intermediary services determines that the person who is the subject of the search is deceased and upon further search determines that a lineal ascendant of the person who is the subject of the search is also deceased, the agency may obtain a copy of the death certificate not only of the deceased person who is the subject of the search but also any deceased lineal ascendant of the person who is the subject of the search.

Intro. by LaRoque. GS 48 Family Law

H 847. NATUROPATHIC DOCTORS LICENSING ACT (=S 467). Filed 4/6/11. *TO ESTABLISH THE NORTH CAROLINA NATUROPATHIC DOCTORS LICENSURE ACT.* Substantively identical to S 467, filed 3/30/11.

Intro. by Barnhart, Collins, Murry, Fisher. GS 90, 114 Health, Social Services, and Aging

H 848. ESTABLISH HHS OVERSIGHT COMMITTEE. Filed 4/6/11. *TO ESTABLISH THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES, TO TRANSFER THE DUTIES OF CERTAIN OVERSIGHT COMMITTEES AND STUDY COMMISSIONS TO THE NEWLY ESTABLISHED JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES, AND TO MAKE CONFORMING CHANGES.*

Enacts new Article 23A to GS Chapter 120 to establish the Joint Legislative Oversight Committee on Health and Human Services and to consolidate within this committee the duties currently held by of the following commissions and committees: (1) the North Carolina Study Commission on Aging; (2) the Joint Legislative Health Care Oversight Committee; (3) the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services; and (4) the Public Health Study Commission. Makes conforming statutory repeals. Charges the new Oversight Committee with examining the systemwide issues affecting the development, budgeting, financing, administration, and delivery of health and human services, and with recommending to the General Assembly ways to improve the quality and delivery of services while maintaining the effectiveness and efficiency of system administration at the state and local levels. Authorizes the committee to compel the production of documents and the attendance of state officials and employees.

The committee consists of 22 members, 11 members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom must be members of the minority party, and 11 members of the House of Representatives appointed by the Speaker of the House, at least three of whom must be members of the minority party. Members serve two-year terms and may complete a term of service even if they do not seek reelection or are not reelected to the General Assembly. One co-chair each must be appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. A quorum of the committee is 10 members.

Intro. by Barnhart. GS 120 Health, Social Services, and Aging

H 849. THIRD DEGREE RAPE. Filed 4/6/11. *TO CREATE THE CRIMINAL OFFENSE OF THIRD DEGREE RAPE.*

Makes third degree rape, continuing to engage in vaginal intercourse with another person after consent is withdrawn, a Class E felony. Provides that a person who initially consents to vaginal intercourse is not deemed to have consented to penetration occurring after the person withdraws consent during the course of that intercourse and allows a person to withdraw consent during the vaginal intercourse even if actual penetration is in progress or accomplished with consent and even if there is only one act of vaginal intercourse. Requires withdrawal of consent to be clearly communicated in a way that a reasonable person would understand to constitute withdrawal of consent. Applies to offenses committed on or after December 1, 2011.

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

H 850. THE BAUCUM-REYNOLDS SAFE ROADS ACT. Filed 4/6/11. *TO MAKE THE USE OF A MOBILE PHONE WHEN INVOLVED IN A REPORTABLE CRASH RESULTING IN DEATH OR SERIOUS INJURY AN AGGRAVATING FACTOR IN SENTENCING FOR THE UNDERLYING OFFENSE COMMITTED WHICH RESULTED IN THE REPORTABLE CRASH.*

Enacts new GS 20-137.4B to make the use of a mobile phone or additional technology device, as those terms are defined in GS 20-137.3, while committing a violation of GS Chapter 20 or any other law that results in a reportable crash resulting in death or injury, an aggravating factor in sentencing. If the aggravating factor is established, the punishment for the underlying offense must be set at the next highest level misdemeanor. If the underlying violation is a Class A1 misdemeanor or felony, the punishment must be set at the next highest level above the level at which the underlying offense would have been punished based on prior convictions. A person sentenced pursuant to the statute is ineligible for a prayer for judgment continued or a remission of court costs and fines. Effective December 1, 2011, and applicable to offenses committed on or after that date.

Intro. by Folwell, Horn, GS 20 Transportation
Sanderson, Parmon.

