

**North Carolina General Assembly  
Select Transportation Related Bills  
January 18, 2018**

	<b>BILL NUMBER</b>	<b>TITLE</b>
1	H28	DOT/ACCESS OF MOTORCYCLISTS
2	H31	MATERIAL FACT DISCLOSURE CLARIFICATIONS
3	H59, S82	REVENUE LAWS TECHNICAL CHANGES
4	H81	STI/REGIONAL & DIVISION WEIGHTING
5	H92	BLUE RIBBON COMMITTEE/TRANSPORTATION FUNDING.
6	H95	TRUCK DELIVERIES TO PORT/NIGHT TRAVEL
7	H110	DOT/DMV CHANGES - MEGAPROJECT FUNDING.
8	H141, S92	MAINTENANCE BOND FOR SUBDIVISION ROADS.
9	H181	FIRST RESPONDERS ACT OF 2017
10	H197	STUDY/DISTRACTED DRIVING & ROAD RAGE
11	H219	TRANSPORTATION MEGAPROJECT FUNDING
12	H220	STATE INFRASTRUCTURE BANK REVISIONS.
13	H229, S582	GENERAL STATUTES COMMISSION TECHNICAL CORRECTIONS
14	H242	LICENSE PLATE READER SYSTEMS IN STATE ROWs
15	H275	NO STORMWATER FEES ON TAXIWAYS OR RUNWAYS
16	H310, S377	WIRELESS COMMUNICATIONS INFRASTRUCTURE SITING
17	H421, S326	CLARIFY HUT & IMPROVE VEHICLE TITLING PROCESS
18	H457	PERFORMANCE GUARANTEES/SUBDIVISION STREETS
19	H468	DOT/FUNDING FOR PRELIMINARY ENGINEERING.
20	H469	REGULATION OF FULLY AUTONOMOUS VEHICLES.
21	H501	DOT/SURVEYING INFORMATION IN PLANS.
22	H528	BUDGET TECHNICAL CORRECTIONS.
23	H827, S303	USE OF PASSING LANE/INCREASED PENALTY
24	H844	DOT/TRAFFIC SIGNAL OVERSIGHT
25	S8	BUILDING CODE EXEMPT/AIRPORT CHANGES
26	S172	REMOVE LIMITS ON LIGHT RAIL FUNDING.
27	S220	MOTOR FUEL TAX EXEMPTION FOR JOINT AGENCY
28	S257	APPROPRIATIONS ACT OF 2017
29	S296	ROAD IMPROVEMENTS ADJACENT TO SCHOOLS.
30	S419	PLANNING/DEVELOPMENT CHANGES.
31	S533	MITIGATION SERVICES/DOT
32	S548	STRENGTHEN HUMAN TRAFFICKING LAWS/STUDIES
33	S558	SCHOOL ROAD IMPROVEMENT GRANT PROGRAM

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# HOUSE BILL 229: GSC Technical Corrections 2017.

2017-2018 General Assembly

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<b>Committee:</b> Senate Rules and Operations of the Senate	<b>Date:</b> June 22, 2017
<b>Introduced by:</b> Rep. Davis	<b>Prepared by:</b> Jennifer H. Bedford
<b>Analysis of:</b> Second Edition	Committee Counsel

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**OVERVIEW:** *House Bill 229 would make technical changes recommended by the General Statutes Commission, and various other changes to State law.*

*Part I of House Bill 229b (Sections 1-34(b)) contains technical changes recommended by the General Statutes Commission. Part II of House Bill 229 contains additional technical amendments and changes to State law. Part III of House Bill 229 contains education report date adjustments.*

[As introduced, this bill was identical to S582, as introduced by Sen. Barringer, which is currently in House Rules, Calendar, and Operations of the House.]

## **BILL ANALYSIS:**

### **PART I. General Statutes Commission Recommendations**

*Sections 1 through 34(b)* contain corrections of a technical nature that are recommended by the General Statutes Commission. The text of the General Statutes Commission's explanatory memorandum has been added to the end of this summary.

### **PART II. Other Amendments**

*Section 35* would amend the statute governing statutory construction to define "Husband and Wife", "Widow", and "Widower", would make language gender neutral, and would correct a citation.

*Section 35.1* would amend the caption of the statute regulating early termination of a rental agreement due to foreclosure to reflect the current content of that statute.

*Section 36* would make a technical correction to G.S. 58-37-1(6) to fix a mistake caused by multiple amendments in S.L. 2016-90 to the same statutory language.

*Section 37.(a) and (b)* would correct an internal citation referenced in G.S. 90-12.7(c), the statute governing drug-related overdose treatment. *If House Bill 243, 2017 Regular Session, becomes law, this section is repealed.*

*Section 38* In 2014, the General Assembly enacted G.S. 90-113.22A, which separated the possession of marijuana paraphernalia from the possession of all other drug paraphernalia but failed to add the new separate offense to the statute authorizing conditional discharge. This section would correct the citation, continuing to allow possession of marijuana paraphernalia to be eligible for conditional discharge.

*Sections 39.(a) and (b)* would correct citations within the statute that governs State agency and legislative access to the Statewide Health Information Exchange Network.

*Sections 40.(a) through (g)* would amend House Bill 630 (Rylan's Law) presented to the Governor on June 16, 2017 by clarifying that the county is the contracting agent when a social service office enters

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into a contract; making effective dates conform with current drafting conventions; and deleting language that had been left after the law was engrossed into another bill.

*Section 41* would correct a reference to codified law, rather than the enacting session law, in the statute regulating fox hunting by changing "act" to "section".

*Section 41.5* would correct errors in the State agencies named in the law regarding the implementation of anonymous tip lines.

*Section 42* would make a conforming change to reflect that the Secretary of Administration, not the Attorney General, now reviews contracts under G.S. 114-8.3.

*Section 42.1* would correct "contactor" to "contractor" in the statute regulating State departments' purchases and contracts.

*Section 43* would specify that the staff designations made by the Chief Administrative Law Judge to the Rules Review Commission come from the pool of employees within the Office of the Administrative Office of the Courts. This section would also eliminate a provision concerning computer access that is now obsolete.

*Section 44* corrects terminology by clarifying that the wage standard used by the Department of Commerce to provide funds to aid economically distressed counties is determined by where the "project" is located, not where the "datacenter" is located.

*Section 44.1* would insert an "and" between "Budget" and "Management" in the statute describing the Department of Information Technology's Internal Service Fund.

*Section 45* would correct the name of a State department.

*Section 45.5* would make a conforming change in order for the nominating process to match the timeline of the primaries.

*Section 46* would correct the effective date of S.L. 2016-81 (NC Money Transmitters Act).

## **PART III. Adjust Certain Report Dates.**

*Sections 48.(a-h)* change the dates by which several State Board of Education and Department of Public Instruction reports are required to be submitted to the Joint Legislative Education Oversight Committee to occur after the information for the reports is expected to be available.

*Section 48(i)* would correct a statutory citation.

## **PART IV. Effective Date.**

*Section 49* Section 5 of this act becomes effective December 1, 2015. The remainder of this act is effective when it becomes law, except as otherwise provided.

## **TEXT OF EXPLANATORY MEMORANDUM FROM GENERAL STATUTES COMMISSION:**

### **General Comments**

Part I of this bill contains corrections of a technical nature to the General Statutes and session laws as recommended by the General Statutes Commission.

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These amendments correct typographical, redlining, and other obvious drafting and stylistic errors, make conforming changes, make language gender neutral, update archaic phrasing, repeal duplicative and obsolete provisions, rephrase unclear provisions, recodify two statutes, correct an inadvertent omission from a law due to computer error in printing the ratified bill, authorize the Revisor of Statutes to alphabetize two lists and to publish drafters comments for two sections of the North Carolina Uniform Trust Code and two sections of the North Carolina Uniform Powers of Appointment Act, and add a cross-reference.

## Specific Comments

**Section 1** amends G.S. 1-117 primarily to update a citation. G.S. 2-42, referred to in G.S. 1-117, was revised and transferred to G.S. 7A-109 by Section 6 of Chapter 363 of the 1971 Session Laws. In addition, the reference to clerks of superior court is made gender neutral.

