

The Daily Bulletin: Tuesday, February 3, 2015

PUBLIC/HOUSE BILLS

H 36 (2015-2016) [ZONING/DESIGN AND AESTHETIC CONTROLS](#). Filed Feb 3 2015, *AN ACT TO CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS*.

Amends GS Chapter 160A (Cities and Towns) and GS Chapter 153A (Counties) by adding new GS 160A-381(h) and GS 153A-340(l), prohibiting the application of zoning and development ordinances relating to building design elements as well as regulations adopted pursuant to recommendations made under GS 160A-452(6)c. (a governing development board's recommendation for the adoption of certain regulations that will enhance the appearance of the municipality or its surrounding areas) to structures subject to North Carolina's Residential Code for One- and Two-Family Dwellings except in the following situations: (1) structures are in areas designated as local historic districts; (2) structures are located in an area designated as a historic district on the National Register of Historic Places; (3) structures are designated as local, state, or national historic landmarks; (4) the regulations are directly and substantially related to applicable safety codes under GS 143-138 (North Carolina State Building Code); (5) where the regulations apply to manufactured housing, consistent with GS 160A-383.1 and GS 153A-341.1 (zoning regulations for manufactured homes), and federal law; and (6) where such regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by these new subsections cannot be applied in any zoning district, special use district, conditional use district, or conditional district unless consented to by all of the owners of all of the property to which they can be applied as a part of obtaining a zoning amendment, or a zoning, subdivision, or development approval. Such regulations also cannot be applied indirectly as part of the review pursuant to GS 160A-383 or GS 153A-341 (accordance of zoning regulations with a comprehensive development plan) or any other applicable adopted plan. Defines *building design elements* and specifies items excluded from the term.

Provides that nothing in GS 160A-381(h) or GS 153A-340(l) will affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

Effective when the act becomes law and provides that the act clarifies and restates the intent of existing law and applies to ordinances adopted before, on, and after the effective date.

Intro. by Dollar, W. Brawley, Jordan, Glazier.

[GS 153A, GS 160A](#)

[View summary](#)

[Development, Land Use and Housing, Land Use, Planning and Zoning, Government, Local Government](#)

H 37 (2015-2016) [HOUSE UNC BOARD OF GOVERNORS ELECTION](#). Filed Feb 3 2015, *A HOUSE RESOLUTION TO ESTABLISH THE PROCEDURE FOR NOMINATING AND ELECTING MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA*.

Adopts procedures for the House of Representatives for nominating and electing members of the UNC Board of Governors (BOG).

Makes it the duty of the University Board of Governors Nominating Committee (Committee) to conduct a process for

nominating and electing persons for each opening on the BOG to which the House of Representatives is to elect members. Sets the time period for receiving BOG nominations as February 16 through February 20, 2015. The total number of open positions is eight and each Representative is allowed to nominate up to two persons by written nomination (by specified deadlines). Requires nominees to file a completed North Carolina State Ethics Commission Statement of Economic Interest with the North Carolina State Ethics Commission by 5:00 pm on February 20. Requires the Committee to list all nominees by February 20 and allows the Committee to screen nominees by interview, submission of written information, or both. Requires the Committee to vote to ensure that the slate of qualified candidates lists 16 candidates if 16 or more have been nominated.

Requires that the ballot be prepared under the supervision of the Committee Chair and that it include 16 qualified candidates if 16 or more individuals were nominated. Names are to be listed on the ballot in alphabetical order. Requires that the House hold its election no later than the beginning of the daily session on March 19, 2015. Requires that the Speaker of the House explain the six specified voting rules before the voting begins. House members are to vote for eight person for four year terms and each ballot must be signed by the member casting the ballot. Provides that the Committee Chair is responsible for canvassing the vote and declaring the results. Requires the House Principal Clerk to keep the ballots as part of the permanent records and keep the ballots open for immediate public inspection upon adjournment of that day's session. Provides that when the Committee Chair determines that the House has chosen eight persons to serve as members of the BOG, the Speaker of the House of Representatives must entertain a motion for the simultaneous election of those persons; the vote must be called electronically. Requires the election results to be sent to the Senate by Special Messenger.

Requires the Committee Chair to notify the Secretary of the BOG of the names of the persons elected by the House of Representatives and the term for which each person was elected.

Intro. by Dollar, Hastings.

HOUSE RES

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Education, Higher Education, Government, General Assembly, State Agencies, UNC System

H 38 (2015-2016) **JUDICIAL EFFICIENCY/EFFECT. ADMIN. OF JUSTICE**. Filed Feb 3 2015, *AN ACT TO INCREASE JUDICIAL EFFICIENCY AND THE EFFECTIVE ADMINISTRATION OF JUSTICE BY REDUCING THE NUMBER OF RECIPIENTS OF HARD COPIES OF THE APPELLATE DIVISION REPORTS DISTRIBUTED AT STATE EXPENSE, ESTABLISHING THE JOINT SELECT STUDY COMMITTEE ON THE PRESERVATION OF BIOLOGICAL EVIDENCE, DIRECTING THE STATE HIGHWAY PATROL TO STUDY THE FEASIBILITY AND COST-EFFECTIVENESS OF CONTRACTING WITH LOCAL BUSINESSES TO PERFORM MAINTENANCE ON STATE HIGHWAY PATROL VEHICLES IN LIEU OF REQUIRING THE VEHICLES TO BE TAKEN TO A REGIONAL MAINTENANCE FACILITY, DIRECTING THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP A CASE MANAGEMENT SYSTEM FOR CIVIL CASES IN SUPERIOR COURT, DIRECTING THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP A WRITTEN, COMPREHENSIVE POLICY FOR THE MANAGEMENT OF INFORMATION TECHNOLOGY RESOURCES, DIRECTING THE ADMINISTRATIVE OFFICE OF THE COURTS TO STUDY THE APPOINTMENT AND SUPERVISION OF MAGISTRATES, PROVIDING A MECHANISM FOR ENFORCING PAYMENT OF THE CRIMINAL MEDIATION FEE, AND PROVIDING FOR MEDIATED SETTLEMENT CONFERENCES IN DISTRICT COURT CIVIL ACTIONS.*

Amends GS 7A-343.1, as the title indicates, making a substantial reduction in the distribution of hard copies of the appellate division reports at state expense, decreasing the number of recipients and decreasing the number of copies to the remaining recipients. Directs the Administrative Officer of the Courts to develop a process for making copies of the appellate division reports available for purchase at a purchase price that equals the actual cost to the state for publication and shipping of the report. Enacts new GS 7A-343.1(b), requiring that the appellate division reports be available electronically through publication in a downloadable format on a publicly available website, at no cost to the recipient.

Establishes the Joint Select Study Committee on the Preservation of Biological Evidence, consisting of 17 members. Sets out membership criteria. Provides that the Speaker of the House and the Senate President Pro Tempore will designate one legislative member each to serve as cochair. Committee is to meet at the call of the cochairs, with a quorum being a majority of its members. Sets out matters the Committee is to review regarding the preservation of DNA and biological evidence, including costs associated with the establishment of minimum guidelines for the retention and preservation of biological evidence, as well as any topic that is believed to be related to the purpose of the Committee. Sets out finances and per diem for the Committee, with all the specified expenses coming out of the Legislative Services Commission's Reserve for Studies. A final report on the study is due to the General Assembly by April 1, 2016. Copies of the report are to be filed with the President Pro Tempore's office, the Speaker's office, and the Legislative Library. The committee is to be terminated on April 1, 2016, or when the final report is filed, whichever happens first.

Directs the Department of Public Safety to study the possibility and cost-effectiveness of contracting with local business to perform maintenance on highway patrol vehicles. Requires the results of this study to be reported to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2016. Effective July 1, 2015.

Directs the Administrative Office of the Courts (AOC) to study and develop a case management system for civil cases in superior court to make more efficient use of superior court time and resources. Provides direction for the focus of the study and the areas to be considered. Requires the AOC to report on the study and the system developed by the study to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2016. Effective July 1, 2015.