H 851. RAIL FUNDS/BURGAW TO WILMINGTON ROUTE. Filed 4/6/11. *TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO GIVE PRIORITY TO COMPLETING IMPROVEMENTS TO THE RAIL ROUTE FROM BURGAW TO WILMINGTON WITH ANY INCREASED STATE RECEIPT OF FEDERAL HIGH-SPEED RAIL FUNDS, DUE TO OTHER STATES NOT UTILIZING THEIR HIGH-SPEED RAIL FUNDS.* As title indicates.

Intro. by Hamilton. UNCODIFIED Transportation

H 852. LMT PJCS/B,C, OR D, E FELONIES. Filed 4/6/11. *TO PROVIDE THAT THE COURT SHALL NOT DISPOSE OF A CRIMINAL ACTION THAT IS A CLASS B, C, D, OR E FELONY BY ORDERING A PRAYER FOR JUDGMENT CONTINUED THAT EXCEEDS TWELVE MONTHS.*

Enacts new GS 15A-1331B, as the title indicates. Further requires that if the court enters a prayer for judgment continued in a criminal action that is a Class B, C, D, or E felony, the court must include a condition that the state will pray judgment within 12 months and requires the court to enter a final judgment at the earlier of the time that the state prays judgment or 12 months from the date of the prayer for judgment continued order. Applies to criminal actions heard by the court on or after December 1, 2011.

Intro. by Spear. GS 15A Criminal Law, Procedure, and Sentencing

H 853. END CT. ORDERS/EST. LOCAL INTAKE PROCEDURES. Filed 4/6/11. *NO LONGER REQUIRING A COURT ORDER TO ESTABLISH LOCAL INTAKE PROCEDURES FOR RECEIVING DELINQUENCY AND UNDISCIPLINED COMPLAINTS UNDER THE LAWS PERTAINING TO UNDISCIPLINED AND DELINQUENT JUVENILES AND AUTHORIZING THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION TO MONITOR COUNTY DETENTION CENTERS.*

Deletes from GS 7B-1803(a) language requiring the chief judge of each judicial district to establish by administrative order procedures for receiving delinquency and undisciplined complaints and the filing of petitions based on those complaints. Moves responsibility for developing standards for county juvenile detention homes and jails, when the latter are used pending placement in a juvenile detention home, from the Secretary of Health and Human Services to the Secretary of Juvenile Justice and Delinquency Prevention.

Intro. by Mobley. GS 7B, 153A Courts; Children and Juvenile Law

H 854. ABORTION-WOMAN'S RIGHT TO KNOW ACT. Filed 4/6/11. *TO REQUIRE A TWENTY-FOUR-HOUR WAITING PERIOD AND THE INFORMED CONSENT OF A PREGNANT WOMAN BEFORE AN ABORTION MAY BE PERFORMED.*

Section 1 enacts new Article 11 in GS Chapter 90 as title indicates. GS 90-21.81 defines terms used throughout the new Article. GS 90-21.82 provides that a woman must provide voluntary and informed consent to receive an abortion. It also specifies the information that a physician or qualified professional must provide orally (by telephone or in person) to the woman at least 24 hours before an abortion is performed. GS 90-21.83 specifies information that the Department of Health and Human Services (Department) must compile and make available in print and online. GS 90-21.84 requires the Department to develop and maintain a stable website to provide this information and monitor the site regularly for tampering. Information required to be provided by the Act must be available in English as well as each language that is the primary language of at least 2% of the state's population. GS 90-21.85 requires that, except in medical emergencies, at least four hours before an abortion is performed, a provider must perform an obstetric ultrasound on the woman and provide her with specific information and the opportunity to view the images and hear the fetal heart tone. GS 90-21.86 specifies

the information requirements that apply in medical emergency situations. GS 90-21.87 provides that for unemancipated minors, the required consent must be obtained from both the minor and from the adult individual authorized to give consent pursuant to GS 90-21.7(a). GS 90-21.88 requires the Department to create a system to collect numerous categories of data from physicians and to issue public reports about the data on an annual basis. Physicians failing to report or who submit incomplete reports may be subject to late fees and possibly sanctions for civil contempt. GS 90-21.89 authorizes civil remedies for violations of the Act, including an action for damages, injunctive relief and authorization for awarding attorneys' fees. GS 90-21.90 directs the court in any proceeding brought under the Act to rule on whether the anonymity of the woman involved shall be preserved from public disclosure and specifies the findings that must be included in any such order. GS 90-21.91 requires that information required by the Act must be provided in person (except information specifically authorized to be provided by telephone) and in a language the woman understands. If the woman is unable to read written materials required by the Act, the materials must be read to the woman in a language she understands. GS 90-21.92 directs a physician who has reason to believe that a woman is being coerced into having an abortion to provide the woman with information about services available to her, including rape crisis centers, shelters for victims of domestic violence, and restraining orders. GS 90-21.93 includes a severability clause.