**Section 2** amends G.S. 7B-302(a) to insert the missing word "juvenile." Section 4 of S.L. 2016-115 amended G.S. 7B-302(a) to make amendments relating to the unlawful transfer of custody of a child. Part of the amendment added the word "juvenile," but the word was not underlined. Because the amendment was in the coded bill drafting format prescribed by G.S. 120-20.1, "juvenile" was technically not actually added by that amendment and now needs to be technically inserted.

**Section 3** amends G.S. 14-118.6(b1) to clarify the phrasing of the third sentence. S.L. 2015-87 added subsection (b1) to provide clerks of court with authority similar to the authority of registers of deeds to refuse to file what appear to be false liens or encumbrances against public officers or public employees or one of their immediate family members. If the clerk declines to file, the document may not be filed unless a judge approves filing. As drafted, however, the 2015 provision can be read to require the clerk to review the clerk's own actions, followed by a mandatory appeal to a judge, if the reader assumes that an "and" is missing between "by the clerk of superior court by any judge ...." The amendment in this section reverses the order of two phrases in this sentence and makes it clearer.

**Section 4** amends G.S. 14-159.3(a1) to correct an inadvertent error in the 2015 amendment to this section. Among other things, the 2015 amendment made references to "landowner" gender neutral by replacing references to "his" and "he" with references to "his or hers" and "he or she." "Landowner" can, however, include corporations and other entities. Rather than use "his, her, or its" and similar phrases, the amendment in this section repeats the word "landowner."

**Section 5** amends G.S. 14-208.6 to make a conforming amendment in subdivision (5), the definition of "sexually violent offense."

S.L. 2015-181 recodified the sex offenses in former Article 7A of Chapter 14 of the General Statutes into a new Article 7B of that chapter and reorganized them to separate the rape offenses from the sexual assault offenses and also to separate the offenses against children from the offenses against adults. In the process, former G.S. 14-27.2 (First degree rape) was divided into two new statutes, G.S. 14-27.21 (First degree forcible rape) and G.S. 14-27.24 (First degree statutory rape).

G.S. 14-208.6(5) included former G.S. 14-27.2 in its list of sexually violent offenses. As a result, S.L. 2015-181 should have amended G.S. 14-208.6(5) to include both new G.S. 14-27.21 and new G.S. 14-27.24 in this list as part of its conforming amendments. The 2015 session law did insert a reference to

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new G.S. 14-27.21, but it inadvertently failed to include new G.S. 14-27.24. The amendment in this section corrects that oversight.

**Section 5.1(a)** amends G.S. 14-309.7 to make a conforming amendment to S.L. 2016-27, s. 3, that directed the Revisor of Statutes to replace any reference to the "Department of Public Safety" with the "State Bureau of Investigation" wherever it appears in Part 2 of Article 37 of Chapter 14 of the General Statutes. In G.S. 14-309.7, however, the reference was just to "Department" so the directive to the Revisor did not apply. Section 5.1(a) replaces "Department" with "Bureau". **Section 5.1(b)** corrects a citation in S.L. 2016-27, s. 4.

**Section 5.2(a)** amends G.S. 20-4.01(32b) to supply a bridging phrase between the introductory language and the listed entities. **Section 5.2(b)** authorizes the Revisor of Statutes to re-letter the definitions in G.S. 20-4.01(27) and G.S. 20-4.01(32b) to place them in alphabetical order.

**Section 6** amends G.S. 20-45 in subsection (a) to eliminate an unnecessary word as legalese; in subsection (b) to make a reference to the Commissioner of Motor Vehicles gender neutral; and in subsection (c) to make a conforming amendment. The conforming amendment replaces a reference to former G.S. 20-309(e) with a reference to G.S. 20-311; S.L. 2006-213 repealed G.S. 20-309(e) and enacted new, more detailed provisions on revocation of licenses due to the cancellation of insurance. Those provisions are now contained in G.S. 20-311.

**Section 7** amends the catch line of G.S. 20-171.24 to make a conforming amendment. Subsection (f) of G.S. 20-171.24, which formerly limited the application of that statute to certain listed municipalities and counties, was repealed by S.L. 2015-26. The statute therefore now applies statewide. The 2015 session law, however, failed to amend the catchline to reflect the change.

**Section 7.1** amends G.S. 20-179 to (i) make language gender neutral, (ii) supply missing subsection catch lines and bridging phrases between introductory paragraphs and lists, (iii) correct stylistic errors in referring to other subunits of the G.S. section, and (iv) remove a reference in subsection (f3) to subsection (h3). S.L. 2012-146, s. 9, repealed subsection (h3).

**Section 8** amends G.S. 24-10.1 to delete a reference to repealed G.S. 24-1.2. That statute dealt with a special interest rate cap for installment sales. There was apparently no successor provision.

**Section 9** amends G.S. 28A-2-4 to correct an obvious error in subdivision (a)(4) and one in subsection (c) and to add a cross-reference in subsection (c). G.S. 36C-2-203, the equivalent statute for trusts, was used as the model for this statute when it was enacted in 2011. Some of the changes to the text of G.S. 36C-2-203 that were needed to adapt the wording to estates rather than trusts and to allow for changes from the original text were not made. Specifically, in subdivision (a)(4), the reference in the last sentence to "a trust" proceeding should have been changed to "an estate" proceeding. The citation in the introductory language of subsection (c) to "subsection ... (c) of this section" is an obvious error; comparing the text of subsection (c) to the original model makes it apparent that the comparable reference in G.S. 28A-2-49(c) should be to subsection (b). In addition, this section adds a cross-reference to G.S. 28A-2-5.

**Section 10** amends G.S. 28A-19-5(b) to correct an obvious error by inserting a missing "not."

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**Section 11** amends G.S. 31B-1(a) to make a conforming amendment. G.S. 31B-1(a) lists possible persons that may renounce an interest in property. Subdivision (8) lists specifically only an "[a]ppointee" under a power of appointment with references to powers of appointment. However, G.S. 31D-4-401 expressly also allows permissible appointees and takers in default under a power of appointment to renounce, and G.S. 31B-2.1 describes how an instrument of renunciation by a permissible appointee or taker in default must be delivered.

**Section 12(a)** amends G.S. 36C-8-816.1 in subdivision (c)(9) to clarify the wording of a requirement and to correct an obvious drafting error.

G.S. 36C-8-816.1 is termed a "decanting" statute, that is, it allows a trustee to transfer the assets of one trust into another trust ("decant" from one to another), subject to certain restrictions. Subdivision (c)(9) requires that the terms of the second trust must not jeopardize any existing tax benefits. However, the current wording does not reflect the possibility that the existence of the decanting statute itself may be regarded as sufficient to disqualify the first trust from tax benefits for which it was designed to qualify. The amendment to this provision clarifies that, even assuming the possibility that the decanting statute itself may disqualify the first trust from certain tax benefits, the existence of the decanting statute is not a bar to the ability to decant. The amendment follows the wording of the equivalent provision in the Uniform Trust Decanting Act.

This section also changes references in subdivision (c)(9) to "Code" to "Internal Revenue Code." Chapter 36C defines "Internal Revenue Code" but does not define "Code"; for this reason, the full defined term should be included for precision.

**Section 12(b)** provides that if Senate Bill 450 becomes law, this section is repealed. Section 2.4 of Senate Bill 450 repeals G.S. 36C-8-816.1.

**Section 12.1(a)** amends G.S. 36F-2 by deleting the word "Reserved," which was mistakenly enacted in two places. The word is being deleted from the enacted text to conform to the current practice. "Reserved" is normally an editorial insertion by the publishers of the statutes. If the word is enacted into a statute, there is no way for a later drafter to tell which instances of "Reserved" are actually part of the law that must be stricken before other material can be added or whether the word is an editorial insertion that should simply be dropped. Please note that the publishers will reinsert "Reserved" as an editorial insertion, so the word will not actually disappear.

**Section 12.1(b)** substitutes "verified" for "certified" in G.S. 36F-13(2) in order to match G.S. 36F-12(2). The North Carolina Comment to G.S. 36F-12 states that the word "verified," rather than the word "certified," conforms to this State's practice.