Requires the AOC to include specific guidelines for the distribution and maintenance of information technology hardware in its policy. Requires the AOC to report on this policy to the Joint Legislative Oversight Committee on Justice and Public Safety and the Joint Legislative Oversight Committee on Information Technology by March 1, 2016. Effective July 1, 2015.

Also requires the AOC to study the current law regarding the appointment and supervision of magistrates, specifically whether supervision of magistrates should be the responsibility of a person other than the chief district court judge. The AOC is to report the study results to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2016. Effective July 1, 2015.

Amends GS 7A-38.7 to require that prior to mediation, (1) the parties be notified of the dispute resolution fee for cases resolved in mediation and (2) the fee be paid as part of any mediation that results in dismissal. Amends GS 7A-38.7(b) to prohibit dismissing a criminal case via referral to mediation unless the full dispute resolution fee is paid within 45 days of the completion of the mediation. Requires that the case be remanded to the court for disposition if the fee payment has not been made within the 45 days. Effective October 1, 2015, applying to criminal cases referred to mediation on or after that date.

Changes the caption of GS 7A-38.4A to Settlement procedures in family financial actions (previously, Settlement procedures in district court actions), clarifying that the section applies only to family financial actions. Makes a clarifying change. Effective July 1, 2015.

Enacts new GS 7A-38.4B, Settlement procedures in district court general civil actions, permitting mediated settlement conferences in all other district court civil actions. Allows the chief district court judge, or designee, to order parties in a civil action to participate in mediated settlement conferences or other settlement procedures. Excludes actions involving family issues covered by GS 7A-38.4 and issues exempted by Supreme Court rules. Provides that local rules can be adopted for the procedures as long as they are not inconsistent with any rules adopted by the Supreme Court. Sets out processes and procedures for interested parties including procedures for attendance, designation of a mediator, and assignment of associated costs. Also limits the admissibility and discovery, in future court proceedings, of communications made during the conferences with four exceptions, including proceedings for specified sanctions, and proceedings to enforce or rescind a settlement of the action. These provisions are closely modeled after and similar to existing statutes for mediated settlement conferences in family financial actions, namely GS 7A-38.4A (District Court) and GS 7A-38.1 (Superior Court). Effective July 1, 2015, applying to actions filed on or after that date.

Intro. by Davis, Burr.

STUDY, GS 7A

[View summary](#)

Courts/Judiciary, Civil, Civil Law, Family Law, Evidence, Court System, Government, Public Safety

H 39 (2015-2016) [LABOR/UP AMUSEMENT DEVICE PENALTIES](#). Filed Feb 3 2015, *AN ACT TO INCREASE THE PENALTIES FOR THE ILLEGAL OPERATION OF AMUSEMENT DEVICES*.

Article 14B of GS Chapter 95 is known as the Amusement Device Safety Act of North Carolina (Act). Amends GS 95-111.13 regarding violations, civil and criminal penalties, and appeal rights under the Act, to increase the civil and criminal penalties for violations under the Act. Makes willful violations that result in the serious injury or death of a person a Class E felony punishable by a fine of up to \$50,000 (was, a Class 2 misdemeanor with a fine of up to \$10,000). Other willful violations of the Article are a Class 2 misdemeanor with a fine of up to \$10,000. Effective December 1, 2015, and applies to violations occurring on or after that date.

Intro. by Davis, Howard.

GS 95

[View summary](#)

Business and Commerce, Courts/Judiciary, Civil, Civil Law, Criminal Justice, Criminal Law and Procedure

H 40 (2015-2016) [IRC UPDATE](#). Filed Feb 3 2015, *AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL TAX INCREASE PREVENTION ACT OF 2014*.

Identical to [S 20](#), filed 2/3/15.

Under current law, North Carolina's tax law tracks many of the provisions of the federal Internal Revenue Code (IRC) by reference to the IRC.

Amends GS 105-228.90(b)(1b) to update the reference to the IRC from December 31, 2013 to January 1, 2015, thereby including any provisions of the IRC enacted as of January 1, 2015 that became effective before or after that date.

Decouples North Carolina's tax law from extensions under the federal Tax Increase Prevention Act of 2014 (TIPA) for the 2014 tax year. Amends GS 105-130.5B(c) and GS 105-153.6(c), regarding the adjustments made when the state decouples from federal accelerated depreciation and expensing, to provide that for the 2014 tax year, North Carolina tax law sets the deduction and investment limits of the enhanced section 179 expensing provision at \$25,000 and \$200,000.

Amends GS 105-153.5, enacting new subsection (d) which provides that North Carolina tax law does not conform to the extension of: (1) the income exclusion for the discharge of qualified residence indebtedness as provided under the IRC; (2) the deduction for mortgage insurance premiums as interest for tax year 2014; and (3) the federal qualified tuition and expenses deduction for tax year 2014. Additionally, this act provides that North Carolina's tax law does not conform with the IRC provision authorized in 2006 that allows taxpayers who are age 70 ½ or older to contribute up to \$100,000 from their IRA to a charity tax free. Effective for taxable years beginning on or after January 1, 2014.

Provides that any amendments to the IRC enacted after December 31, 2013, that increase North Carolina taxable income for the 2014 taxable year, become effective for taxable years beginning on or after January 1, 2015.

[View summary](#)[Government, Tax](#)

H 41 (2015-2016) [REVENUE LAWS TECHNICAL CHANGES](#). Filed Feb 3 2015, *AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO VARIOUS REVENUE LAWS, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE*.

Identical to [S19](#), filed 2/03/15.

Effective January 1, 2015, Section 7.1.(c) of SL 2014-3 enacts a new GS 105-164.4H applicable to real property contractors and retailer-contractors when they are acting as real property contractors. Amends Section 7.2(a) of SL 2014-3 to clarify that the changes related to real property contractors and retailer-contractors are not retroactive and are not to be construed to affect the interpretation of any statute that is the subject of a state tax audit for taxable years beginning before the effective date of January 1, 2015. Also amends Section 7.3 of SL 2014-3 to provide that this part applies to items withdrawn from inventory for contracts entered into on or after January 1, 2015.

Amends Section 8.1(c) of SL 2014-3 regarding the rental of a private residence, cottage, or similar accommodation that is (1) rented for fewer than 15 days in a calendar year, and (2) listed with a real estate broker or agent. Clarifies that a retailer is liable for an over collection of sales or occupancy tax for the rental of such an accommodation occupied or available to be occupied beginning June 1, 2012, and ending June 30, 2014, and must remit the tax that is collected. Also provides that a retailer is not liable for an under collection of the sales or occupancy tax on the rental of such an accommodation occupied or available to be occupied beginning June 1, 2014, and ending June 30, 2014, if the retailer made a good-faith effort to comply with the law and collect the proper amount of tax. Becomes effective June 1, 2014.

Deletes changes to GS 105-114(b)(4), in Section 14.26 of SL 2014-3 because the change exists elsewhere in SL 2014-3

Amends Section 4.2(a) of SL 2013-316, Tax Simplification and Reduction Act, to direct the Utilities Commission (Commission) to adjust the utility rates for electricity and piped natural gas to reflect the reduction in the corporate income tax rate imposed under GS 105-130.3. Additionally directs the Commission to adjust the rates for public water and wastewater companies to reflect the repeal of GS 105-116 and the resulting liability of public water and wastewater companies under GS 105-122, and the reduction in the corporate income tax imposed under GS 105-130.3. Becomes effective January 1, 2014.

Requires the Commission to order a utility to add interest, at a rate set in accordance with GS 62-130, to refunds to customers resulting from the reduction of the corporate income tax. Effective when this section becomes law and applies to refunds issued on or after that date.

Amends GS 105-113.35(d) to permit manufacturers of vapor products to apply to the Secretary of Revenue to be relieved of paying the tax on vapor products shipped to wholesale or retail dealers. Becomes effective June 1, 2015.

Amends GS 105-129.16A(a) to clarify that a taxpayer seeking a credit for constructing, purchasing, or leasing renewable energy property must place the property in service in North Carolina during the taxable year in order to receive the allowed credit.

