

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 198
PROPOSED COMMITTEE SUBSTITUTE H198-PCS30331-BGf-2

Short Title: DOT Legislative Changes.-AB

(Public)

Sponsors:

Referred to:

February 27, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO TRANSPORTATION LAWS, AS RECOMMENDED BY
3 THE DEPARTMENT OF TRANSPORTATION.

4 The General Assembly of North Carolina enacts:

5
6 **REPEAL BIENNIAL TRANSPORTATION EMERGENCY RESERVE EVALUATION**

7 **SECTION 1.** G.S. 136-44.2E(e) is repealed.
8

9 **REMAINING HURRICANE DORIAN FUNDS USED FOR RESILIENCE PROGRAM**

10 **SECTION 2.** Subdivision (1) of Section 1.7 of S.L. 2019-251 reads as rewritten:

11 "(1) \$30,000,000 for current and future activities related to recovery from
12 Hurricane Dorian such as debris removal and repair of highway infrastructure
13 damage. Any remaining funds not required for Hurricane Dorian expenses
14 shall be used to continue the Department's Resilience Program."
15

16 **PROGRESSIVE DESIGN-BUILD DELIVERY METHOD PILOT PROGRAM**

17 **SECTION 3.(a)** Definition. – For purposes of this section, the term "Progressive
18 Design-Build" means a project delivery method that uses a stepped, or progressive qualifications
19 based selection process, followed by a progression to a contract price. The Progressive
20 Design-Build Team is selected exclusively on qualifications, without consideration of schedule
21 or costs, and delivers the project in two distinct phases with two separate contracts. The
22 Progressive Design-Build Team is initially under contract for preconstruction activities,
23 including developing preliminary designs, performing constructability reviews, and developing
24 construction schedules and pricing. If the Department of Transportation and the Progressive
25 Design-Build Team reach agreement on a guaranteed maximum construction cost, the
26 Department of Transportation and the Progressive Design-Build Team will execute a second
27 contract for completion of the preliminary designs and construction of the project.

28 **SECTION 3.(b)** Pilot Project. – Notwithstanding any provision of Chapter 136 of
29 the General Statutes to the contrary, the Department of Transportation may establish and
30 implement a pilot project to award contracts for up to five transportation projects using the
31 Progressive Design-Build procurement process. The Department of Transportation may only
32 award a contract under this section if (i) the Department determines that the project cost is less
33 than five hundred million dollars (\$500,000,000), (ii) the Department determines that it is in the
34 public's interest to use the Progressive Design-Build procurement process, (iii) the Department
35 prequalifies the prime contractor and lead design firm that will be awarded the contract, (iv) the
36 Department complies with the pre-award reporting requirement set forth in subsection (c) of this



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1 section, and (v) the Department establishes and implements Progressive Design-Build
2 Guidelines, as required under subsection (d) of this section.

3 **SECTION 3.(c)** Report. – Prior to the award of a contract under the authority set
4 forth in subsection (b) of this section, the Department of Transportation shall submit a pre-award
5 report to the Joint Legislative Transportation Oversight Committee on the nature and scope of
6 the project and the reasons the Progressive Design-Build procurement process will best serve the
7 public interest. Upon completion of a project awarded under subsection (b) of this section, the
8 Department of Transportation shall submit a post-completion report to the Joint Legislative
9 Transportation Oversight Committee and the Fiscal Research Division detailing the project
10 results, including any cost and time efficiencies achieved using the Progressive Design-Build
11 procurement process.

12 **SECTION 3.(d)** Guidelines. – The Department of Transportation shall develop and
13 implement Progressive Design-Build Guidelines for awarding contracts under subsection (b) of
14 this section.

15 **SECTION 3.(e)** Expiration. – This section expires upon submission of the
16 post-completion report required under subsection (c) of this section for the final project
17 completed under the authority set forth in subsection (b) of this section.