**Section 13** repeals two statutes in Chapter 39 of the General Statutes that were made duplicative or obsolete by the enactment in 2015 of Chapter 31D of the General Statutes (Uniform Powers of Appointment Act) and recodifies two other statutes from that Chapter into Chapter 31D. Specifically, G.S. 39-33 provides a method of releasing a power of appointment that G.S. 39-34 makes non-exclusive. Essentially the same provision is now included in G.S. 31D-4-403, rendering the older statute duplicative and unnecessary. The repeal of G.S. 39-33 would in turn render G.S. 39-34 obsolete. Finally, subsections (b) and (c) of this section recodify G.S. 39-35 as G.S. 31D-5-505 and G.S. 39-36 as G.S. 31D-4-403.1.

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**Section 13.1** amends G.S. 42A-4 by deleting the word "Reserved," which was mistakenly enacted. Section 13.1 also substitutes "the landlord's" for "his or her" to clarify that a landlord can also be a business entity.

**Section 14** is reserved.

**Section 14.1** amends various G.S. sections in Article 16B of Chapter 53 of the General Statutes (the North Carolina Money Transmitters Act) to (i) correct stylistic errors in referring to other subunits of a G.S. section, (ii) correct a stylistic error in using the wrong grammatical mood, (iii) supply missing words, (iv) re-format lists to conform to this State's drafting convention, and (v) clarify that the proceeds of civil penalties collected under the Article shall be paid to the Civil Penalty and Forfeiture Fund.

**Section 14.2(a)** amends G.S. 55-1-40(13a) to correct the format of the definition of "mail". **Section 14.2(b)** provides that if Senate Bill 622 becomes law, this section is repealed. Section 33.1 of Senate Bill 622 is identical to Section 14.2(a) of this bill.

**Section 14.3** amends G.S. 66-71.14(b) to correct an incomplete citation that is missing the chapter number of the citation.

**Section 14.4** amends G.S. 69-25.15(d) and G.S. 153A-304.1(d) to remove references to G.S. 160A-37.1. G.S. 69-25.15(d) and G.S. 153A-304.1(d) formerly referred to G.S. 160A-37.1 and G.S. 160A-49.1. G.S. 160A-37.1 and G.S. 160A-49.1 contained virtually identical language, but G.S. 160A-37.1 was located in a Part applying to cities of less than 5,000 people, and G.S. 160A-49.1 was located in a Part applying to cities of 5,000 or more people. Section 1 of S.L. 2011-396 repealed the Part in which G.S. 160A-37.1 was located, and Section 2 of S.L. 2011-396 recodified G.S. 160A-49.1 as G.S. 160A-58.57. In other words, the General Assembly replaced two former sections, G.S. 160A-37.1 and G.S. 160A-49.1, with a single section, G.S. 160A-58.57. G.S. 160A-58.57 applies to all cities regardless of population. Therefore, G.S. 69-25.15(d) and G.S. 153A-304.1(d) should be amended to refer only to G.S. 160A-58.57.

**Section 15** amends G.S. 97-25(f) to make two changes. First, the reference in the introductory language to filing motions and responses to the Industrial Commission "via electronic mail" is changed to "via electronic means"; the existing reference appears not to have literally meant e-mail only, since elsewhere in this same subsection (subdivision (2)) transcripts may be "submitted electronically." Second, the dangling language at the end of the introductory paragraph is corrected.

**Section 15.1** amends G.S. 105-164.13(11b) to correct a reference to subdivision (45a) "of this subsection" to read "of this section," because G.S. 105-164.13 has no subsections.

**Section 15.2** amends G.S. 106-950 to supply language that the General Assembly intended to enact in S.L. 2015-286 but was not enacted due to a computer issue. The underlining in the phrase "burning of polyethylene ... related to" appeared in the electronic version of the ratified bill but it failed to appear in the printed paper copy actually signed by the Governor. As a result, that language was technically not actually added. Section 15.2 also updates legalese.

**Section 16** makes a conforming amendment to the catch line of G.S. 108A-70.21. Former subsections (g) and (h) of that statute provided for the purchase of extended coverage in the North

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Carolina Health Insurance for Children Program. With their repeal in 2015, the reference in the catch line to "purchase of extended coverage" is no longer relevant and should be deleted.

**Section 17** amends G.S. 115C-112.6(b1)(2)d. to delete an extraneous "the" in the last sentence.

**Section 18** amends G.S. 120-4.16(b) by codifying the second paragraph as subsection (b1). Please note that this second paragraph has what appears to be intended as a subsection catch line.

**Section 19** repeals G.S. 120-57, which sets out duties for the now-repealed Legislative Intern Program Council and is therefore obsolete.

**Section 19.1** amends G.S. 120-70.106(d) to clarify that the reference to "Department" is to the Department of Revenue. As enacted by S.L. 2016-23, s. 2(b), this language was uncodified. The Codifier, however, determined that this language should be codified. From the context of the session law, it is clear the reference is to the Department of Revenue.

**Section 20** amends G.S. 136-41.2(c) to update a reference. G.S. 160-410.3 was repealed long ago. The comparable provisions are G.S. 159-8 and G.S. 159-13.

**Section 20.1(a)** amends G.S. 143-58.5 to conform the rulemaking authority for the fund created by this section by substituting the Secretary of Environmental Quality for the Secretary of Administration. In 2011, the General Assembly directed the State Energy Office to establish an energy credit banking and selling program and a revolving fund to finance the program, with the goal of enhancing State use of alternative fuels. The fund was created in this section (G.S. 143-58.5). The State Energy Office was at that time located in the Department of Administration, and the Secretary of Administration was given rulemaking authority over the program (in G.S. 143-58.4) and the fund. Since then, however, the State Energy Office has been transferred, first to the Department of Commerce and most recently to the Department of Environmental Quality. *See* S.L. 2013-360, s. 15.22. Currently, the Department of Environmental Quality administers the energy credit banking and selling program under G.S. 143-58.4 and transfers monies received from it to this fund. Although conforming amendments were made to the rulemaking authority in G.S. 143-58.4 (dealing with the program) to match the transfers, the need for a similar amendment in this section was apparently overlooked. Section 20.1(a) also corrects the format of a date. **Section 20.1(b)** directs the Codifier of Rules to make any conforming rule changes necessary to reflect name changes and any recodifications resulting from the name change made by this section.

**Section 21** amends G.S. 143-215.31(a1)(6) to correct a typographical error in the reference to a section of the Code of Federal Regulations. There is no 18 C.F.R. § 333.112; the correct reference is to 18 C.F.R. § 388.112.

**Section 22** amends G.S. 143-341.2(b)(3) to correct a spelling error. The word "preforming" should have been "performing."

**Section 23** amends G.S. 143B-168.5 to update the reference to G.S. 110-105.2, which was repealed in 2015. The comparable, more detailed, provisions are in G.S. 110-105.3, 110-105.4, 110-105.5, and 110-105.6. In addition, this section inserts a specific reference to the Division within the Department of Health and Human Services where the special unit established in this statute is located.



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**Section 24** amends G.S. 143B-394.15(c) to remove a duplicate entry in the list of ex officio members of the Domestic Violence Commission. The duplication occurred in 2011 when the former Departments of Correction, Crime Control and Public Safety, and Juvenile Justice were combined to create the Department of Public Safety. The ex officio members of the Domestic Violence Commission included the Secretaries of Correction and of Crime Control and Public Safety. S.L. 2011-145, which created the Department of Public Safety, included conforming amendments to change the titles of the respective Secretaries to the new title (in Sections 19.1(g) and 19.1(i)). As a result, the Secretary of Public Safety appears twice in the list in G.S. 143B-394.15(c)(4). The amendment also (i) conforms the total number of Commission members in the introductory language of subsection (c) to reflect that the Secretary of Public Safety is only one person and (ii) conforms other titles in the list.

**Section 24.1** amends G.S. 143B-437.56(b) to add a bridging phrase at the end of the introductory paragraph of the subsection.

**Section 25** amends G.S. 143B-931(b) to update references to G.S. 115C-238.56N to reflect the current G.S. number, G.S. 115C-238.73.

**Section 26** amends G.S. 143C-6-4(b)(2) to make a conforming change in the references to G.S. 166A-19.40, which was reorganized in the 2015 budget bill (S.L. 2015-241).