Amends Section 1.1(a) of SL 2014-3 to clarify the deductions from federal taxable income that are to be made in determining state net income include (1) any used portions of a net economic loss as allowed under GS 105-130.8A(e), expires for taxable years beginning on or after January 1, 2030; and (2) a state net loss as allowed under GS 105-130.8A, limits a corporation to deducting its allocable and apportionable state net loss only from total income allocable and apportionable to the state.

Amends GS 105-134.6A, effective January 1, 2013, and GS 105-153.6, effective January 1, 2014, each as amended by

SL 2014-3, to clarify that a beneficiary of a transferor is subject to tax under Part 2 or 3 of Article 4 of GS Chapter 105.

Provides that regardless of the provisions of GS 105-163.15, an individual or a withholding agent cannot be penalized for an underpayment of income tax that resulted from changes made in Section 2.2 of SL 2014-3, which clarified that a person ineligible for a federal standard deduction is also not eligible for a state standard deduction. Effective when the section becomes law and applies to taxable years beginning on or after January 1, 2014, and before January 1, 2015, and to payroll periods beginning on or after January 1, 2014, and before January 1, 2015.

Amends GS 105-164.3(35), as amended by Section 14.7 of SL 2014-3, to clarify that the definition for “retailer” applies to any person, other than a facilitator, required to collect sales tax imposed under GS 105-164.4(a).

Makes technical changes to GS 105-164.4G, concerning entertainment activity.

Amends GS 105-164.13, as amended by Section 6.1(f) of SL 2014-3, to provide that the exemption to the sales and use tax that applies to fuel also includes piped natural gas.

Amends GS 105-164.13E regarding the sales and use tax exemption for farmers. Clarifies criteria to be a “qualifying farmer” under this section and defines the term income from farming operations. Clarifies that the exemption expires upon the occurrence of either of the following, whichever occurs earlier: (1) the person fails to meet the income threshold for three consecutive taxable years, or (2) the person no longer engages in farming. Includes piped natural gas in the exemption for qualifying farmers. Provides that a new farmer seeking a conditional exemption must be engaged in farming operations in addition to submitting the applicable income tax returns to the Department of Revenue (Department). Provides that certain tangible property listed in subdivisions (5), (8), and (9) of subsection (a) of GS 105-164.13E, which is purchased to fulfill a contract with a person with either a qualifying farmer exemption certificate or a conditional farmer exemption certificate is exempt from the sales and use tax to the same extent as the qualifying farmer or conditional farmer who holds the exemption certificate. Requires the person contracting with the qualifying or conditional farmer to provide an exemption certificate to the retailer that identifies the certificate holder and the number issued to that holder. Effective July 1, 2014. Provides that a contractor who paid sales and use tax on an item exempt from that tax under GS 105-164.13(c) may ask for a refund from the retailer. Permits the retailer, upon issuing a refund or credit, to request a refund of the tax overpayment under GS 105-164.11(a)(1).

Amends GS 105-164.16A, as enacted by SL 2014-3, to clarify that a retailer who offers a prepaid meal plan has an option as to the method for remitting the sales tax to the Secretary of Revenue (Secretary) and a return filed under GS 105-164.16. Requires that tax payments received by a food service contractor (contractor) from a retailer to be held in trust by the contractor for remittance to the Secretary. Directs the contractor to remit the tax payment received from a retailer to the Secretary. Provides that if the retailer does not pay the tax due to the contractor, the contractor is not liable for the tax that is due, and the retailer is liable for the amount of tax the retailer failed to send to the food service contractor. Requires a retailer to report the gross receipts from a prepaid meal plan on an accrual basis of accounting.

Amends GS 105-164.29(a), as amended by Section 14.9(b) of SL 2014-3, regarding the requirements for a person to obtain a certificate of registration from the Department prior to engaging in business as a retailer or wholesale merchant, or acting as a facilitator liable for tax under GS 105-164.4F. Amends the requirements for signing the registration application to provide that the application be signed by a manager, member, or company official, if the owner is a limited liability company; or by a manager, member, or partner if the owner is a partnership.

Makes clarifying changes to GS 105-241.6(b)(5) regarding a “contingent event” as a basis for obtaining an exception to the general statute of limitations for obtaining a refund of an overpayment of tax.

Effective for taxes imposed for taxable years beginning on or after July 1, 2015, amends GS 105-338(c), as amended by Section 11.1(e) of SL 2014-3, deleting subdivision (4), which allocated the appraised value of the tangible personal property of mobile telecommunications companies, excluding towers, based only on original cost. Amends GS 105-339, as amended by Section 11.1(f) of SL 2014-3, to clarify that the Department is to include mobile telecommunications property in those properties appraised at “true value,” as defined in GS 105-283, which includes consideration of its original cost with deductions made for depreciation to determine the property’s fair market value. Also provides for the

certification of appraised valuations of the tangible personal property (was, towers) of mobile telecommunications companies in accordance with subsections (c) and (d) of GS 105-336 (was, included the certification of the appraised valuations of the towers of mobile telecommunications companies in accordance with GS 105-336(d)) with appraised valuations assigned to the taxing unit where the property is situated. Effective when it becomes law, makes a conforming change, repealing Section 11.1(g) of SL 2014-3.

Amends GS 160A-206, regarding the taxing authority of a city, and GS 153A-146, regarding the taxing authority of a county, to clarify that both cities and counties are prohibited from imposing a license, franchise, or privilege tax on a person engaged in any of the following businesses: (1) supplying piped natural gas, (2) providing telecommunications service taxed under GS 105-164.4(a)(4c), (3) providing video programming taxed under GS 105-164.4(a)(6), and (4) providing electricity.

Authorizes the Department to draw the funds necessary to make distributions from the sales and use tax collected under Article 5 of GS Chapter 105 for the September 15, 2014, distribution of the franchise tax to cities under GS 105-116.1 and to cities under GS 105-187.44 for the calendar quarter that begins April 1, 2014.

Effective for taxable years beginning on or after January 1, 2014, amends GS 105-153.3 and GS 105-153(a)(1) to conform the state Individual Income Tax Act to the federal Internal Revenue Code (Code) with regards to the deduction amount for a surviving spouse as defined in section 2(a) of the Code. Makes the same conforming changes in GS 105-134.1 and GS 105-134.6(a2), effective retroactively for taxable years beginning on or after January 1, 2012, and before January 1, 2014.

Amends GS 105-164.13B(a)(4) to delete a reference to a repealed statute and to add a definition for “related person” that was included in the repealed statute. Defines related person as the term is defined in section 267(b) or 707(b) of the Code.

Amends GS 105-153.4, which defines North Carolina taxable income for residents, nonresidents, part-year residents, and S Corporations and Partnerships. Deletes references to a repealed statute, GS 105-134.6A. Adds a new subsection (c1) to GS 105-153.5 to require S Corporations, partnerships, and estates and trusts to add back any amount that was deducted under section 164 of the Code as state, local, or foreign income tax. Effective for taxable years beginning on or after January 1, 2015.

Amends subdivision (62) of GS 105-164.13, as amended by Section 6.1(f) of SL 2014-3, to clarify that the exemption from the retail sales and use tax for items used to maintain or repair tangible personal property or a motor vehicle, applies to an item used under a service contract, if (1) the service contract is subject to sales tax, and (2) the purchaser of the service contract is not charged for the item. Makes a conforming change to GS 105-187.52(c), clarifying that the exemption in GS 105-164.13(62) does not apply to an item used to maintain or repair tangible personal property under a service contract that is exempt from tax under GS 105-164.4I(b)(4). Becomes effective October 1, 2014.

Provides that the sales and use tax exemption in GS 105-164.13(62), as amended, applies to a “service contract” as defined in GS 105-164.3(38b) regardless whether the service contract was sold before January 1, 2014, and effective on, before, or after January 1, 2014.

Except as otherwise indicated, this act is effective when it becomes law.

Intro. by Howard, W. Brawley, Lewis, Setzer.