Section 2 amends GS 90-21.7, which governs consent for abortions performed upon unemancipated minors. Under current law, written consent must be obtained from both the minor and an adult (custodial parent, legal guardian or custodian, parent or grandparent with whom the minor is living). New subsection (a1) requires the written consent be notarized and retained in the minor's record for a certain period of time.

Section 3 requires the Department to use appropriated funds to implement the Act.

Section 4 provides that the Act is effective 90 days after it becomes law and applies to claims for relief arising on or after December 1, 2011.

Intro. By Samuelson, McElraft. GS 90

Health, Social Services, and Aging

H 855. [PERSONAL LEARNING PLAN FOR EACH CHILD.](#) Filed 4/6/11. *TO REQUIRE THE PUBLIC SCHOOLS TO PROVIDE A PERSONAL EDUCATION PLAN FOR EVERY STUDENT.*

Enacts new GS 115C-105.42 to require a personal learning plan for each public school student in North Carolina who does not have an individualized education program (IEP) as defined in GS 115C-106.3 or a personal education plan (PEP) in accordance with GS 115C-105.41. Defines a personal learning plan as a document that provides an ongoing record of a student's learning progress, and that remains with the student throughout the student's time in a North Carolina public school. Delineates the purposes of a personal learning plan and specifies the features it must include.

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

Intro. by Brandon.

GS 115C

Education

H 856. [FUNDING FORMULA FOR NC VIRTUAL PUBLIC SCHOOLS.](#) Filed 4/6/11. *REGARDING THE IMPLEMENTATION OF NORTH CAROLINA VIRTUAL PUBLIC SCHOOL (NCVPS) PROGRAM.*

Directs the North Carolina Virtual Public School (NCVPS) program to report to the State Board of Education (SBE) and to maintain an administrative office at the Department of Public Instruction (DPI). Requires the NCVPS Director to ensure that students residing in rural and low-wealth counties' local school administrative units have access to e-learning course offerings and directs that the instructional opportunities are to include courses required as part of the standard course of study for high school graduation and Advance Placement (AP) offerings not otherwise available. Delineates the steps that the SBE is to take to implement an allotment formula for NCVPS beginning with the 2011-12 school year. Repeals Section 7.4 (NCVPS allotment formula) of SL 2010-31.

Directs the SBE to consider recommendations from the e-Learning Commission and the NCVPS Advisory Board in establishing the fee structure and payment structure for NCVPS. Requires the SBE to develop a separate per student fee structure adjusted upward from the in-state student fee structure by an amount determined appropriate by the SBE for students who are out-of-state, home-schooled, or attending private schools. Directs NCVPS to develop and submit to the SBE by September 1, 2011, a revenue-generating plan for selling courses to out-of-state educational entities.

Provides annual reporting requirements to the SBE and additional duties for the Director of NCVPS, and includes requirements directing the SBE to report by April 15, 2011, on its implementation of this section to the Governor's office, the Office of State Budget and Management, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division.

Directs the SBE to reduce average daily membership (ADM) dollar allotments on the basis of ADM in grades 6-12 to provide \$836,000 for the state-level operations of NCVPS for the 2011-12 fiscal year. Requires that the total fee be adjusted annually based on the percentage growth in NCVPS enrollment, ensuring the expansion of services due to increased virtual student enrollment.

Permanently transfers funds appropriated for Learn and Earn Online to be used for the following purposes: (1) \$2,030,923 for NCVPS administrative salaries and benefits; and (2) the remainder to be used as an NCVPS enrollment reserve ensuring that all NC students have access to NCVPS. Directs the SBE to set guidelines for using the enrollment reserve.

Amends GS 66-58(c) to provide that its provisions regarding the sale of merchandise or services by governmental units do not prohibit the sale by the SBE of NCVPS courses to home schools, private schools, and out-of-state educational entities.

Effective July 1, 2011.

Intro. by Langdon.