18 **INCREASE PROJECT CAP FOR PROJECT DELIVERY METHOD PILOT PROGRAM**

19 **SECTION 4.** Section 34.13(b) of S.L. 2018-5, as amended by Section 21 of S.L.
20 2022-68, reads as rewritten:

21 "SECTION 34.13.(b) Pilot Project. – Notwithstanding any provision of Chapter 136 of the
22 General Statutes to the contrary, the Department of Transportation may establish and implement
23 a pilot project to award contracts for up to ~~five projects~~ eight projects for the construction of
24 transportation projects on a construction manager-general contractor basis. The Department may
25 only award a contract under this section if (i) the cost of the project is determined by the
26 Department to be less than five hundred million dollars (\$500,000,000), (ii) the Department
27 determines that it is in the public interest to use the construction manager-general contractor basis
28 for the project, (iii) the Department prequalifies the contractor that will be awarded the contract,
29 (iv) the Department complies with the pre-award reporting requirement set forth in subsection
30 (c) of this section, and (v) the Department has established and implemented guidelines as required
31 under subsection (d) of this section."
32

33 **REPEAL TRAFFIC IMPACT ANALYSIS REPORT TO JLTOC**

34 **SECTION 5.** G.S. 136-93.1A(g) is repealed.
35

36 **REPEAL CASH BALANCE TARGET AMOUNT REPORT**

37 **SECTION 6.** G.S. 143C-6-11(m) is repealed.
38

39 **AUTHORIZE DEPARTMENT OF TRANSPORTATION TO ESTABLISH STATEWIDE 40 PURCHASING CONTRACTS FOR CERTAIN TRANSPORTATION MODES**

41 **SECTION 7.(a)** Article 2 of Chapter 136 of the General Statutes is amended by
42 adding a new section to read:

43 **§ 136-28.1A. Contracts for capital assets, technology, or services related to public
44 transportation, bicycle, pedestrian, and related transportation modes.**

45 (a) Notwithstanding Chapter 143 of the General Statutes or any other provision of law to
46 the contrary, the Department of Transportation, Integrated Mobility Division, may independently
47 establish statewide purchasing contracts with private vendors for capital assets, technology, or
48 services related to public transportation, bicycle, pedestrian, and related transportation modes,
49 where such statewide purchasing contracts are established through competitive procurement and
50 selection in accordance with Federal Transit Administration or Federal Highway Administration
51

1 requirements, and where such statewide purchasing contracts are established primarily for the
2 convenience of the Department of Transportation, local government agencies, Metropolitan
3 Planning Organizations, Rural Planning Organizations, Councils of Government, or public
4 transportation agencies to select and enter into contractual relationships with vendors without
5 completing additional procurement or competitive selection processes.

6 (b) All processes, procedures, and aspects of establishing statewide purchasing contracts
7 under subsection (a) of this section are exempt from Department of Administration or
8 Department of Information Technology oversight and requirements.

9 (c) The Department of Transportation shall notify the Department of Administration of
10 the nature and scope of all statewide purchasing contracts, and notify the Department of
11 Information Technology of the nature and scope of all statewide purchasing contracts related to
12 information technology projects, established pursuant to subsection (a) of this section.

13 (d) The Department of Transportation shall report to the Joint Legislative Transportation
14 Oversight Committee, the Joint Legislative Oversight Committee on Information Technology,
15 and the Fiscal Research Division of the nature and scope of all statewide purchasing contracts
16 established pursuant to subsection (a) of this section within 30 days of entering into the contract."

17 **SECTION 7.(b)** This section is effective when it becomes law and applies to
18 contracts entered into on or after that date.
19

20 **EXEMPTION FOR CERTAIN PUBLIC BUILDING CONTRACTS**

21 **SECTION 8.(a)** G.S. 143-134 is amended by adding a new subsection to read:

22 "(c) Notwithstanding subsection (a) of this section, this Article does not apply to public
23 building contracts entered into by the Department of Transportation for the construction,
24 alteration, or repair of facilities jointly occupied by personnel of the Division of Motor Vehicles,
25 of the Department of Transportation, and the North Carolina Highway Patrol, but, with respect
26 to these contracts, the powers and duties established in this Article shall be exercised by the
27 Department of Transportation and the Secretary of Administration, and other State officers,
28 employees, or agencies shall have no duties or responsibilities concerning the contracts. The
29 Department of Transportation shall advertise and award contracts in the manner required by this
30 Article. Upon request, the Department of Administration shall assist the Department of
31 Transportation in advertising and awarding a contract under this subsection. Construction,
32 alteration, and repair of facilities under this subsection may be subject to local building permit
33 requirements."