GS 105, GS 153A, GS 160A

[View summary](#)

Government, Tax, Local Government

H 42 (2015-2016) [ROLLOVERS INTO QUALIFYING BAILEY PLANS](#). Filed Feb 3 2015, *AN ACT TO LIMIT THE TAX EXEMPTION FOR RETIREMENT PLAN DISTRIBUTIONS ROLLED OVER INTO A QUALIFYING TAX-EXEMPT BAILEY RETIREMENT TO ROLLOVER DISTRIBUTIONS FROM ANOTHER QUALIFYING TAX-EXEMPT BAILEY RETIREMENT*

Identical to [S 18](#), filed 2/3/15.

Under current law, GS 105-153.5 provides that the amount a taxpayer receives during the taxable year from one or more state, local, or federal government retirement plans is exempt from North Carolina income tax to the extent that the amount is exempt from tax under a court order in settlement of one or more of the following cases, collectively referenced as the Bailey case: (1) Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230; (2) Emory v. State, 98 CVS 0738; and (3) Patton v. State, 95 CVS 04346. Current law makes this exemption applicable to any income distributed to the retiree from a supplemental retirement income plan. Changes in federal law in 2002 permitted rolling over distributions from non-qualifying retirement accounts into a qualifying Bailey retirement account, resulting in all distributions from a qualifying Bailey account, regardless of the source of the funds, being tax-exempt.

Amends GS 105-153.5 to provide that only retirement plan distributions from a qualifying Bailey retirement account and rollover distributions from another qualifying Bailey account are eligible for the tax exemption under this provision. Prohibits applying this tax-exemption to the portion of a distribution attributable to a rollover from a retirement account that is not a qualifying Bailey retirement account. Specifies that the portion of a distribution attributed to a rollover from a non-qualifying retirement plan is taxable in accordance with the methodology used by Superior Court Judge Jack A. Thompson in his Order Regarding the Optional Retirement Program for State Institutions for Higher Education, signed on November 19, 1999.

Effective for taxable years beginning on or after January 1, 2016.

Intro. by Howard, W. Brawley, Lewis, Setzer.

[GS 105](#)

[View summary](#)

[Employment and Retirement, Government, Tax](#)

H 44 (2015-2016) [CITIES/OVERGROWN VEGETATION NOTICE](#). Filed Feb 3 2015, *AN ACT AUTHORIZING CITIES TO PROVIDE ANNUAL NOTICE TO CHRONIC VIOLATORS OF OVERGROWN VEGETATION ORDINANCES BY REGULAR MAIL AND POSTING*.

Amends GS 160A-200, (Annual notice to chronic violators of overgrown vegetation ordinances), stating that initial annual notice is served by registered or certified mail, and when service is attempted by registered or certified mail, a copy of the notice can also be sent by regular mail. Service is sufficient if the registered or certified mail is unclaimed or refused but the copy sent by regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice must be posted in a conspicuous place on the property affected.

Intro. by Conrad, Lambeth, Hanes, Terry.

[GS 160A](#)

[View summary](#)

[Government, Local Government](#)

PUBLIC/SENATE BILLS

S 15 (2015-2016) [ENHANCE UI PROGRAM INTEGRITY/REPORTING](#). Filed Feb 3 2015, *AN ACT RELATING TO UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ENHANCEMENT THROUGH UTILIZATION OF THE STATE'S BUSINESS INTELLIGENCE AND DATA ANALYTICS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON UNEMPLOYMENT INSURANCE*.

Identical to [H 22](#) filed on 1/28/15.

Enacts new GS 96-35, unemployment insurance program integrity; reporting, to ensure that program integrity measures enacted by the Division of Employment Services (DES) include the rigorous and consistent use of business intelligence and data analytics.

Sets out the following five required activities that DES must do to enhance integrity: (1) prioritize DES program integrity efforts that maximize the use of information sharing with or between specified projects and initiatives in order to prevent, detect, and reduce unemployment insurance fraud and irregularities, (2) coordinate efforts with the Office of Information Technology Services to ensure that DES integrates into its operation and procedures the most effective and accurate processes and tools to prevent fraudulent, suspicious, or irregular claims, (3) coordinate efforts with the Department of Revenue to enhance alerts which indicate circumvention of payment of unemployment insurance taxes, (4) coordinate efforts with the Department of Health and Human Services to facilitate claims cross-matching and other appropriate steps, and (5) coordinate efforts with the Office of State Controller to facilitate cross-matching and other appropriate steps using BEACON.

Requires DES to submit quarterly written reports, beginning April 1, 2015, that detail its progress and efforts in achieving the above required activities, to the Chairs of the Joint Legislative Oversight Committee on Unemployment Insurance, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House Appropriations Subcommittee on Natural and Economic Resources, the Chairs of the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division. Sets out specific items the written report must contain, including metrics regarding unemployment benefits overpayments, improper payments, and fraudulent payments.

Requires DES, beginning January 1, 2016, to submit an annual report to the General Assembly detailing efforts to carry out the above required activities. Sets out five specific items the annual report must contain, including, the methodology used to determine analytic priorities for unemployment insurance program integrity investigation.

Intro. by Rucho.

[GS 96](#)

[View summary](#)

[Employment and Retirement](#)

S 16 (2015-2016) [UNEMPLOYMENT INSURANCE LAW CHANGES](#). Filed Feb 3 2015, *AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE LAWS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON UNEMPLOYMENT INSURANCE*.

Identical to [H 24](#), filed 1/28/15.

Amends GS 20-7(b2) to give the DMV authority to disclose social security numbers to the Department of Commerce (Commerce), Division of Employment Security (DES), for the purpose of verifying employer and claimant identity. Amends GS 96-9.2(c) and changes the end date of the 12-month period used to calculate "total insured wages" for contribution rates to June 30 (was, July 31). Applies to contributions payable for calendar quarters beginning on or after January 1, 2014.

Amends the actively seeking work requirement as found in GS 96-14.9(e), requiring individuals to make at least five job contacts (was, sought work on at least two different days during the week and made at least two contacts) with potential employers each week to fulfill the work-seeking requirement. Effective July 1, 2015, applying to claims for benefits on or after that date.

Amends GS 96-15(h), making clarifying and technical changes regarding judicial review of hearing decisions of the Board of Review. Provides that a decision of the Board of Review becomes final 30 days after the date of mailing unless a party to the decision seeks judicial review. Effective July 1, 2015, applying to decisions made on or after that date.

Amends GS 96-3, GS 96-4(j), and GS 96-9.15(f) regarding the DES, deleting and/or replacing the language that

referred to the Employment Security Section and the Employment Insurance Section with DES.

Enacts new GS 1-359(b) to provide that when DES wins a civil action against an employer to collect unpaid employment taxes, DES can attach or garnish the employer's credit card receipts in recovering the unpaid taxes. Direct receipt of those funds by DES represents a sufficient discharge for the amount paid by the credit card company.

Amends GS 96-10(b)(1) regarding collections of contributions, providing that any judgment that is executable and allowed by GS 96-10 will be subject to attachment and garnishment for payment of unpaid taxes as provided in GS 1-359(b).

Amends GS 96-14.9, concerning weekly certification of eligibility for benefits, requiring individuals to present valid photo identification when requested to report to the DES. Also sets out what is considered to be a valid photo ID.

Amends Section 1.10(c) of SL 2011-401 to extend the deadline for rule and regulation readoption by the Division of Employment Security, as required by the Administrative Procedure Act in GS Chapter 150B, Article 2A, to April 20, 2015 (was, December 31, 2012).

Repeals GS 96-14.4, Duration of benefits for individual claimant. Effective July 1, 2015, applying to claims for benefits made on or after July 1, 2015.

Amends GS 96-14.3, changing the title to Duration of benefits (was, Minimum and maximum duration of benefits). Deletes any language referencing minimum or maximum number of weeks and establishes that the maximum number of weeks will now serve as the number of weeks an individual will receive benefits according to the seasonally adjusted unemployment rate. Provides that the total benefits paid to an individual is calculated by multiplying the individual's weekly benefit by the number of weeks allowed under GS 14.3(a). Effective July 1, 2015, applying to claims for benefits made on or after July 1, 2015.