UNCODIFIED

Education

H 857. SEX OFFENDERS/ ELECTRONIC MONITORING. Filed 4/6/11. *TO DIRECT THE DEPARTMENT OF CORRECTION TO REPLACE THE CURRENT ELECTRONIC MONITORING SERVICE AND EQUIPMENT USED TO MONITOR CONVICTED SEX OFFENDERS WITH A NEW SYSTEM THAT PROVIDES EXCLUSION ZONES AROUND ALL OF THE STATE'S K-12 SCHOOL CAMPUSES.*

Requires the Department of Correction (Department) to replace the current electronic monitoring service and equipment used to monitor convicted sex offenders by January 1, 2012, with a provider that offers electronic monitoring equipment and service that provides exclusion zones around every K-12 school campus in the state. Requires the new equipment to have the ability to immediately notify the proper authority of the convicted sex offender's violation of the exclusion zone so that proper action may be taken. Directs the Department to report to the Joint Legislative Corrections, Crime Control, and Juvenile Oversight Committee by June 1, 2012, on the implementation of the new electronic monitoring system.

Intro. by Holloway.

UNCODIFIED

Criminal Law, Procedure, and Sentencing

H 858. HONOR R. PHILIP HANES, JR. Filed 4/6/11. *HONORING THE LIFE AND MEMORY OF R. PHILIP HANES, JR.* As title indicates.

Intro. by Womble, Parmon, McGee, Folwell.

JOINT RES

General Assembly

H 859. AOC/ CUSTODY & AVAILABILITY OF CT. RECORDS. Filed 4/6/11. *TO CLARIFY THAT THE ADMINISTRATIVE OFFICE OF THE COURTS IS A CUSTODIAN OF COURT RECORDS, TO CLARIFY THAT THOSE COURT RECORDS ARE A PUBLIC RECORD AND ARE AVAILABLE UPON REQUEST TO A THIRD PARTY UPON PAYMENT OF A REASONABLE AMOUNT TO COVER REPRODUCTION COSTS.*

Amends GS 7A-109(d) and (f) as the title indicates. Provides that nothing in subsection (d) is to be construed to supersede the provisions and requirements of GS 132-1.

Intro. by Boles.

GS 7A

Courts

H 860. NC SCIENCE COMPETITIONS PROGRAM CTR FUNDS. Filed 4/7/11. *TO APPROPRIATE FUNDS TO THE NORTH CAROLINA SCIENCE, MATHEMATICS AND TECHNOLOGY EDUCATION CENTER, INC., TO CREATE THE NORTH CAROLINA SCIENCE COMPETITIONS PROGRAM CENTER TO ESTABLISH AND SUPPORT SCIENCE COMPETITIONS IN ALL COUNTIES OF THE STATE TO PREPARE STUDENTS FOR AN ECONOMY BASED ON TECHNOLOGY AND INNOVATION.*

Appropriates \$100,000 for 2011-12 from the General Fund to the NC Science, Mathematics and Technology Education Center, Inc., to create the NC Science Competitions Program Center to prepare students for an economy based on technology and innovation. Effective July 1, 2011.

Intro. by Jeffus, Tolson, Fisher, Glazier.

APPROP

Budget and Appropriations

Local Bills

None

ACTION ON BILLS

April 8, 2011

None

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

HOUSE BILLS

H 351. RESTORE CONFIDENCE IN GOVERNMENT. Filed 3/14/11. House committee substitute makes the following changes to 1st edition.

Deletes amendments made to GS 163-166.12 and instead codifies most changes previously made to that statute, related to the photo identification requirement for in-person voting, in new GS 163-166.13. New GS 163-166.13 requires every individual voting in person to present photo identification to a local election official at the voting place before voting. However, any voter with a disability who does not present photo identification will be permitted to vote if a person, at least 18 years of age, accompanying the voter with a disability executes an affidavit affirming that the voter with a disability is the same person registered to vote and, to the affiant's knowledge, does not have required photo identification. Allows the voter with a disability to vote a ballot as if the voter met the photo identification requirement. Defines photo identification as one of the following items, provided it contains a photograph of the registered voter: (1) a NC drivers license issued under Article 2 of GS Chapter 20; (2) a special identification card for nonoperators issued under GS 20-37.7; (3) an identification card issued by a branch, department, agency, or entity of NC, another state, or the U.S.; (4) a U.S. passport; (5) an employee identification card issued by any branch, department, agency, or entity of the U.S. government, NC, or any local government, board, authority, or other entity of NC; (6) a U.S. military identification card; (7) a tribal identification card; or (8) a NC voter identification card issued under proposed GS 163-166.14.