**Section 27** amends G.S. 146-9(b)(4) to delete an extra word ("to").

**Section 28** amends G.S. 147-12(a)(12) to update the citation to G.S. 143B-373. In 1989, the then-existing text of G.S. 143B-373 was designated as subsection (a) of that section and new subsections (b) through (d) were added. No conforming amendment, however, was made to the citation in G.S. 147-12(a)(12).

**Section 28.1(a)** amends G.S. 147-69.2(b) to add a bridging phrase at the end of the introductory paragraph of the subsection. Section 28.1(a) also updates legalese. **Section 28.1(b)** amends G.S. 147-69.12(c) by deleting the word "Reserved," which was mistakenly enacted.

**Section 29** amends G.S. 153A-340(h) to remove "garbage language" caused by a redlining error in S.L. 2011-286 that caused the phrase "county development approval required by law" to be inserted twice.

**Section 30** amends the introductory language of G.S. 160A-332(a) to update a citation. The definition formerly at subdivision (1) of G.S. 160A-331 was renumbered as (1b) in 1997. This section also changes the parentheses to commas.

**Section 31** amends G.S. 160A-372(e) and (f) to change references to "paragraph" to "subsection," which is now the correct term after the previously undesignated paragraphs in subsection (c) were given their own subsection designation.

**Section 31.1** amends G.S. 160A-536(d)(2) to codify the existing applicability provision relating to the second sentence. S.L. 2016-8, which enacted that sentence, provided in Section 7 of the act that the sentence applied only to contracts entered into on or after the effective date of the act. Without the amendment in this section, it is not clear from the codified statute that the sentence does not apply to contracts that predate the 2016 act. Because the referenced contracts can last for more than five years,

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the applicability provision should be codified. Section 31.1 also supplies a missing catch line for subsection (d1).

**Section 32(a)** amends Section 7.1 of S.L. 2014-107 to make it clear that the amendment by Section 5.1 of that act applies to all trusts, regardless of when created. The 2014 act clarified that the common-law rule against accumulations no longer applies to trusts in this State. **Section 32(b)** makes this section retroactive to the effective date of S.L. 2014-107.

**Section 33** amends the introductory language of Section 54.5(b) of S.L. 2015-264 to correct a typographical error in the citation. Section 54.5(b) stated that it was amending "Section 32.2(c)" of S.L. 2015-241, but there was no such section and the provision actually set out was Section 32.3(c).

**Section 33.1** amends S.L. 2016-102, s. 2, to correct a citation. From the context of the session law, it is clear the General Assembly intended to cite to "G.S. 14-208.18(a)(3)," not "G.S. 14-408.18(a)(3)."

**Section 33.2** amends the introductory language of S.L. 2016-108, s. 6(c), to replace "G.S. 136-6(o)" with "G.S. 135-6(o)". It is clear the General Assembly intended to amend G.S. 135-6(o), because the session law quotes G.S. 135-6(o) and G.S. 136-6 was repealed in 1957.

**Section 33.3** amends S.L. 2016-117, s. 2(m), to format the section in coded bill drafting to properly effectuate the intended amendment to the title of Article 1D of Chapter 90 of the General Statutes.

**Section 33.4** amends the introductory language of S.L. 2016-123, s. 6.1(a) and s. 6.1(b), to correct two citations. Section 14.11(b) and (c) of last year's budget bill amended G.S. 113-202.1 and G.S. 113-202.2.

**Section 34** authorizes the printing of (i) a drafter's comment to G.S. 36C-1-112, prepared by the Estate and Fiduciary Planning Section of the North Carolina Bar Association, the body that recommended the enactment of that section, and (ii) drafters' comments to the amendments to Chapters 36C and 31D of the General Statutes in keeping with the practice of the Estate and Fiduciary Planning Section of the North Carolina Bar Association.

**Part II** of the bill was added in the Senate.

The **final section** of the bill is the effective date section for the entire bill. It provides that, except as otherwise provided in the bill, the bill is effective when it becomes law. The retroactive effective date for Section 5, making the amendment in that section effective on the same date that S.L. 2015-181 was effective, was added by the General Assembly to the equivalent amendment in last year's technical corrections bill that was not enacted; that change has accordingly been incorporated in this year's bill.



# HOUSE BILL 275: No Stormwater Fees on Taxiways or Runways.

2017-2018 General Assembly

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<b>Committee:</b>		<b>Date:</b>	September 7, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Jeff Hudson
<b>Analysis of:</b>	S.L. 2017-132		Staff Attorney

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**OVERVIEW:** *S.L. 2017-132 exempts military runways and taxiways from stormwater utility fees and exempts other runways and taxiways from stormwater utility fees if the savings are used to attract business to the airport.*

*This act becomes effective January 1, 2018, and applies to fees levied on or after that date.*

**PREVIOUS LAW:** Under previous G.S. 153A-277 and G.S. 160A-314, counties and cities were authorized to establish and collect fees for stormwater management programs and structural and natural stormwater drainage systems, including such programs and systems for airports.

**BILL ANALYSIS:** S.L. 2017-132 establishes the following two exemptions for airports from stormwater utility fees:

- An exemption for military runways and taxiways from stormwater utility fees.
- A limited exemption for non-military airports from stormwater utility fees. Under this exemption, an airport would not have to pay the portion of the fee that covers the airport's runways and taxiways if the airport certifies that the savings realized from the exemption will be used to attract business to the airport. Upon request of the city or county levying the fee, the airport would be required to provide evidence that the savings were used to attract business to the airport. Any savings not used for the required purpose would have to be remitted to the city or county to be used for stormwater management.

**EFFECTIVE DATE:** The act becomes effective January 1, 2018, and applies to fees levied on or after that date.

Karen Cochrane-Brown  
Director



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*This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.*



# HOUSE BILL 310: Wireless Communications Infrastructure Siting.

2017-2018 General Assembly

<b>Committee:</b>		<b>Date:</b>	September 11, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Jennifer McGinnis Staff Attorney
<b>Analysis of:</b>	S.L. 2017-159		

**OVERVIEW: S.L. 2017-159:**

- *Amends the laws relating to regulation by cities of wireless infrastructure siting with regard to collocation of small wireless facilities on city utility poles in public rights-of-way.*
- *Authorizes cities to assess fees on wireless providers for occupation of rights-of-way if the city charges other communications service providers or publicly, cooperatively, or municipally owned utilities for similar uses of the rights-of-way.*
- *Authorizes cities to charge wireless providers for collocation of a small wireless facility on city utility poles a rate of \$50 per pole per year.*
- *Authorizes the North Carolina Department of Transportation (NCDOT) to issue permits to wireless providers for collocation of wireless facilities on State rights-of-way.*

*This act became effective July 21, 2017.*

**CURRENT LAW:** Article 19 of Chapter 160A and Article 18 of Chapter 153A of the General Statutes govern land use regulations by cities and counties, respectively. Specifically in Part 3E of Article 19 of Chapter 160A (Cities) and Part 3B of Article 18 of Chapter 153A (Counties), cities and counties are granted like authority to regulate equipment and network components necessary to provide wireless service and regulate new or existing structures designed to support wireless facilities.

Part 3E of Article 19 of Chapter 160A of the General Statutes currently provides for municipal regulation of the siting and modification of mobile broadband and wireless facilities. It also provides for the regulation of collocation of wireless facilities. Collocation is the installation of new wireless facilities on previously-approved structures.

**BILL ANALYSIS:**

This act sets forth findings that small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, may be deployed most effectively in the public rights-of-way.

The act amends Part 3E of Article 19 Chapter 160A to provide for the municipal regulation of the siting and collocation of small wireless facilities, described more as follows:

➤ **Definition of a "small wireless facility"**

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Director



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# House Bill 310

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The act defines "small wireless facilities" as a wireless facility with both of the following:

1. Antenna within an enclosure of no more than 6 cubic feet in volume.
2. Other wireless equipment associated with the small wireless facility of no more than 28 cubic feet in volume.

## ➤ **Permitting of Small Wireless Facilities by Cities**

The act prohibits a city from establishing a moratorium on accepting applications, issuing permits, or otherwise regulating the collocation of small wireless facilities except as provided in this act. A city is given the discretion to require a permit for a wireless provider to collocate small wireless facilities within the city's jurisdiction subject to the following conditions:

- A city may not, as a permit condition, require applicants to provide unrelated services such as reservation of fiber, conduit, or pole space for the city.
- The city would have 30 days to deem an application complete; 45 days to approve or deny the completed application. An applicant would have 30 days to revise a denied application; and the city would have an additional 30 days to approve or deny the revised application.
- Applicants could include up to 25 small wireless facilities into a single permit application. A city could remove one or more of those facilities from the consolidated application under certain conditions.
- The permit may require the applicant to commence collocation within 6 months of approval and to activate for use no later than one year from the permit issuance date.