34 **SECTION 8.(b)** This section is effective when it becomes law and applies to
35 contracts entered into on or after that date.
36

37 **DEPARTMENT MAY SPECIFY MATERIAL SUBSTITUTION REQUIREMENTS**

38 **SECTION 9.(a)** G.S. 136-28.1 is amended by adding a new subsection to read:

39 "(n) The Department of Transportation may specify a brand name or specific manufacturer
40 of construction materials in order to promote system compatibility or synchronization; long-term
41 maintenance savings or efficiencies; research, testing, or experimental projects; product
42 evaluation; or when it is impossible or impractical to specify the required performance and design
43 characteristics for such materials."

44 **SECTION 9.(b)** This section is effective when it becomes law and applies to
45 contracts entered into on or after that date.
46

47 **ADJUST REQUIREMENTS FOR ROW REGISTRATIONS**

48 **SECTION 10.** G.S. 136-19.4 reads as rewritten:

49 **"§ 136-19.4. Registration of right-of-way plans.**

50 (a) A copy of the cover sheet and ~~plan and profile sheets~~ of the final right-of-way plans
51 for all Department of Transportation projects, on those projects for which plans are prepared,

1 under which right-of-way or other interest in real property is acquired or access is controlled shall
2 be certified by the Department of Transportation to the register of deeds of the county or counties
3 within which the project is located. ~~The Department shall certify said plan sheets to the register
4 of deeds within two weeks from their formal approval by the Board of Transportation.~~

5 ...

6 (d) ~~If after the approval of said final right-of-way plans the Board of Transportation shall
7 by resolution alter or amend said right-of-way or control of access, the Department of
8 Transportation, within two weeks from the adoption by the Board of Transportation of said
9 alteration or amendment, shall certify to the register of deeds in the county or counties within
10 which the project is located a copy of the amended plan and profile sheets approved by the Board
11 of Transportation and the register of deeds shall remove the original plan sheets and record the
12 amended plan sheets in lieu thereof.~~

13 (e) The register of deeds in each county shall collect a fee from the Department of
14 Transportation for recording right-of-way plans ~~and profile sheets~~ in the amount set out in
15 G.S. 161-10."

16 17 REVISION TO BRIDGE PROGRAM OUTSOURCING

18 SECTION 11. G.S. 136-76.2(c) reads as rewritten:

19 "(c) Outsourcing. – Except for the following activities, all projects funded under the bridge
20 program established under subsection (a) of this section shall be outsourced to private
21 contractors:

- 22 (1) Inspection.
- 23 (2) Pre-engineering.
- 24 (3) Contract preparation.
- 25 (4) Contract administration and oversight.
- 26 (5) Planning activities.
- 27 (6) Installation of culverts and structures described in subsection (b) of this
28 section, ~~but only in cases of emergency.~~ section on low volume or non-outlet
29 roads."

30 31 REVISION TO ADVANCE RIGHT-OF-WAY ACQUISITION ACCOUNT

32 SECTION 12. Section 41.7 of S.L. 2022-74 reads as rewritten:

33 "**SECTION 41.7.(a)** The State Controller shall transfer the sum of one hundred nine million
34 eight hundred thirty-four thousand nine hundred seventy-two dollars (\$109,834,972) from the
35 Highway Fund to the Highway Trust Fund Advance Right-of-Way Acquisition Account. These
36 funds shall be used by the Department of Transportation for the purchase of property under the
37 ~~Undue Hardship Advance Acquisition Program (Undue Hardship Program).~~ Advance
38 Acquisition Program.