Moves the provisions, providing for and explaining voter identification cards, from GS 163-166.13 in the previous edition to new GS 163-166.14. Clarifies that no *registered voter* (rather than person) is eligible for a NC voter identification card if the registered voter has a valid unexpired drivers license, learner's permit, provisional license, or a special identification card issued under GS 20-37.7. Removes height and weight from the categories of information included on the voter identification card. Adds that the information collected by the county board of elections is subject to GS 163-82.10 (official record of voter registration) and GS 163-82.10B (date of birth kept confidential). Clarifies that a person may apply for and receive a new voter identification card if the person moves his or her residence in NC. Makes a clarifying change.

Makes conforming and clarifying changes to GS 163-82.6A(b) (concerning in-person registration and voting at one-stop sites) and GS 163-227.2(b) (alternate procedures for requesting absentee ballot). Makes conforming changes to GS 163-166.7(a) (checking registration) and adds that an individual may vote a provisional ballot if the individual does not present required identification. Retains new GS 163-182.1A in this edition, which provides for counting provisional ballots cast due to failure to provide valid photo identification. Makes conforming changes to GS 163-87 and deletes the amendment allowing an observer appointed under GS 163-45 to also enter challenges against voters in the precinct regardless of the observer's place of residence. Makes other clarifying changes. Deletes provisions concerning the Voting Rights Act and preclearance, in relation to the photo identification requirement.

Makes clarifying and conforming changes to GS 20-37.7(d) and adds that a registered voter may obtain a special identification card under the statute without paying a fee, if the voter signs an unnotarized affidavit stating the voter is registered and has no other acceptable photo identification. Retains provisions concerning education and publicity of the photo identification requirement and funds appropriated from the General Fund, Help America Vote Act, NC Voter-Owned Elections Fund, and attorney membership fees. Clarifies that funds from the surcharge on attorney fees *collected on or after July 1, 2011*, may be used. These provisions retain the effective date of July 1, 2011.

Retains amendments to GS 163-230.2 (pertaining to absentee ballots) and deletes all other provisions in previous edition (candidate and treasurer duty and liability; State Board of Elections Chair term limit; prohibit piece-work payment for voter registration; prohibit pay-to-play). Makes a conforming change to the title.

Clarifies that, unless otherwise indicated, this act is effective when it becomes law and applies to primaries and elections conducted on or after January 1, 2012.

Elections Law; Transportation;
Budget and Appropriations

H 427. RUN AND YOU'RE DONE. Filed 3/22/11. House committee substitute makes the following changes to 1st edition.

Adds new section amending GS 20-28.2 to permit a judge to determine whether the vehicle driven at the time of the offense is subject to a forfeiture order. Allows the determination to be made: (1) at a sentencing hearing for the underlying felony speeding to elude arrest, (2) at a separate hearing after conviction of the defendant, or (3) at a forfeiture hearing held at least 60 days after the defendant failed to appear at the scheduled trial for the underlying offense, provided the defendant's order of arrest for failing to appear has not been set aside. Specifies that the vehicle becomes subject to forfeiture if the greater weight of the evidence shows that the defendant is guilty of felony speeding to elude arrest as defined. Makes a conforming change to GS 20.28.2(d). Adds a definition for *speeding to elude arrest acknowledgment*, as distinguished from *impaired driving acknowledgment*. Clarifies the definition for *innocent owner* to mean a motor vehicle owner who, if the offense resulting in seizure was an impaired driving offense, (1) did not know and had no reason to know that the defendant's drivers license was revoked or that the defendant had no valid drivers license and no liability insurance, or (2) knew either piece of information but the defendant drove the vehicle without the person's permission, and the owner files a police report and agrees to prosecute, or who, if the offense resulting in seizure was a felony speeding to elude arrest offense, did not give the defendant permission to drive the vehicle and the owner files a police report and agrees to prosecute the unauthorized operator of the motor vehicle, or who falls under another category in existing law. Makes a conforming change. Amends GS 20-28.2(c1), clarifying that if a motor vehicle subject to forfeiture was damaged while the defendant operator was committing the underlying offense resulting in seizure (rather than offense involving impaired driving), then the Division of Motor Vehicles (DMV) must determine liable insurance companies. Amends GS 20-28.2(e), explaining that release of a vehicle to an innocent motor vehicle owner will only be ordered after satisfactory proof of, among other things, the execution of an impaired driving acknowledgment or a speeding to elude arrest acknowledgment, as defined. Makes a conforming change, and adds the same requirement to GS 20-28.3(e) (criteria required to release vehicle to nondefendant owner). Makes additional clarifying and conforming changes.