A city may review the permit and could deny an application only if it fails to meet one of the following:

- Compliance with local codes or regulations that concern public safety.
- Objective design standards for decorative utility poles.
- Stealth and concealment, including screening and landscaping for ground-mounted equipment.
- Reasonable spacing requirements for poles and ground-mounted equipment.
- Compliance with local, State, and federal historic district laws and regulations.

A city is authorized to charge a permit fee of up to \$100 per small cell wireless facility for the first five facilities in an application and \$50 for each additional facility in the application. A city may also charge a consulting fee of up to \$500 per application to hire an outside consultant to complete the review and processing of applications.

A permit for a small wireless facility that will extend no more than 10 feet above the top of its support structure may only be reviewed and approved using the G.S. 160A-400.54 criteria above if being collocated (i) in a city right-of-way within any zoning district; or (ii) outside a city right-of-way on other than single-family residential property.

A city may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the city may remove the facility and recover the actual cost of such removal, including legal fees, if any, from the wireless services provider.

## ➤ **Use of the City Right-of-Way**

# House Bill 310

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The act:

- Allows a wireless provider to collocate small wireless facilities in the city rights-of-way.
- Prohibits a city from entering into an exclusive arrangement with any person for the use of the city right-of-way for wireless facilities, wireless support structures, or the collocation of small wireless facilities.

If the wireless provider sought to install a new or modify an existing utility pole in the city right-of-way in association with the collocation of a small cell wireless facility and (i) those poles do not to exceed 50 feet; and (ii) the collocated small wireless facilities do not extend more than 10 feet off the top of the structure, the city's review is limited to the G.S. 160A-400.54 criteria set forth above. The city may, however, allow wireless facilities that exceed those height restrictions at the city's discretion. Applicants for use of the city right-of-way must comply with the city's undergrounding requirements.

A city may charge a wireless provider for the use of the city right-of-way. The charge must be reasonable and nondiscriminatory, must not exceed the direct and actual cost of managing the city rights-of-way, and is not to be based on the wireless provider's revenue or customer counts. The charge may not exceed similar charges imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities. A city may require a wireless provider to repair any damage to the city right-of-way caused while installing or maintaining wireless facilities or other associated facilities. If the wireless provider fails to make those repairs, the city may charge the provider the reasonable cost of the repairs.

Historic preservation zoning authority may still be exercised by the city.

## ➤ Access to City Utility Poles

The act prohibits a city from entering into an exclusive arrangement with any person for the use of the city utility poles. A city must allow a wireless provider to collocate on utility poles at just, reasonable and non-discriminatory rates, not to exceed \$50 per city utility pole per year. Requests to collocate on a city utility pole may be denied only for (i) insufficient capacity; (ii) reasons of safety; and (iii) engineering principles (and these limitations could not be remedied by rearranging, expanding, or otherwise reengineering the facilities at a reasonable cost). The wireless provider seeking to collocate must comply with all applicable safety requirements, including the National Electric Safety Code and rules and regulations of the Occupational Safety and Health Administration.

Within 60 days of receiving an application to collocate on a city pole, the city must provide an estimate of costs for make-ready work. Such work must be completed within 60 days of acceptance of the estimate by applicant.

These provisions do not apply to: (i) a city that owns or operates a public enterprise consisting of an electric power generation, transmission, or distribution system; or (ii) an electric membership corporation that owns or controls poles, ducts or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934.

## ➤ Stadiums, Private Easements, Enforcement

The act:

- Clarifies that nothing in the act amends, modifies, or otherwise affects any easement agreement between private parties.
- Prohibits a city from doing any of the following (except as otherwise provided under the act, or specifically authorized the General Statutes):

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- Adopting or enforcing any regulation on the placement or operation of communications facilities in the rights-of-way, whether State or city, by a provider authorized by State law to operate in the rights-of-way.
  - Regulating any communications services.
  - Imposing or collecting any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.
  - Regulating small wireless facilities within any stadium or athletic facility, unless the city owns the stadium or athletic facility.
- Provides that approval of the installation, placement, maintenance, or operation of a small wireless facility under the act does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.

## ➤ **State-maintained highways.**

The act addresses the regulation of wireless facilities in the rights-of-way of State-maintained highways by adding the placement of wireless facilities to the list of allowable activities in the State rights-of-way and authorizes the NCDOT to issue permits for the collocation of wireless facilities in the State rights-of-way. NCDOT would be required to approve or deny permits within a reasonable period of time of receiving an application.

The collocation of small wireless facilities in the State rights-of-way is made subject to the following requirements:

- The facilities may not obstruct or hinder the usual travel or public safety on any State rights-of-way or obstruct the legal use of such rights-of-way by other utilities.
- Each new or modified utility pole and wireless support structure installed in the State right-of-way may not to exceed the greater of (i) 10 feet in height above the height of the tallest existing utility pole, in place as of July 1, 2017, located within 500 feet of the new pole in the same right-of-way, or (ii) 50 feet above ground level.
- Each new small wireless facility in the right-of-way may not to extend (i) more than 10 feet above an existing utility pole or wireless support structure in place as of July 1, 2017, or (ii) above the height permitted for a new utility pole or wireless support structure under this section.

**EFFECTIVE DATE:** This act became effective July 21, 2017.

*Erika Churchill and Billy Godwin, staff attorneys, substantially contributed to this summary.*



2017-2018 General Assembly

# HOUSE BILL 501: Department of Transportation Surveying Information in Plans/Department of Transportation Residue Property Disposal/Taxicab Liability Insurance.

<b>Committee:</b>		<b>Date:</b>	August 10, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Giles Perry
<b>Analysis of:</b>	S.L. 2017-137		Staff Attorney

**OVERVIEW:** *S.L. 2017-137 requires the Department of Transportation (DOT) to include specified surveying data on plans to acquire property rights; makes changes to DOT's residue property disposal procedures; and increases the liability insurance limits for taxicabs.*

*This act becomes effective October 1, 2017.*

## **BILL ANALYSIS:**

**Section 1** requires DOT to include specific surveying data on plans to acquire property that depict property lines, right-of-way lines, or permanent easements. The data must be tied to the North Carolina State Plane Coordinate system. All property corner markers must be clearly identified within the plans in accordance with general surveying standards and procedures.

**Section 2** codifies and makes modifications to DOT's current residue property disposition procedures, including: clarifying definitions for residue property classification; clarifying methods for disposition by either public sale, negotiation, exchange, or donation; and adding inventory management and reporting requirements. This section also creates a pilot program to reduce DOT's existing inventory of residue property.

**Section 3** increases the required coverage limits for liability insurance that taxicab owners must have to obtain authorization to operate within a municipality to:

- \$100,000 because of bodily injury to or death of one person in any one accident.
- \$300,000 because of bodily injury to or death of two or more persons in any one accident.
- \$50,000 because of injury to or destruction of property of others in any one accident.

This section also eliminates the option to provide proof of responsibility by means of a trust fund or sinking fund.

**EFFECTIVE DATE:** The act becomes effective October 1, 2017.

**BACKGROUND:** The language in Section 1 was developed by the North Carolina Society of Surveyors, the North Carolina Board of Examiners for Engineers and Surveyors, and the North Carolina Department of Transportation. The intent of the language is to make the Department's plans simpler and easier to use and to eliminate confusion about property rights.

Karen Cochrane-Brown  
Director



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# HOUSE BILL 528: Budget Technical Corrections.