Amends GS 96-14.12(b) to provide that the duration of benefits for an individual who is unemployed based on services provided to a corporation in which the individual held 5 percent or more outstanding of voting stock will be limited to six weeks (previously, it was the lesser of six weeks or the weeks determined under now repealed GS 94-14.4). Effective July 1, 2015, applying to claims for benefits made on or after July 1, 2015.

Amends GS 96-16(f), updating statutory references, replacing GS 96-14.4 with GS 96-14.3. Effective July 1, 2015, applying to claims for benefits made on or after July 1, 2015.

Intro. by Rucho.

GS 1, GS 20, GS 96

[View summary](#)

Employment and Retirement, Health and Human Services, Social Services, Public Assistance

S 17 (2015-2016) **DES BOARD OF REVIEW**. Filed Feb 3 2015, *AN ACT TO RATIFY PAST UNEMPLOYMENT INSURANCE APPEALS DECISIONS, TO AMEND THE APPOINTMENT PROCESS FOR THE BOARD OF REVIEW, AND TO CREATE STAGGERED TERMS FOR MEMBERS OF THE BOARD OF REVIEW, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON UNEMPLOYMENT INSURANCE.*

Identical to [H 23](#) filed on 1/28/15.

Provides that decisions issued in an appeal by a party to a decision of an appeals referee or hearing officer that were issued by the Assistant Secretary of Commerce for the Division of Employment Security or by the Secretary of Commerce's designee, as well as decisions issued by the three individuals appointed by the Governor in December 2013 to serve on the Division of Employment Security's (DES) Board of Review (Board), are validated and are given the same legal effect as if they had been issued by the Board. Effective when the act becomes law and applies to decisions rendered on or after November 1, 2011.

Repeals GS 96-4(b) and Section 21 of SL 2013-224, both of which concern the DES Board of Review and the appointment process.

Enacts new GS 96-15.3, Board of Review, expounding on the appointment process for the Board. Establishes the Board of Review to determine appeals policies and procedures as well as to hear appeals arising from decisions and determinations of DES. Directs the Department of Commerce (Commerce) to assign staff to the Board. Requires the Board and its staff to perform job responsibilities independent of the Governor, the General Assembly, Commerce, and DES but in accordance with any written guidance issued by the US Department of Labor.

Establishes that the Board consists of three members, serving staggered four-year terms, with one member each classified as a representative for either employees, employers, or the public. Provides that the member serving as a representative for the general public will be the chair of the Board and is required to be a licensed attorney in North Carolina.

Provides that appointments to the Board are to be made by the Governor and confirmed by the General Assembly by joint resolution. Requires the Governor to submit the name of the individual nominated to the Board to the General Assembly for confirmation on or before May 1 of the year of the expiration of the term. Provides that if the General assembly does not confirm the appointment by May 30, the office will be considered vacant and will be subject to being filled in accordance with specified procedures. When vacancies arise when the General Assembly is in session, the Governor must submit the name of the appointee to fill the vacancy within 30 days after the vacancy arises to the General Assembly for confirmation. If the appointment is not confirmed within 30 days the office will be considered vacant and the Governor must resubmit a name for confirmation. However, the Governor cannot resubmit the same nominee that the General Assembly did not confirm.

For vacancies arising when the General Assembly is not in session, the Governor must appoint someone to the office on an interim basis, pending confirmation by the General Assembly. Once the General Assembly is in session, the Governor must submit the name of the interim appointee within 14 days of the date the General Assembly convenes.

Provides that if the Governor fails to submit a name for appointment in a timely manner, regardless of if it occurs while the General Assembly is in Session, then the General Assembly can appoint an individual to the vacancy in accordance with GS 120-121. Specifies that if the vacancy occurs in an odd-numbered year then the appointment is made by recommendation of the President Pro Tempore of the Senate, and in even-numbered years it is filled upon recommendation of the Speaker of the House.

Provides that the term for the member serving as the employer's representative will expire on June 30, 2015, the term for the employee representative will expire on June 30, 2016, and the term for the general public representative will expire on June 30, 2017.

Requires the Secretary of Commerce and the chair of the Board to make a detailed written report by May 1, 2015, to the chairs of the Joint Legislative Oversight Committee on Unemployment Insurance, the chairs of the Senate Appropriations Committee on Natural and Economic Resources, the chairs of the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. This written report is to include five specific areas of information, including measures taken to ensure the independence of Board staff and whether or not adequate staff is assigned to the Board.

Intro. by Rucho.

GS 96

[View summary](#)

Employment and Retirement, Government, State Agencies, Department of Commerce

EXEMPTION FOR RETIREMENT PLAN DISTRIBUTIONS ROLLED OVER INTO A QUALIFYING TAX-EXEMPT BAILEY RETIREMENT TO ROLLOVER DISTRIBUTIONS FROM ANOTHER QUALIFYING TAX-EXEMPT BAILEY RETIREMENT ACCOUNT, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE.

Under current law, GS 105-153.5 provides that the amount a taxpayer receives during the taxable year from one or more state, local, or federal government retirement plans is exempt from North Carolina income tax to the extent that the amount is exempt from tax under a court order in settlement of one or more of the following cases, collectively referenced as the Bailey case: (1) Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230; (2) Emory v. State, 98 CVS 0738; and (3) Patton v. State, 95 CVS 04346. Current law makes this exemption applicable to any income distributed to the retiree from a supplemental retirement income plan. Changes in federal law in 2002 permitted rolling over distributions from non-qualifying retirement accounts into a qualifying Bailey retirement account, resulting in all distributions from a qualifying Bailey account, regardless of the source of the funds, being tax-exempt.

Amends GS 105-153.5 to provide that only retirement plan distributions from a qualifying Bailey retirement account and rollover distributions from another qualifying Bailey account are eligible for the tax exemption under this provision. Prohibits applying this tax-exemption to the portion of a distribution attributable to a rollover from a retirement account that is not a qualifying Bailey retirement account. Specifies that the portion of a distribution attributed to a rollover from a non-qualifying retirement plan is taxable in accordance with the methodology used by Superior Court Judge Jack A. Thompson in his Order Regarding the Optional Retirement Program for State Institutions for Higher Education, signed on November 19, 1999.

Effective for taxable years beginning on or after January 1, 2016.

Intro. by Rabon, Rucho, Tillman.

GS 105

[View summary](#)

Employment and Retirement, Government, Tax

S 19 (2015-2016) **REVENUE LAWS TECHNICAL CHANGES**. Filed Feb 3 2015, *AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO VARIOUS REVENUE LAWS, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE.*

Effective January 1, 2015, Section 7.1.(c) of SL 2014-3 enacts a new GS 105-164.4H applicable to real property contractors and retailer-contractors when they are acting as real property contractors. Amends Section 7.2(a) of SL 2014-3 to clarify that the changes related to real property contractors and retailer-contractors are not retroactive and are not to be construed to affect the interpretation of any statute that is the subject of a state tax audit for taxable years beginning before the effective date of January 1, 2015. Also amends Section 7.3 of SL 2014-3 to provide that this part applies to items withdrawn from inventory for contracts entered into on or after January 1, 2015.

Amends Section 8.1(c) of SL 2014-3 regarding the rental of a private residence, cottage, or similar accommodation that is (1) rented for fewer than 15 days in a calendar year, and (2) listed with a real estate broker or agent. Clarifies that a retailer is liable for an over collection of sales or occupancy tax for the rental of such an accommodation occupied or available to be occupied beginning June 1, 2012, and ending June 30, 2014, and must remit the tax that is collected. Also provides that a retailer is not liable for an under collection of the sales or occupancy tax on the rental of such an accommodation occupied or available to be occupied beginning June 1, 2014, and ending June 30, 2014, if the retailer made a good-faith effort to comply with the law and collect the proper amount of tax. Becomes effective June 1, 2014.