Amends GS 20-28.3(e2), adding that if the seizure was for a felony speeding to elude arrest offense, then the defendant motor vehicle owner may apply to the clerk of superior court in the county where charges are pending for pretrial release of the vehicle. Directs the clerk to release the vehicle to the defendant owner after payment of all charges, and under four specified conditions. Specifies procedure when a defendant motor vehicle owner obtains temporary possession of a seized vehicle and does not return the vehicle on the day of the forfeiture hearing or otherwise violates a condition of pretrial release. Makes other clarifying changes, and makes clarifying changes to GS 28.3(l). Makes additional clarifying and conforming changes.

Adds a new section amending GS 20-28.4(a) to clarify that a seized vehicle will be released, as specified, if the driver is subsequently not convicted of the underlying offense resulting in seizure (rather than an offense involving impaired driving) due to dismissal or a finding of not guilty, if the judge at the forfeiture hearing finds that the criteria for forfeiture have not otherwise been met (rather than fails to find that the drivers license was revoked as a result of a prior impaired driving revocation), and additional conditions under existing law are fulfilled.

Adds new section amending GS 20-28.8, directing the clerk of superior court to also electronically report impaired driving acknowledgments and speeding to elude arrest acknowledgments to the DMV, as defined. Adds new section amending GS 20-54.1 (forfeiture of right of registration), directing DMV to revoke the registration of all motor vehicles registered in the convicted person's name, upon receipt of notice of conviction of a felony speeding to elude arrest offense, and to not register a vehicle in that person's name until the person's license is restored. Directs the convicted person to surrender registration to the DMV within 10 days of the date of notice to revoke registration.

Amends GS 20-141.5 to delete language applicable to owners or holders of security interests in vehicles subject to forfeiture, and makes other conforming changes.

Changes the act's effective date to December 1, 2011 (was, October 1, 2011), applicable to offenses committed on or after that date.

Transportation; Criminal Law,
Procedure, and Sentencing

SENATE BILLS

S 8. NO CAP ON NUMBER OF CHARTER SCHOOLS. Filed 1/27/11. House committee substitute makes the following changes to 5th edition.

Deletes the authority of the North Carolina Public Charter Schools Commission (created in this act) to exercise its powers and functions independently of the State Board of Education (SBE) and the Department of Public Instruction (DPI). Amends the purpose of the North Carolina Public Charter Schools Commission (Commission) to provide that the Commission is to oversee (was, authorize and oversee) high-quality public

charter schools and to recommend the approval of charter applicants to the State Board of Education (was, Commission had the authority for approval of any charter applicant).

Makes conforming changes throughout regarding the powers and duties of the Commission, providing that the Commission is to make recommendations to the SBE regarding final approval of charter applications, policies affecting all aspects of charter school operation, and any actions involving a charter school including renewals, non-renewals, and revocation of charters. Adds language throughout to provide that the Commission is to act with the approval of the SBE.

Directs the Commission to submit recommendations as designated proposals to the SBE. Requires the SBE to adopt or reject a designated proposal within 95 days and provides that if the SBE does not act on a designated proposal within 95 days, the proposal is deemed to be adopted. Directs the SBE not to make any substantive changes to any designated proposal of the Commission that the SBE adopts. Requires the SBE to state with specificity its reasons for rejecting a designated proposal. Provides that the Commission may amend and resubmit a rejected designated proposal to the SBE. Prohibits the SBE from acting in an arbitrary and capricious manner in withholding approval of a designated proposal resubmitted by the Commission. Makes the SBE's rejection of a resubmitted designated proposal subject to judicial review. Deletes provision granting the SBE the authority to veto any decision of the Commission by a two-thirds vote.