39 "**SECTION 41.7.(b)** The Department shall streamline the Undue Hardship Program to
40 ensure that property in a planned transportation project area is purchased expeditiously from a
41 property owner experiencing an undue hardship, as that term is defined in G.S. 136-186(a)(3),
42 resulting from a rescheduled or reprioritized Strategic Transportation Investment (STI) project.
43 ~~Beginning October 1, 2022, the Department shall submit a quarterly report to the Joint Legislative~~
44 ~~Transportation Oversight Committee (JLTOC) and the Fiscal Research Division containing the~~
45 ~~Department's streamlined efforts, the amount of property purchased, and the number of hardship~~
46 ~~claims by the Highway Division."~~

47 48 EXTEND EXPIRATION DATE OF BUILD NC BOND ACT

49 SECTION 13. Section 7 of S.L. 2018-16 reads as rewritten:

50 "**SECTION 7.** This act becomes effective January 1, 2019, and expires ~~December 31,~~
51 ~~2028.~~ December 31, 2030."

EXTEND DATE TO BUILD NC BOND CASH BALANCE REQUIREMENT

SECTION 14.(a) Section 41.3 of S.L. 2021-180, as amended by Section 7.1 of S.L. 2021-189, reads as rewritten:

~~"SECTION 41.3. Notwithstanding G.S. 142-97(2)a., for the 2021-2023 fiscal biennium, the Department of Transportation average month-end cash balance for the first three months in the calendar year prior to the date of determination must be equal to or less than two billion dollars (\$2,000,000,000); provided, however, that for~~ For any issuance and sale of Build NC Bonds on or before ~~June 30, 2022,~~ June 30, 2024, the cash balance requirement under G.S. 142-97(2)a. shall not apply, and the consultation requirement under G.S. 142-97(2)c. shall be no later than two months prior to the expected issuance of the bonds."

SECTION 14.(b) G.S. 142-97(2)a. reads as rewritten:

"a. The Department of Transportation's average month-end cash balance for the first three months in the calendar year prior to the date of determination is equal to or less than ~~one billion dollars (\$1,000,000,000)~~ two billion dollars (\$2,000,000,000)."

REMOVE DOT EMPLOYEE LIMIT ON TRAVEL

SECTION 15. Section 34.5 of S.L. 2014-100, as amended by Section 29.7 of S.L. 2015-241, is repealed.

REMOVE BOARD OF TRANSPORTATION LIMIT ON TRAVEL

SECTION 16. Section 29.5A of S.L. 2015-241 is repealed.

REMOVE RESIDENCY REQUIREMENT FOR SECRETARY OF TRANSPORTATION NONVOTING MEMBER APPOINTMENTS TO REGIONAL PUBLIC TRANSPORTATION AUTHORITY BOARDS OF TRUSTEES

SECTION 17. G.S. 160A-605 reads as rewritten:

"§ 160A-605. Membership; officers; compensation.

(a) The governing body of an authority is the Board of Trustees. The Board of Trustees shall consist of 13 members, appointed as follows:

(1) The county with the greatest population shall be allocated five members to be appointed as follows:

a. Two by the board of commissioners of that county;

b. Two by the city council of the city containing the largest population within that county; and

c. One by the city council of the city containing the second largest population within that county;

(2) The county with the next greatest population shall be allocated three members to be appointed as follows:

a. One by the board of commissioners of that county;

b. One by the city council of the city containing the largest population within that county; and

c. One jointly by that board of commissioners and city council, by procedures agreed on between them;

(3) The county with the least population shall be allocated two members to be appointed as follows:

a. One by the board of commissioners of that county; and

b. One by the city council of the city containing the largest population within that county; and

1 (4) Three members of the Board of Transportation appointed by the Secretary of
2 Transportation, to serve as ex officio nonvoting members.

3 (b) Voting members of the Board of Trustees shall serve for terms of four years, provided
4 that one-half of the initial appointments shall be for two-year terms, to be determined by lot at
5 the first meeting of the Board of Trustees. Initial terms of office shall commence upon approval
6 by the Secretary of State of the articles of incorporation. The members appointed by the Secretary
7 of Transportation shall serve at his pleasure.

8 (c) An appointing authority may appoint one of its members to the Board of Trustees.
9 Service on the Board of Trustees may be in addition to any other office which a person is entitled
10 to hold. Each voting member of the Board of Trustees may hold elective public office as defined
11 by G.S. 128-1.1(d).