2017-2018 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	June 28, 2017
<b>Introduced by:</b>	Reps. Millis, Torbett	<b>Prepared by:</b>	Luke Gillenwater Staff Attorney
<b>Analysis of:</b>	PCS to Third Edition H528-CSML-13		

**OVERVIEW:** *The Proposed Committee Substitute to House Bill 528 makes technical, clarifying, and other modifications to the Current Operations Appropriations Act of 2017 (Senate Bill 257 of the 2017 Regular Session).*

**BILL ANALYSIS:** House Bill 528 does the following:

- **Section 1.1:** Amends Section 2.1 of Senate Bill 257 to conform appropriation figures to the revisions in House Bill 528.
- **Section 1.2:** Amends Section 5.3 of Senate Bill 257 to direct the Joint Legislative Commission on Governmental Operations to appoint a committee to study the Needs-Based Public School Capital Fund program.
- **Section 2.1:** Amends Part VII of Senate Bill 257 to include language inadvertently omitted that provides that the General Assembly intends to create an allotment and provide funds for program enhancement teachers beginning with the 2018-2019 fiscal year.
- **Section 2.2:** Amends Section 7.23A(a)(2) of Senate Bill 257 to remove a requirement for school cybersecurity improvement plans to include building security programs.
- **Section 2.3:** Amends Section 7.23I of Senate Bill 257 to allow the Superintendent of Public Instruction to remove the Associate Superintendent for any reason, not just in the event of incapacity to serve.
- **Section 2.4:** Amends Section 7.23J to clarify that the first allotment report, due by December 1, 2017, must include all of the new information that is required by G.S. 115C-105.25(c)(3), as amended by Section 7.23J, for fiscal years 2014-2015, 2015-2016, and 2016-2017.
- **Section 2.5:** Amends G.S. 115C-83.15 to make technical changes requested by DPI to specify that EVAAS data is used to calculate school growth rather than in the calculation of the overall performance scores and grades.
- **Section 2.6:** Amends Section 7.27 to permit DPI to carry forward up to \$5,000,000 of funds appropriated in the 2015 budget for the Excellent Public Schools Act in the 2016-2017 fiscal year, to keep these funds through the end of the 2017-2018 fiscal year, and to allocate the funds to LEAs to purchase computers or other electronic devices used to administer the K-3 reading assessments required by State Board of Education.
- **Section 2.7:** Amends Part VII to add a section to add Halifax County Schools to the NC STEM residential program, which was inadvertently omitted.

Kory Goldsmith  
Director



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- **Section 2.8:** Amends Part VII to substitute the elimination of a vacant position that was recently filled by DPI with an alternative vacant position and operating support in an equivalent amount.
- **Section 2.9:** Amends Section 8.26(n) to remove a deadline for DPS to implement the safety tip line in 115C-105.51, the responsibility for which has been transferred to DPI and is not funded in the budget.
- **Section 2.10:** Amends Section 8.8B to clarify that AP/IB/Cambridge AICE and CTE bonus provisions include 2017-2018 and 2018-2019 performance. Harmonizes Section 8.8C with Section 8.8B by expanding third grade bonuses to include 2018-2019 performance.
- **Section 2.11:** Amends Section 8.2 to eliminate assessment of instructional costs associated with space requirements.
- **Section 2.12:** Amends Part IX to add a section to provides funds to Forsyth Tech CC to support instructional programs and services at the Transportation Technology Center.
- **Section 2.13:** Amends Section 10.8(c) to eliminate UNC's management flexibility report for FY 2017-2018.
- **Section 2.14:** Amends Part X to correct the revised net appropriation for the Cooperative Extension to \$39.1M for FY 2017-2018 and \$39.2M for FY 2018-2019.
- **Section 2.15:** Amends Section 10A.1 to remove the reference to nonrecurring funds to clarify, at the request of SEAA, that, although the use of funds would only be for 2017-2018 fiscal year, the source of the funds are recurring.
- **Section 2.16:** Amends Section 27.6 of the 2016 Budget, as amended by Section 10.23, to change the purpose for which the funds could be used from operating expenses for the Dept. of Applied Sciences to repairs and renovations for certain labs of the Dept., with funds to be matched by June 30, 2018, rather than June 30, 2019.
- **Section 2.17:** Amends Part X to limit the use of funds to the NCSU biomanufacturing Training and Education Center to support training and education.
- **Section 2.18:** Amends G.S. 115C-12(9)c1.3. to require that information on Cambridge Advanced International Certificate of Education (AICE) Program participation and test results be added to the annual report cards for high schools.
- **Section 3.1:** Amends Part XI to correct the reference to the Bryan Alzheimer's Disease Research Center for the development of an Alzheimer's Registry
- **Section 3.2:** Amends Section 11A.8 to clarify that the reporting requirements for grant recipients to report objective, measurable health outcomes begins 7/1/18.
- **Section 3.3:** Amends Part XI to clarify that funds appropriated to DHHS may be used to support nonsectarian services provided by the HELP Center, Inc.
- **Section 3.4:** Amends Section 11L.1 to allow the DHHS, Division of Public Health, to establish 2 positions using Preventive Health Services Block Grant funds.
- **Section 4.1:** Amends Section 13.13(d) to change the date 3/1/18 to 12/31/18 on which the Collaboratory's study recommendations regarding economic development related to promotion of shellfish harvesting are due.
- **Section 4.2:** Amends Section 13.22 to remove the designation of the funds as nonrecurring.

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- **Section 4.3:** Amends Section 14.19 to correct a discrepancy between the money amount in the Committee Report and section 14.9 of the bill for the Scotts Hill satellite aquarium facility by rewriting the provision to eliminate the specific amount.
- **Section 4.4(a):** Amends Section 13.28 to correct the fund code reference for CRFL receipt-supported positions.
- **Section 4.4(b):** Amends Section 13.29 to restore a portion of the energy funding for the energy center at NC State University by spreading the remaining funding evenly to all three energy centers (at NC A&T, Appalachian State, and NC State).
- **Section 4.4(c):** Amends Part XIV to correct an internal inconsistency in the Committee Report description for grants-in-aid to local history museums and to reallocate the grant in the Committee Report from the Oxford Museum of History to the Granville County Historical Society.
- **Section 4.5:** Amends Part XIV to increase the position authorization to 25 for additional funding provided to the Museum of Art.
- **Section 4.6:** Amends Part XIV to eliminate funding for the Caldwell County mobile book library (funds were transferred to Section 6.3 (Caldwell County EMS)) and to reallocate funds in the Committee Report from the Town of Aberdeen to the Friends of the Aberdeen Library.
- **Section 4.7:** Amends Section 15.5(b)(1) to eliminate a reference to the Site and Building Development Fund, which was not created.
- **Section 4.8:** Amends Section 15.8 to add funding for grants-in-aid for the Towns of Summerfield, Stokesdale, and Oak Ridge.
- **Section 4.9:** Amends Section 15.18 to address the Industrial Commission's concern regarding uncertainty of budgetary terminology.
- **Section 4.10:** Provides a grant-in-aid in the amount of \$200,000 to Cleveland County ALWS Baseball, Inc. for facility improvements related to and promotion of the 2017 American Legion Baseball World Series.
- **Section 4.11:** Amends G.S. 143-215.73F(c)(4) to change from permissive to mandatory the payment of cost-share for dredging the access canal around the Roanoke Island Festival Park from the Historic Roanoke Island Fund.
- **Section 4.12:** Makes a conforming change to G.S. 143B-135.234 to correct a statutory reference regarding administration of the CWMTF to the Department of Natural and Cultural Resources.
- **Section 5.1:** Amends Section 16B.10(e) to prohibit DPS from reducing the authorized budget for Fund Code 1402 from how it existed on March 1, 2017.
- **Section 5.2:** Amends Subpart XVI-B to specify that \$125,000 of the funds that are appropriated to the SBI may be used to fund Operation Medicine Drop.
- **Section 5.3:** Amends G.S. 7B-2200.5(a)(1) to correct the inadvertent omission of Class E felonies from the Raise the Age provisions.
- **Section 5.4:** Amends Section 16D.4(jj) to make a technical correction to the effective date.
- **Section 6.1:** Amends Part XIX (i) to require the Department of Military and Veterans Affairs to keep all of the veterans' cemeteries open and to continue the current level of operational support

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and maintenance using receipts and other funding sources if needed and (ii) to require OSBM to allow the Department to carryforward funds to continue funding positions established for the purpose of operations at the cemeteries and to use the Carryforward Reserve if necessary.