Requires that an applicant for a charter school include in its plans (1) a transportation plan for transporting any student enrolled in the charter residing within three miles of the charter school and residing in a household with income below 185% of the federal poverty level (was, transportation plan was optional); and (2) a plan for providing food services for any student enrolled in the charter school residing in a household with an income below 185% of the federal poverty level (was, directed the charter school to develop a plan for food services which ensured that lack of food services would not be a barrier for any student enrolled in the school residing in a household with an income 185% of the federal poverty level).

Authorizes the SBE (was, the Commission) to grant final approval of a charter school application upon the recommendation of the Commission. Makes conforming changes consistent with shifting the authority for final approval of a charter school application to the SBE.

Amends the academic and operational performance standards required to be set by the charter school to provide the standards are to include achievement gaps among student subgroups identified by DPI for all public schools (was, achievement gaps between student subgroups identified by federal law). Adds a standard for postsecondary readiness and success for high schools.

Deletes language that provided that a teacher employed by a charter school who returns to employment with a local school administrative unit (LEA) without a break in service is to have unused annual leave reinstated.

Requires charter schools approved after July 1, 2011, to provide transportation for students living within three miles of school in a household with an income 185% of the federal poverty level (was, directed charter schools to make efforts to develop a transportation plan). Requires charter schools approved after July 1, 2011 to provide food services for any student enrolled in the school residing in a household with an income 185% of the federal poverty level (was, directed the charter school to develop a plan for food services).

Provides for the distribution of assets, other than real property, upon the dissolution of a charter school or upon the nonrenewal of the charter, as follows: (1) directs that state funds used to purchase or improve real property (was, purchase) be remitted back to the State after all liens on the property are satisfied; (2) directs that a pro rata share of the county funds used to purchase or improve real property (was, purchase) be remitted back to the county from which the funds originated (was, county) after all liens on the property are satisfied.

Requires that if a student attends a charter school, the LEA in which the student resides must transfer an amount to the charter school equal to the per pupil share of the local current expense fund as defined by GS 115C-426 and provides that the amount transferred that consists of revenue derived from supplemental taxes is to be transferred to a charter school only if the student resides in the tax district for which the supplemental taxes are levied. Amends the fifth edition to provide that the charter school the student is attending must be located in that same county as the supplemental tax district.

Provides that if a county chooses to appropriate funds to the nonprofit tax-exempt corporations that holds the charters of its charter schools, the funds must be distributed equitably and apportioned according to the average daily membership of each charter school that has requested funds and used only for purposes identified in GS 115C-426(f). Provides that charter schools that receive fund allocations from their county government may use the funds to pay for school construction projects or to retire indebtedness for school construction projects incurred on or after January 1, 2010 (was, July 1, 2011).

Makes a conforming change deleting changes to GS 135-5.3 and GS 135-45.5 that authorized approval from the Commission with regards to the optional participation of charter schools operated by nonprofit corporations in

the state retirement system and state health plan. Makes technical changes involving the renumbering of sections.

Education

Legislation Enacted

None

Index by Keyword

Agriculture, Environment, and Natural Resources	Employment and Retirement
H 838, 5	H 813, 3
H 839, 6	H 828, 4
Budget and Appropriations	H 838, 5
H 351, 13	Family Law
H 860, 12	H 846, 9
Business and Commerce	General Assembly
H 832, 5	H 833, 5
H 834, 5	H 835, 5
Children and Juvenile Law	H 841, 7
H 853, 10	H 858, 12
Constitutional Amendment	Health, Social Services, and Aging
H 823, 3	H 835, 5
Courts	H 837, 5
H 853, 10	H 847, 9
H 859, 12	H 848, 9
Criminal Law, Procedure, and Sentencing	H 854, 11
H 427, 14	Local Government
H 849, 9	H 827, 4
H 852, 10	H 845, 9
H 857, 12	Property, Land Use, and Housing
Education	H 842, 7
H 823, 3	State Government
H 829, 4	H 813, 3
H 831, 4	H 833, 5
H 837, 5	H 836, 5
H 840, 6	Taxation
H 855, 11	H 830, 4
H 856, 12	Transportation
S 8, 16	H 351, 13
Elections Law	H 427, 14
H 351, 13	H 834, 5
Emergency Services	H 844, 8
H 842, 7	H 850, 10
H 843, 8	H 851, 10

Notes

None

NEXT SESSIONS

April 11, 2011

HOUSE convenes at 7:00 pm

SENATE convenes at 7:00 pm