12 (d) Members of the Board of ~~Trustees~~ Trustees, except members appointed by the
13 Secretary of Transportation, shall reside within the territorial jurisdiction of the Authority as
14 defined by G.S. 160A-604.

15 (e) The Board of Trustees shall annually elect from its membership a Chairperson, and a
16 Vice-Chairperson, and shall annually elect a Secretary, and a Treasurer.

17 (f) Members of the Board of Trustees shall receive the sum of fifty dollars (\$50.00) as
18 compensation for attendance at each duly conducted meeting of the Authority."
19

20 **TURNPIKE BILL COLLECTION**

21 **SECTION 18.** G.S. 136-89.213 reads as rewritten:

22 "**§ 136-89.213. Administration of tolls and requirements for open road tolls.**

23 (a) Administration. – The Authority is responsible for collecting tolls on Turnpike
24 projects. In exercising its authority under G.S. 136-89.183 to perform or procure services
25 required by the Authority, the Authority may contract with one or more providers to perform part
26 or all of the collection functions and may enter into agreements to exchange information,
27 including confidential information under subsection (a1) of this section, that identifies motor
28 vehicles and their owners with one or more of the following entities: the Division of Motor
29 Vehicles of the Department of Transportation, another state, another toll operator, a toll
30 collection-related organization, insurance companies, or a private entity that has entered into a
31 partnership agreement with the Authority pursuant to G.S. 136-89.183(a)(17). Further, the
32 Authority may assign its authority to fix, revise, charge, retain, enforce, and collect tolls and fees
33 under this Article to a private entity that has entered into a partnership agreement with the
34 Authority pursuant to G.S. 136-89.183(a)(17).
35"

36 37 **ADD VIN TO UNPAID TOLL BILL AND AUTHORIZE ELECTRONIC** 38 **INFORMATION COLLECTION FOR OWNER VERIFICATION**

39 **SECTION 19.(a)** G.S. 136-89.214 reads as rewritten:

40 "**§ 136-89.214. Bill for unpaid open road toll.**

41 ...

42 (b) Information on Bill. – A bill sent under this section must include all of the following
43 information:

44 ...

45 (1a) The vehicle identification number (VIN) or other vehicle identifying
46 information of the motor vehicle that traveled on the Turnpike project.

47 ...

48 (c) Electronic Information Verification. – The Authority may utilize digital
49 communications and methods to obtain information for a registered owner of a motor vehicle
50 through verification of phone numbers, connected or enabled vehicle applications, and other
51 digital means to pursue a bill by first-class mail."

1 **SECTION 19.(b)** This section becomes effective July 1, 2023.

2
3 **INCREASE TURNPIKE PROCESSING FEE FOR BILLING**

4 **SECTION 20.(a)** G.S. 136-89.215(b) reads as rewritten:

5 "(b) Fee. – If a person does not take one of the actions required under subsection (a) of
6 this section within the required time, the Authority may add a processing fee to the amount the
7 person owes. The processing fee may not exceed ~~six dollars (\$6.00)~~ nine dollars (\$9.00). A
8 person may not be charged more than ~~forty-eight dollars (\$48.00)~~ seventy-two dollars (\$72.00)
9 in processing fees in a 12-month period.

10 The Authority must set the processing fee at an amount that does not exceed the costs of
11 collecting the unpaid toll."

12 **SECTION 20.(b)** This section becomes effective July 1, 2023.

13
14 **AUTHORIZE TOLLING FOR CERTAIN LANES**

15 **SECTION 21.** G.S. 20-146.2 reads as rewritten:

16 "**§ 20-146.2. Rush hour traffic lanes authorized.**

17 ...

18 (b) Temporary Peak Traffic Shoulder Lanes. – The Department of Transportation may
19 modify, upgrade, and designate shoulders of controlled access facilities and partially controlled
20 access facilities as temporary travel lanes during peak traffic periods. When these shoulders have
21 been appropriately marked, it shall be unlawful to use these shoulders for stopping or emergency
22 parking. Emergency parking areas shall be designated at other appropriate areas, off these
23 shoulders, when available. The Turnpike Authority may authorize tolling for travel in a lane
24 designated and marked as in use under this subsection.