- **Section 6.2:** Amends Section 22.2 to add Section 8 of S.L. 2009-474 (required support of certain positions from the State Property Fire Insurance Fund and Insurance Regulatory Fund) to that which is repealed.
- **Section 6.3:** Amends Part XXVI to add \$100,000 in nonrecurring funds for FY 2017-2018 as grants-in-aid to be allocated to Caldwell County for EMS services.
- **Section 6.4:** Amends part XXVI to add \$250,000 in nonrecurring funds for FY 2017-2018 to the Indian Affairs Commission to expedite the recognition review process for NC tribes and commissions.
- **Section 6.5:** Amends Part XXXI to reallocate funding previously allocated to the NC Museum of Natural Sciences for a dinosaur project.
- **Section 6.6:** Amends Part XXXI to provide \$150,000 in nonrecurring funds for FY 2017-2018 for Halifax County for the redevelopment of the Joseph Montfort Amphitheatre.
- **Section 6.7:** Corrects the funding source for the North Carolina Civil War History Center from capital funds to funds from OSBM Special Appropriations.
- **Section 7.1:** Amends G.S. 136-76.2(c) to remove the installation of culverts in cases of emergency from the bridge program fund outsourcing requirements.
- **Section 7.2:** Amends Section 34.26(a) to delay by 2 months the reporting date required from the Global TransPark regarding its Strategic Plan.
- **Section 7.3:** Amends G.S. 20-4.03(a) to clarify the Division of Motor Vehicles is authorized to charge a fee to a person for an administrative hearing.
- **Section 8.1:** Amends Section 35.21 to change references from the phrase “total compensation” to the phrase “compensation and benefits” to more accurately and appropriately describe what the study includes.
- **Section 9.1:** Amends Section 36.5(e) to expand the purposes for which the funds may be used for the energy production project at Western Carolina University.
- **Section 9.2:** Amends Section 36.10 to remove an incorrect contingent reference to HB 280, as the provisions of that bill were incorporated into the budget bill.
- **Section 9.3:** Amends Section 37.9 of the 2016 budget bill to extend by one year the use of funds from receipts or other non-General Fund sources available to UNC-Pembroke for the construction of a business school.
- **Section 9.4:** Corrects the description for the Stonewall Jackson Youth facility capital item contained in the Committee Report.
- **Section 9.5:** Amends Section 36.2 to remove the funding for the North Carolina Civil War History Center, which is now being handled in Section 6.7 of HB528.
- **Section 10.1:** Repeals Section 37.12 of Senate Bill 257 requiring the Department of Information Technology to use a competitive RFP process to continue the work of the FirstNet program.

**EFFECTIVE DATE:** Except as otherwise provided, this act becomes effective July 1, 2017.



# HOUSE BILL 59: Revenue Laws Technical Changes.

2017-2018 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2017-39

**Date:**

August 11, 2017

**Prepared by:**

Nicholas Giddings  
Staff Attorney

**OVERVIEW:** *S.L. 2017-39 makes technical changes to the Revenue Laws as recommended by the Department of Revenue.*

*The section of the act pertaining to tax credits for constructing a railroad intermodal facility became effective June 21, 2017 and applies to taxable years beginning on or after January 1, 2017. The remainder of this act became effective June 21, 2017.*

Section	Bill Analysis
<b>PART I. INCOME AND FRANCHISE TAX CHANGES</b>	
1	Updates the reference to the Internal Revenue Code from January 1, 2016, to January 1, 2017.
2	Changes placement of language in the statute to a more appropriate subsection by moving a reference to corporate books and records from being used to determine tax to being used to determine net worth.
3.(a) 3.(b)	<p>Provides that the tax credit for constructing a railroad intermodal facility may be taken when the property is placed into service in this State. For these types of projects, there are often multiple parties involved, and the taxpayer seeking to claim the credit may not necessarily be the entity that places it into service. As long as the taxpayer constructs or leases the facility, and the facility is placed into service during the taxable year, the taxpayer may claim the credit.</p> <p>Prohibits use of the credit for any costs provided by public funds.</p> <p>Provides that a taxpayer who leases the facility may not claim the credit unless the taxpayer obtains certification from the lessor that the lessor will not also claim the credit.</p> <p>This section became effective June 21, 2017 and applies to taxable years beginning on or after January 1, 2017.</p>
4.(a) 4.(b)	Certain changes on a taxpayer's return at the federal level affect State tax liability and are required to be disclosed to the State. Section 4.(a) makes a conforming change that was made to G.S. 105-159 in 2013. Section 4.(b) adds filing status, personal exemptions, standard deduction and itemized deductions to the list of corrections at the federal level that must be disclosed to the State as it may affect tax liability in the State.

Karen Cochrane-Brown  
Director



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<b>PART II. SALES TAX CHANGES</b>	
5	Removes a reference to "protective equipment" which was left over from the repealed sales tax holiday and updates the reference to the Streamlined Sales and Use Tax Agreement from September 17, 2015 to December 16, 2016.
6	Requires all facilitators liable for sales and use tax to be registered, which provides consistency in the increasing market of facilitator businesses.
7	Changes "aviation fuel" to "aviation gasoline or jet fuel" which is consistent with other Article 5 references.
8	<p>Replaces a reference to G.S. 105-164.4F with a reference to Article 5.</p> <p>Clarifies the circumstances under which a seller's certificate of registration becomes void to be consistent with the Streamlined Sales Tax Agreement. The Agreement requires all "model 1 sellers" to be registered in all States even if they file no returns. A model 1 seller is a seller that has selected a certified service provider as its agent to perform all of the seller's sales and use tax functions (other than the seller's obligation to remit tax on its own purchases). The current law requires a certificate of registration to become void if a person files returns showing no sales for a period of 18 months. The model 1 sellers registered through Streamlined may not have sales into NC, but they are still required to be registered under the Agreement, but the current statutory language does not provide the exception.</p>
<b>PART III. EXCISE TAX CHANGES</b>	
9	Deletes the reference to a "mortician" and substitutes "funeral director" and "funeral service licensee" in the State privilege license tax statute to be consistent with the terminology in G.S. 90-210.25, which governs the licensing of individuals within the funeral service practice.
10	Clarifies that licensure requirement applies to both cigarette and other tobacco vendors, and corrects a typographical error.
11	Updates the reference to the International Fuel Tax Agreement from July 1, 2013 to January 1, 2017.
12	<p>Updates the definition of a "biodiesel provider" and "fuel alcohol provider" to include marine vessels, which are considered part of the terminal transfer system and import these types of fuels.</p> <p>Defines "bulk storage" for audit purposes and refund requests. The term is not currently defined, but it is referenced in the definition of "distributor" and is used throughout the administrative code.</p> <p>Clarifies that a diversion includes all out-of-state movements not listed on the original bill of lading, not just those that originate from a terminal.</p> <p>Clarifies the types of gasoline blend stocks that are taxable as petroleum components of gasoline by referencing the list of gasoline blend stocks in Treasury Regulation 48-4081-1(c)(3), which is a more inclusive list than the examples listed in the current statute.</p> <p>Removes the term "refiner" from the definition of "supplier" because a refiner is not necessarily a supplier.</p> <p>Deletes unnecessary language from the definition of a "system transfer" because fuel grade</p>

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	alcohol is not transported within the terminal transfer system.
13	Removes unnecessary language as biodiesel providers are already included in the definition of "supplier."
14	Removes unnecessary language as licensed exporters no longer remit taxes directly to North Carolina on exported fuel. Instead, exporters pay a supplier, who then remits the taxes to the State.
15	Clarifies when the excise tax on fuel grade ethanol and biodiesel fuel is due. In most instances, the excise tax is due on motor fuel when it is removed from the terminal. A terminal is a motor fuel storage and distribution facility that has been assigned a terminal control number by the IRS, is supplied by pipeline or marine vessel, and from which motor fuel may be removed at a rack. Fuel grade ethanol and biodiesel fuel is not always imported into the State through the terminal transfer system. This section clarifies that the excise tax is due on this fuel when it is imported into the State by a transport truck, a railroad tank car, a tank wagon, or by a marine vessel when the fuel transported by that vessel is not delivered to a terminal. This section does not change when the tax is due for this fuel when it is delivered by a marine vessel to a terminal; in that instance, the tax continues to be due when it is removed from the terminal. <sup>1</sup>
16	Clarifies that the Secretary may designate the manner in which motor fuel diversions are reported as well as the manner in which the confirmation number is provided. Fuel diversions and the issuance of fuel diversion confirmation numbers are accomplished by accessing a web application rather than contacting the Secretary.
<b>PART IV. EFFECTIVE DATE</b>	
17	Except as otherwise provided, this act became effective June 21, 2017.