Deletes changes to GS 105-114(b)(4), in Section 14.26 of SL 2014-3 because the change exists elsewhere in SL 2014-3

Amends Section 4.2(a) of SL 2013-316, Tax Simplification and Reduction Act, to direct the Utilities Commission (Commission) to adjust the utility rates for electricity and piped natural gas to reflect the reduction in the corporate income tax rate imposed under GS 105-130.3. Additionally directs the Commission to adjust the rates for public water

and wastewater companies to reflect the repeal of GS 105-116 and the resulting liability of public water and wastewater companies under GS 105-122, and the reduction in the corporate income tax imposed under GS 105-130.3. Becomes effective January 1, 2014.

Requires the Commission to order a utility to add interest, at a rate set in accordance with GS 62-130, to refunds to customers resulting from the reduction of the corporate income tax. Effective when this section becomes law and applies to refunds issued on or after that date.

Amends GS 105-113.35(d) to permit manufacturers of vapor products to apply to the Secretary of Revenue to be relieved of paying the tax on vapor products shipped to wholesale or retail dealers. Becomes effective June 1, 2015.

Amends GS 105-129.16A(a) to clarify that a taxpayer seeking a credit for constructing, purchasing, or leasing renewable energy property must place the property in service in North Carolina during the taxable year in order to receive the allowed credit.

Amends Section 1.1(a) of SL 2014-3 to clarify the deductions from federal taxable income that are to be made in determining state net income include (1) any used portions of a net economic loss as allowed under GS 105-130.8A(e), expires for taxable years beginning on or after January 1, 2030; and (2) a state net loss as allowed under GS 105-130.8A, limits a corporation to deducting its allocable and apportionable state net loss only from total income allocable and apportionable to the state.

Amends GS 105-134.6A, effective January 1, 2013, and GS 105-153.6, effective January 1, 2014, each as amended by SL 2014-3, to clarify that a beneficiary of a transferor is subject to tax under Part 2 or 3 of Article 4 of GS Chapter 105.

Provides that regardless of the provisions of GS 105-163.15, an individual or a withholding agent cannot be penalized for an underpayment of income tax that resulted from changes made in Section 2.2 of SL 2014-3, which clarified that a person ineligible for a federal standard deduction is also not eligible for a state standard deduction. Effective when the section becomes law and applies to taxable years beginning on or after January 1, 2014, and before January 1, 2015, and to payroll periods beginning on or after January 1, 2014, and before January 1, 2015.

Amends GS 105-164.3(35), as amended by Section 14.7 of SL 2014-3, to clarify that the definition for “retailer” applies to any person, other than a facilitator, required to collect sales tax imposed under GS 105-164.4(a).

Makes technical changes to GS 105-164.4G, concerning entertainment activity.

Amends GS 105-164.13, as amended by Section 6.1(f) of SL 2014-3, to provide that the exemption to the sales and use tax that applies to fuel also includes piped natural gas.

Amends GS 105-164.13E regarding the sales and use tax exemption for farmers. Clarifies criteria to be a “qualifying farmer” under this section and defines the term income from farming operations. Clarifies that the exemption expires upon the occurrence of either of the following, whichever occurs earlier: (1) the person fails to meet the income threshold for three consecutive taxable years, or (2) the person no longer engages in farming. Includes piped natural gas in the exemption for qualifying farmers. Provides that a new farmer seeking a conditional exemption must be engaged in farming operations in addition to submitting the applicable income tax returns to the Department of Revenue (Department). Provides that certain tangible property listed in subdivisions (5), (8), and (9) of subsection (a) of GS 105-164.13E, which is purchased to fulfill a contract with a person with either a qualifying farmer exemption certificate or a conditional farmer exemption certificate is exempt from the sales and use tax to the same extent as the qualifying farmer or conditional farmer who holds the exemption certificate. Requires the person contracting with the qualifying or conditional farmer to provide an exemption certificate to the retailer that identifies the certificate holder and the number issued to that holder. Effective July 1, 2014. Provides that a contractor who paid sales and use tax on an item exempt from that tax under GS 105-164.13(c) may ask for a refund from the retailer. Permits the retailer, upon issuing a refund or credit, to request a refund of the tax overpayment under GS 105-164.11(a)(1).

Amends GS 105-164.16A, as enacted by SL 2014-3, to clarify that a retailer who offers a prepaid meal plan has an option as to the method for remitting the sales tax to the Secretary of Revenue (Secretary) and a return filed under GS

105-164.16. Requires that tax payments received by a food service contractor (contractor) from a retailer to be held in trust by the contractor for remittance to the Secretary. Directs the contractor to remit the tax payment received from a retailer to the Secretary. Provides that if the retailer does not pay the tax due to the contractor, the contractor is not liable for the tax that is due, and the retailer is liable for the amount of tax the retailer failed to send to the food service contractor. Requires a retailer to report the gross receipts from a prepaid meal plan on an accrual basis of accounting.

Amends GS 105-164.29(a), as amended by Section 14.9(b) of SL 2014-3, regarding the requirements for a person to obtain a certificate of registration from the Department prior to engaging in business as a retailer or wholesale merchant, or acting as a facilitator liable for tax under GS 105-164.4F. Amends the requirements for signing the registration application to provide that the application be signed by a manager, member, or company official, if the owner is a limited liability company; or by a manager, member, or partner if the owner is a partnership.

Makes clarifying changes to GS 105-241.6(b)(5) regarding a “contingent event” as a basis for obtaining an exception to the general statute of limitations for obtaining a refund of an overpayment of tax.

Effective for taxes imposed for taxable years beginning on or after July 1, 2015, amends GS 105-338(c), as amended by Section 11.1(e) of SL 2014-3, deleting subdivision (4), which allocated the appraised value of the tangible personal property of mobile telecommunications companies, excluding towers, based only on original cost. Amends GS 105-339, as amended by Section 11.1(f) of SL 2014-3, to clarify that the Department is to include mobile telecommunications property in those properties appraised at “true value,” as defined in GS 105-283, which includes consideration of its original cost with deductions made for depreciation to determine the property’s fair market value. Also provides for the certification of appraised valuations of the tangible personal property (was, towers) of mobile telecommunications companies in accordance with subsections (c) and (d) of GS 105-336 (was, included the certification of the appraised valuations of the towers of mobile telecommunications companies in accordance with GS 105-336(d)) with appraised valuations assigned to the taxing unit where the property is situated. Effective when it becomes law, makes a conforming change, repealing Section 11.1(g) of SL 2014-3.

Amends GS 160A-206, regarding the taxing authority of a city, and GS 153A-146, regarding the taxing authority of a county, to clarify that both cities and counties are prohibited from imposing a license, franchise, or privilege tax on a person engaged in any of the following businesses: (1) supplying piped natural gas, (2) providing telecommunications service taxed under GS 105-164.4(a)(4c), (3) providing video programming taxed under GS 105-164.4(a)(6), and (4) providing electricity.

Authorizes the Department to draw the funds necessary to make distributions from the sales and use tax collected under Article 5 of GS Chapter 105 for the September 15, 2014, distribution of the franchise tax to cities under GS 105-116.1 and to cities under GS 105-187.44 for the calendar quarter that begins April 1, 2014.

Effective for taxable years beginning on or after January 1, 2014, amends GS 105-153.3 and GS 105-153(a)(1) to conform the state Individual Income Tax Act to the federal Internal Revenue Code (Code) with regards to the deduction amount for a surviving spouse as defined in section 2(a) of the Code. Makes the same conforming changes in GS 105-134.1 and GS 105-134.6(a2), effective retroactively for taxable years beginning on or after January 1, 2012, and before January 1, 2014.

Amends GS 105-164.13B(a)(4) to delete a reference to a repealed statute and to add a definition for “related person” that was included in the repealed statute. Defines related person as the term is defined in section 267(b) or 707(b) of the Code.