25 (c) Directional Flow Peak Traffic Lanes. – The Department of Transportation may
26 designate travel lanes for the directional flow of peak traffic on streets and highways on the State
27 Highway System and cities may designate travel lanes for the directional flow of peak traffic on
28 streets on the Municipal Street System. These travel lanes may be designated for time periods by
29 the agency controlling the streets and highways. The Turnpike Authority may authorize tolling
30 for travel in a lane designated and marked as in use under this subsection."

31
32 **EXEMPT FERRY DIVISION FROM TEMPORARY SOLUTIONS PROGRAM**

33 **SECTION 22.** G.S. 126-6.3(a) reads as rewritten:

34 "(a) Use of Temporary Solutions Required for Cabinet Agencies. – Notwithstanding
35 G.S. 126-5 or any other provision of law, all Cabinet agencies that utilize temporary employees
36 to perform work that is not information technology-related shall employ them through the
37 Temporary Solutions Program administered by the Office of State Human Resources. The
38 Director of the Office of State Human Resources may create exceptions to this requirement when
39 doing so would be in the best interests of the State in the sole discretion of the Director. An
40 exception shall be invalid unless it is in writing. Council of State agencies may use the Temporary
41 Solutions Program in the discretion of the agency. The Department of Transportation, Ferry
42 Division, shall be exempt from the required use of Temporary Solutions when there is an
43 established need for peak season hires or when the work requires a specific skillset beyond the
44 scope of temporary employees."

45
46 **FERRY PRIORITY BOARDING**

47 **SECTION 23.(a)** G.S. 136-82(f3) reads as rewritten:

48 "(f3) Priority Boarding Fee for Certain Vehicles. – For ~~vehicles~~ a vehicle providing
49 commercial goods and services, the Department of Transportation shall charge an annual fee of
50 one hundred fifty dollars (\$150.00) for an annual pass that entitles the vehicle ~~or vehicles owned~~
51 ~~by the person~~ issued the annual pass to priority when boarding a ferry vessel. Only one annual

1 pass per vehicle shall be issued per year. Except as authorized under this subsection, the
2 Department of Transportation shall not provide priority boarding to a ferry vessel to any vehicle
3 providing commercial goods and services. The following limits shall apply to priority boarding
4 under this subsection:

5 (1) For ferry vessels departing Hatteras, priority boarding shall not be authorized
6 except between 10:00 A.M. and 4:00 P.M., and for ferry vessels departing
7 Ocracoke, priority boarding shall not be authorized except between 4:00 P.M.
8 and 9:00 P.M.

9 (2) No more than 10 vehicles may priority board a ferry per one-way trip."

10 **SECTION 23.(b)** This section becomes effective July 1, 2023, and applies to
11 applications for priority passes submitted on or after that date.

12 **RESIDENT PRIORITY PASSES ON HATTERAS-OCRACOKE**

13 **SECTION 24.(a)** G.S. 136-82 is amended by adding a new subsection to read:

14 "(f4) Priority Boarding for Ocracoke Residents. – The Board of Transportation shall
15 establish resident vehicle priority passes for the Hatteras-Ocracoke ferry route at an amount set
16 by the Board per vehicle. To evidence residency for the purpose of priority pass applications
17 under this subsection, a person must provide a valid drivers license and a current vehicle
18 registration with an Ocracoke address."

19 **SECTION 24.(b)** This section becomes effective July 1, 2023.

20 **REPEAL DRONE ACTIVITY REPORTING REQUIREMENT FROM DIVISION OF** 21 **AVIATION ANNUAL REPORT**

22 **SECTION 25.** G.S. 63-74.5(2) is repealed.