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<sup>1</sup> The Department requested this clarification. The clarification was not intended to change the time the tax was due for fuel delivered to a terminal and removed from the terminal; however, the Department interpreted the change to require a different point of taxation for fuel grade ethanol and biodiesel fuel transported by marine vessel. Section 6.3 of S.L. 2017-204 further clarified the intent of the law, and directed the Department to notify the affected taxpayers accordingly. [DOR notice - Excise tax on ethanol and biodiesel](#)



# HOUSE BILL 95: Truck Deliveries to Port/Night Travel.

2017-2018 General Assembly

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<b>Committee:</b>		<b>Date:</b>	August 17, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Wendy Ray Staff Attorney
<b>Analysis of:</b>	S.L. 2017-97		

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**OVERVIEW:** *S.L. 2017-97 authorizes the issuance of oversized and overweight permits that allow travel after sunset for vehicles transporting cargo, containers, or other equipment, and prohibits the Department of Transportation from restricting nighttime travel for shipments going to or from international ports unless it is determined to be unsafe.*

*This act became effective July 12, 2017.*

**CURRENT LAW:** The Department of Transportation is authorized to issue permits for oversized and overweight vehicles, subject to the rules established by the Department for issuance of the permits. *G.S. 20-119.*

By rule, oversized and overweight permits issued by the Department require that movements be made between sunrise and sunset. Additional time restrictions may be set by the issuing office in the interest of safety or to expedite flow of traffic. *19A NCAC 2D.0607*

**BILL ANALYSIS:** This act authorizes the Department of Transportation to issue oversized and overweight permits for shipments of cargo, containers, or other equipment that allow travel after sunset. The Department is prohibited from including conditions that prohibit travel after sunset when issuing permits for shipments going to or from international ports. However, the Department retains the authority to restrict movements it determines to be unsafe.

**EFFECTIVE DATE:** This act became effective July 12, 2017.

Karen Cochrane-Brown  
Director



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# SENATE BILL 548: Strengthen Human Trafficking Laws/Studies.

2017-2018 General Assembly

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<b>Committee:</b>		<b>Date:</b>	August 11, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Bill Patterson Staff Attorney
<b>Analysis of:</b>	S.L. 2017-151		

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## OVERVIEW: S.L. 2017-151:

- *Increases the felony level for human trafficking.*
- *Requires licensure of establishments providing massage and bodywork therapy services.*
- *Makes it a Class 1 misdemeanor to employ any unlicensed person to provide massage and bodywork therapy services to the public for which licensure is required.*
- *Requires massage and bodywork therapists to obtain a statewide privilege license.*
- *Directs the Department of Health and Human Services to study the feasibility of providing human trafficking training to health care providers, emergency medical providers, and relevant first responders.*

*This act has various effective dates. Please see the full summary for more detail.*

## BILL ANALYSIS:

**Section 1** increases the existing Class F felony of human trafficking with an adult victim to a Class C felony, and increases the current Class C felony of human trafficking with a minor victim to a Class B1 felony.

**Sections 2.(a) and 2.(b)** remove massage businesses from the definition of "adult establishment" and make conforming statutory changes.

**Section 2.(c)** prohibits the practice of massage and bodywork therapy in an adult establishment.

**Section 3** establishes standards for establishments providing massage and bodywork therapy services to the public and requires their licensure and regulation by the North Carolina Board of Massage and Bodywork Therapy. Sexual activity in any licensed establishment is prohibited. Any person employing a person who is not licensed or exempt from licensure to provide massage and bodywork therapy services to the public is guilty of a Class 1 misdemeanor.

The following entities and activities are not subject to regulation as massage and bodywork therapy establishments:

- On-site massage performed at the customer's location.
- Devices such as chairs that are operated by the customer.
- Establishments within a hospital, nursing home or similar facility licensed by DHHS.
- Massage and bodywork therapy provided by a sole practitioner.

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- Student clinics operated by a Board-approved school or massage and bodywork therapy programs offered by accredited community colleges or colleges or universities.
- Chiropractic physician offices in which massage and bodywork therapy is provided only by massage and bodywork therapists licensed in North Carolina.

**Section 4** requires massage and bodywork therapists to obtain a statewide privilege license.

**Section 5** directs the Department of Health and Human Services, in consultation with the North Carolina Human Trafficking Commission, to study the feasibility of training health care providers, emergency medical providers, and relevant first responders in human trafficking identification and response and preventative tools and measures.

**EFFECTIVE DATE:** Section 1 (enhanced felony level) and Section 3.(l) (new misdemeanor offense) become effective December 1, 2017, and apply to offenses committed on or after that date. Section 2 and Sections 3.(a) through 3.(k) became effective October 1, 2017. The remainder of this act became effective July 20, 2017. Section 4 of this act (massage and bodywork therapist privilege license) applies to taxable years beginning on or after July 1, 2018.



# SENATE BILL 8: Various Local Changes/Nonpublic School Background Checks.

2017-2018 General Assembly

<b>Committee:</b>	House Finance	<b>Date:</b>	June 28, 2017
<b>Introduced by:</b>	Sens. Wells, Brown, Pate	<b>Prepared by:</b>	Trina Griffin Staff Attorney
<b>Analysis of:</b>	PCS to Third Edition S8-CSSV-47		

**OVERVIEW:** *The PCS for Senate Bill 8 would do the following:*

- *Provide an exemption to building code provisions allowing construction of a parking garage to extend across a lot line between a city-owned lot and a privately-owned lot without meeting certain requirements that apply to exterior walls approaching a lot line.*
- *Restrict what stormwater runoff requirements a local government can apply to public airports.*
- *Require nonpublic schools that accept students receiving scholarship grants to conduct background checks on all full-time, part-time, and contract employees whose duties require the employees to be on school property.*
- *Revise the composition of the Lincolnton-Lincoln Airport Authority, to name the airport, and to name the airfield within the airport.*

**BILL ANALYSIS:**

**Section 1: Building Code exemption.** – Section 1 would provide an exemption to building code provisions allowing construction of a parking garage to extend across a lot line between a city-owned lot and a privately-owned lot without meeting certain requirements that apply to exterior walls approaching a lot line. This would allow a parking garage to be constructed as if it were on a single parcel, eliminating increased fire rating requirements for exterior walls and limitations on openings that would be unworkable for certain projects.

**Section 2: Stormwater control rules.** – Section 2 would amend stormwater runoff rules for airports by not allowing local governments to require control measures that promote standing water and requiring local governments to deem runways in compliance with water supply watershed management protection ordinances if they provide certain measures of stormwater control.

**Section 3: Nonpublic school criminal background checks.** – G.S. 115C-562.5 requires nonpublic schools that accept students receiving Opportunity Scholarship Grants to comply with certain requirements, including providing to the State Education Assistance Authority (SEAA) a criminal background check for the staff member at the nonpublic school with the highest decision making authority, to ensure that the staff member has not been convicted of any of the crimes that are screened for by local boards of education. Section 3 of this bill would require instead that nonpublic schools provide to the SEAA a criminal background check for all employees (full-time, part-time, or contract) whose duties require them to be on the property of the nonpublic schools. The provision would become

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effective September 1, 2017, and apply to existing and future employees, but schools would have until December 1, 2017 to submit checks on existing employees to the SEAA.

**Section 4: Lincolnton-Lincoln Airport Authority Changes.** – Section 4 of the bill would do the following:

- Revise the composition of the Lincolnton-Lincoln Airport Authority. Currently, the Authority consists of seven members, 3 of whom are appointed by the Lincolnton City Council, 3 of whom are appointed by the Lincoln County Board of Commissioners, and 1 member who shall be appointed by the other 6 members of the Authority. The bill would change the composition to be five members: 4 of whom are appointed by the county commissioners and 1 who is appointed by the city council. It would also limit the members to two consecutive term limits.
- Name the airport as the "Lincolnton-Lincoln County Airport.
- Name the airfield within the airport as the "David E. Lowe Airfield."

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law.