Amends GS 105-153.4, which defines North Carolina taxable income for residents, nonresidents, part-year residents, and S Corporations and Partnerships. Deletes references to a repealed statute, GS 105-134.6A. Adds a new subsection (c1) to GS 105-153.5 to require S Corporations, partnerships, and estates and trusts to add back any amount that was deducted under section 164 of the Code as state, local, or foreign income tax. Effective for taxable years beginning on or after January 1, 2015.

Amends subdivision (62) of GS 105-164.13, as amended by Section 6.1(f) of SL 2014-3, to clarify that the exemption

from the retail sales and use tax for items used to maintain or repair tangible personal property or a motor vehicle, applies to an item used under a service contract, if (1) the service contract is subject to sales tax, and (2) the purchaser of the service contract is not charged for the item. Makes a conforming change to GS 105-187.52(c), clarifying that the exemption in GS 105-164.13(62) does not apply to an item used to maintain or repair tangible personal property under a service contract that is exempt from tax under GS 105-164.41(b)(4). Becomes effective October 1, 2014.

Provides that the sales and use tax exemption in GS 105-164.13(62), as amended, applies to a “service contract” as defined in GS 105-164.3(38b) regardless whether the service contract was sold before January 1, 2014, and effective on, before, or after January 1, 2014.

Except as otherwise indicated, this act is effective when it becomes law.

Intro. by Rabon, Rucho, Tillman.

[GS 105, GS 153A, GS 160A](#)

[View summary](#)

[Government, Tax, Local Government](#)

S 20 (2015-2016) [IRC UPDATE](#). Filed Feb 3 2015, *AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL TAX INCREASE PREVENTION ACT OF 2014*.

Under current law, North Carolina’s tax law tracks many of the provisions of the federal Internal Revenue Code (IRC) by reference to the IRC.

Amends GS 105-228.90(b)(1b) to update the reference to the IRC from December 31, 2013 to January 1, 2015, thereby including any provisions of the IRC enacted as of January 1, 2015 that became effective before or after that date.

Decouples North Carolina’s tax law from extensions under the federal Tax Increase Prevention Act of 2014 (TIPA) for the 2014 tax year. Amends GS 105-130.5B(c) and GS 105-153.6(c), regarding the adjustments made when the state decouples from federal accelerated depreciation and expensing, to provide that for the 2014 tax year, North Carolina tax law sets the deduction and investment limits of the enhanced section 179 expensing provision at \$25,000 and \$200,000.

Amends GS 105-153.5, enacting new subsection (d) which provides that North Carolina tax law does not conform to the extension of: (1) the income exclusion for the discharge of qualified residence indebtedness as provided under the IRC; (2) the deduction for mortgage insurance premiums as interest for tax year 2014; and (3) the federal qualified tuition and expenses deduction for tax year 2014. Additionally, this act provides that North Carolina’s tax law does not conform with the IRC provision authorized in 2006 that allows taxpayers who are age 70 ½ or older to contribute up to \$100,000 from their IRA to a charity tax free. Effective for taxable years beginning on or after January 1, 2014.

Provides that any amendments to the IRC enacted after December 31, 2013, that increase North Carolina taxable income for the 2014 taxable year, become effective for taxable years beginning on or after January 1, 2015.

Intro. by Rabon, Rucho, Tillman.

[GS 105](#)

[View summary](#)

[Government, Tax](#)

S 22 (2015-2016) [HISTORIC ARTIFACT MGT. AND PATRIOTISM ACT](#). Filed Feb 3 2015, *AN ACT TO ENSURE*

RESPECTFUL TREATMENT OF THE NORTH CAROLINA FLAG AND AMERICAN FLAG BY STATE AGENCIES AND OTHER POLITICAL SUBDIVISIONS OF THE STATE; TO ESTABLISH THE DIVISION OF VETERANS AFFAIRS AS THE CLEARINGHOUSE FOR THE DISPOSAL OF WORN, TATTERED, AND DAMAGED FLAGS; AND TO TRANSFER CUSTODY OF CERTAIN HISTORIC DOCUMENTS IN THE POSSESSION OF THE OFFICE OF THE SECRETARY OF STATE TO THE DEPARTMENT OF CULTURAL RESOURCES AND TO FACILITATE PUBLIC OPPORTUNITY TO VIEW THESE DOCUMENTS.

Amends the caption of GS 144-5 to Flags to conform to law; display and handling of flag of the United States of America and the State of North Carolina by State agencies and other political subdivisions of the State (was, Flags to conform to law.). Adds language providing that flags of the USA and North Carolina that are possessed by state agencies or political subdivisions of the state must be handled, displayed, and stored in accordance with 4 USC 1, the US Flag Code. Provides that a violation is punishable as an infraction. Effective December 1, 2015.

Amends the caption of GS 144-9 to Retirement of the flag of the United States of America and the flag of the State of North Carolina (was, Retirement of the State flag). Reorganizes the section and adds new language requiring flags of North Carolina or the U.S.A., in possession of a State agency or political subdivision to be delivered to the Division of Veterans Affairs (DVA) for disposal when no longer a fitting emblem for display. Requires DVA to accept the flags and to make appropriate arrangements for respectful disposition. Requires the DVA to do the same with such flags received from citizens of North Carolina. Requires DVA to establish a flag retirement program to encourage citizens to send in/drop off such flags at the DVA office in Raleigh or at other specified locations across the State. Requires the program to be advertised on the DVA website as well as by printed posters at all flag drop off locations. Requires the DVA to report on the number of flags received under the program to the Joint Legislative Committee on Governmental Operations on or before December 31, 2016, as well as annually after that. Effective December 1, 2015.

Amends GS 147-36, Duties of Secretary of State, making clarifying and technical changes. Also adds duties for the Secretary of State to transfer all previously adopted editions of the State Constitution and amendments to those editions to the Department of Cultural Resources for preservation and safe keeping in the State Archives. Effective December 1, 2015.

Requires the Secretary of State, on or before October 1, 2015, to provide the Department of Cultural Resources a written inventory of all records of historical interest in the Secretary's custody. Further requires the Secretary of State to transfer to the Department of Cultural Resources all original copies of specified historical records held by the Secretary of State, effective December 1, 2015.

Directs the Department of Cultural Resources, in 2016, to arrange for displays and programs for the commemoration of the 240th anniversary of the signing of the Declaration of Independence as well as the same for the 240th anniversary of the ratification of North Carolina's first Constitution. Authorizes the acceptance of non-state funds to defray the costs of such exhibits.

Intro. by Soucek, Tucker, J. Davis.

[GS 144, GS 147](#)

[View summary](#)

[Government, Cultural Resources and Museums, State Agencies, State Government](#)

S 23 (2015-2016) [EXPAND AVIATION SALES TAX EXEMPTION](#). Filed Feb 3 2015, *AN ACT TO EXPAND THE SALES TAX EXEMPTION FOR REPAIR PARTS AND ACCESSORIES SOLD TO AN INTERSTATE AIR BUSINESS.*

Expands the definition for interstate passenger air carrier under GS 105-164.3(16) to provide as the title indicates. Applies to purchases made on or after March 1, 2005. Permits applicable interstate passenger air carriers to request a refund of tax paid after that date by January 1, 2016.

[View summary](#)**Government, Tax, Transportation**

S 24 (2015-2016) **LIQUOR SALES - PERMITTED DISTILLERIES**. Filed Feb 3 2015, *AN ACT TO ALLOW DISTILLERY PERMIT HOLDERS TO SELL SPIRITUOUS LIQUOR DISTILLED ON PREMISES TO VISITORS OF THE DISTILLERY FOR CONSUMPTION OFF THE PREMISES AND TO EXPAND THE LIST OF PLACES AT WHICH FREE SPIRITUOUS LIQUOR TASTINGS MAY BE HELD.*

Enacts new subdivision (4) to GS 18B-1105(a) authorizing distillery permit holders to sell spirituous liquor that is distilled on the premises to visitors to the distillery for consumption off the premises. Requires that the spirits be sold in closed containers. Restricts sales under this subdivision to areas where establishing an ABC store has been approved under GS 18B-602(g). Directs that the spirits sold at a distillery under this subdivision be sold at a price set by the ABC Commission, including all excise taxes, bottle charges, and sales tax, and requires that the taxes and bottle charges be remitted to the Department of Revenue. Limits the authorization under this subdivision to a distillery that makes less than 100,000 proof gallons per year. Limits the amount of liquor that a consumer may purchase under this subdivision per calendar year and limits the hours and days of retail sales of spirituous liquor under this subdivision to the hours and days of sales provision in GS 18B-802. Requires that spirits sold under this subdivision have a label on the bottle that has the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling required by law.

Amends GS 18B-1001(19) to expand the locations where free tastings of spirituous liquor may be held to include trade shows, conventions, shopping malls, beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fundraisers, and other similar events approved by the ABC Commission. Specifies that any person pouring spirituous liquor at a tasting must be an employee of the distillery owned by the permit holder, as well as at least 21 years old. Provides that the liquor used in the consumer tasting event must be distilled at the distillery that is owned by the permit holder conducting the event (was, at the distillery where the event is being held).

Amends GS 18B-301(f)(1) to create an exception to the unlawful possession or use provisions for tasting events authorized under GS 18B-1001(19), as amended in this act, held on a public road, street, highway, or sidewalk.

[View summary](#)**Alcoholic Beverage Control**

S 25 (2015-2016) **ZONING/DESIGN & AESTHETIC CONTROLS**. Filed Feb 3 2015, *AN ACT TO CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS.*

Identical to [H 36](#) filed on 2/03/15.

Amends GS Chapter 160A (Cities and Towns) and GS Chapter 153A (Counties) by adding new GS 160A-381(h) and GS 153A-340(l), prohibiting the application of zoning and development ordinances relating to building design elements as well as regulations adopted pursuant to recommendations made under GS 160A-452(6)c. (a governing development board's recommendation for the adoption of certain regulations that will enhance the appearance of the municipality or its surrounding areas) to structures subject to North Carolina's Residential Code for One- and Two-Family Dwellings except in the following situations: (1) structures are in areas designated as local historic districts; (2) structures are located in an area designated as a historic district on the National Register of Historic Places; (3) structures are designated as local, state, or national historic landmarks; (4) the regulations are directly and substantially related to applicable safety codes under GS 143-138 (North Carolina State Building Code); (5) where the regulations apply to manufactured housing, consistent with GS 160A-383.1 and GS 153A-341.1 (zoning regulations for manufactured

homes), and federal law; and (6) where such regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by these new subsections cannot be applied in any zoning district, special use district, conditional use district, or conditional district unless consented to by all of the owners of all of the property to which they can be applied as a part of obtaining a zoning amendment, or a zoning, subdivision, or development approval. Such regulations also cannot be applied indirectly as part of the review pursuant to GS 160A-383 or GS 153A-341 (accordance of zoning regulations with a comprehensive development plan) or any other applicable adopted plan. Defines *building design elements* and specifies items excluded from the term.

Provides that nothing in GS 160A-381(h) or GS 153A-340(l) will affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

Effective when the act becomes law and provides that the act clarifies and restates the intent of existing law and applies to ordinances adopted before, on, and after the effective date.

Intro. by Gunn, Apodaca, Tarte.

[GS 153A, GS 160A](#)

[View summary](#)

[Development, Land Use and Housing, Land Use, Planning and Zoning, Government, Local Government](#)

S 27 (2015-2016) [REEGAN'S RULE/CHILDHOOD DIABETES SCREENING](#). Filed Feb 3 2015, *AN ACT REQUIRING DIABETES SCREENING DURING WELL-CHILD VISITS AT SPECIFIC AGE INTERVALS*.

Identical to [H20](#), filed 1/28/15.

Enacts new GS 130A-221.5 to provide that every physician, physician's assistant, or certified nurse practitioner that provides well-child care must ensure that diabetes screening is performed for each child under their care at least once at the following age intervals, (1) birth, (2) 12 months of age, and (3) 24 months of age.

Effective October 1, 2015.

Intro. by

[GS 130A](#)

[View summary](#)

[Health and Human Services, Health](#)

LOCAL/HOUSE BILLS

H 43 (2015-2016) [WINSTON-SALEM/PARKING METERS](#). Filed Feb 3 2015, *AN ACT PROVIDING THAT PARKING METERS IN THE CITY OF WINSTON-SALEM MAY BE ACTIVATED BY COINS, TOKENS, CASH, CREDIT CARDS, DEBIT CARDS, OR ELECTRONIC MEANS*.

Identical to [S8](#), filed 1/28/15.

Applies only to the City of Winston-Salem.

Amends GS 160A-301, providing that parking meters can be activated by coins, tokens, cash, credit cards, debit cards, or electronic means (previously, could only be activated by coins or tokens).

Intro. by Conrad, Lambeth, Hanes, Terry.

[Forsyth](#)

LOCAL/SENATE BILLS

S 21 (2015-2016) [10TH SENATORIAL DISTRICT LOCAL ACT-1](#). Filed Feb 3 2015, *AN ACT RELATING TO THE 10TH SENATORIAL DISTRICT.*

Blank bill.

Intro. by B. Jackson.

[Duplin, Johnston, Sampson](#)

[View summary](#)

S 26 (2015-2016) [43RD SENATORIAL DISTRICT LOCAL ACT-1](#). Filed Feb 3 2015, *AN ACT RELATING TO THE 43RD SENATORIAL DISTRICT.*

Blank bill.

Intro. by Harrington.

[Gaston](#)

[View summary](#)

ACTIONS ON BILLS

PUBLIC BILLS

H 35: [EDUCATION INNOVATION TASK FORCE.](#)

House: Passed 1st Reading

House: RefTo Com On Education - K-12

H 36: [ZONING/DESIGN AND AESTHETIC CONTROLS.](#)

House: Filed

H 37: [HOUSE UNC BOARD OF GOVERNORS ELECTION.](#)

House: Filed

H 38: [JUDICIAL EFFICIENCY/EFFECT. ADMIN. OF JUSTICE.](#)

House: Filed

H 39: [LABOR/UP AMUSEMENT DEVICE PENALTIES.](#)

House: Filed

H 40: [IRC UPDATE.](#)

House: Filed

H 41: REVENUE LAWS TECHNICAL CHANGES.

House: Filed

H 42: ROLLOVERS INTO QUALIFYING BAILEY PLANS.

House: Filed

H 44: CITIES/OVERGROWN VEGETATION NOTICE.

House: Filed

S 9: ADD IT COMMITTEE.

Senate: Withdrawn From Com

Senate: Placed on Today's Calendar

Senate: Adopted

S 14: ACAD. STANDARDS/RULES REVIEW/COAL ASH/FUNDS.

Senate: Reptd Fav

S 15: ENHANCE UI PROGRAM INTEGRITY/REPORTING.

Senate: Filed

S 16: UNEMPLOYMENT INSURANCE LAW CHANGES.

Senate: Filed

S 17: DES BOARD OF REVIEW.

Senate: Filed

S 18: ROLLOVERS INTO QUALIFYING BAILEY PLANS.

Senate: Filed

S 19: REVENUE LAWS TECHNICAL CHANGES.

Senate: Filed

S 20: IRC UPDATE.

Senate: Filed

S 22: HISTORIC ARTIFACT MGT. AND PATRIOTISM ACT.

Senate: Filed

S 23: EXPAND AVIATION SALES TAX EXEMPTION.

Senate: Filed

S 24: LIQUOR SALES - PERMITTED DISTILLERIES.

Senate: Filed

S 25: ZONING/DESIGN & AESTHETIC CONTROLS.

Senate: Filed

S 27: REEGAN'S RULE/CHILDHOOD DIABETES SCREENING.

Senate: Filed

LOCAL BILLS

H 43: WINSTON-SALEM/PARKING METERS.

House: Filed

S 21: 10TH SENATORIAL DISTRICT LOCAL ACT-1.

Senate: Filed

S 26: 43RD SENATORIAL DISTRICT LOCAL ACT-1.

Senate: Filed

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