23 **REVISE USE OF CERTAIN MATCHING FUNDS OF RAIL DIVISION**

24 **SECTION 26.** Part XLI of S.L. 2022-74 is amended by adding a new section to read:

25 "**SECTION 41.11.** Notwithstanding any other provision of law or a provision of the
26 Committee Report described in Section 43.2 of this act to the contrary, the seven million five
27 hundred twenty-seven thousand dollars (\$7,527,000) in nonrecurring funds appropriated to the
28 Department of Transportation, Rail Division, for the 2022-2023 fiscal year for the S-Line rail
29 corridor may also be used for a future grant to develop the S-Line beyond the CRISI grant
30 announced from Fiscal Year 2021 funds."

31 **REVISE OUTDOOR ADVERTISING LAW**

32 **SECTION 27.(a)** G.S. 136-133.1 reads as rewritten:

33 "**§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

34 (a) The owner of an outdoor advertising sign permitted under ~~G.S. 136-129(a)(4)~~ or ~~G.S.~~
35 ~~136-129(a)(5)~~ G.S. 136-129(4) or G.S. 136-129(5) who obtains a selective vegetation removal
36 permit, and the owner's designees, may cut, thin, prune, or remove vegetation in accordance with
37 this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for
38 vegetation for each sign face shall be determined as follows:

39 (1) The point located on the edge of the right-of-way that is the closest point to
40 the centerline of the sign face shall be point A. The point on the edge of the
41 pavement of the travel way, including acceleration and deceleration ramps,
42 that is the closest to the centerline of the sign face shall be point B. The point
43 located on the edge of the pavement of the main traveled way, corresponding
44 to the applicable distance under sub-subdivision a. or b. of this subdivision
45 moving in the direction of the sign viewing zone from point B, shall be point
46 C. The point perpendicular to point C on the edge of the right-of-way shall be

- 1 point D. Lines drawn from point A, to point B, to point C, and to point D shall
 2 define the maximum cut or removal zone.
 3 a. For a distance of 500 feet for a view zone that has a posted speed limit
 4 of over 35 miles per hour.
 5 b. For a distance of 350 feet for a view zone that has a posted speed limit
 6 of 35 miles per hour or less.
 7 (2) ~~The point located 200 feet down the right-of-way line in the direction of the~~
 8 ~~sign viewing zone shall be point B. Notwithstanding subdivision (1) of this~~
 9 ~~subsection, the sign owner or designee may also cut vegetation within any area~~
 10 ~~on the State right-of-way located between viewing zones of two sign faces, or~~
 11 ~~otherwise within any area measured perpendicular from any point on the sign~~
 12 ~~structure to the edge of the pavement of the main traveled way, by paying a~~
 13 ~~fee of one hundred fifty dollars (\$150.00) per caliper inch to the Department~~
 14 ~~of Transportation.~~
 15 (3) ~~The point on the edge of the pavement of the travel way, including~~
 16 ~~acceleration and deceleration ramps, that is the closest to the centerline of the~~
 17 ~~sign shall be point C.~~
 18 (4) ~~The point 50 feet down the edge of the pavement in the direction of the sign~~
 19 ~~viewing zone from point C shall be point D.~~
 20 (5) ~~The point 380 feet down the edge of the pavement in the direction of the sign~~
 21 ~~viewing zone from point C shall be point E; provided, however, the following~~
 22 ~~shall apply within the corporal limits and territorial jurisdiction of any city, as~~
 23 ~~defined in Chapter 160A of the General Statutes:~~
 24 a. ~~On interstates or other routes with fully controlled access, the point~~
 25 ~~340 feet down the edge of the pavement in the direction of the sign~~
 26 ~~viewing zone from point C shall be point E.~~
 27 b. ~~On highways other than interstates and other routes with fully~~
 28 ~~controlled access, the point 250 feet down the edge of the pavement in~~
 29 ~~the direction of the sign viewing zone from point C shall be point E.~~
 30 (6) ~~Lines drawn from point A to point D and from point B to point E shall define~~
 31 ~~the limits of the vegetation cut or removal area.~~
 32 ...
 33 (b) ~~Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any~~
 34 ~~tree, shrub, or underbrush within the zone created by points A, B, D, and E. subsection (a) of this~~
 35 ~~section. Any existing tree that was in existence at the time that an outdoor advertising structure~~
 36 ~~was erected shall only be eligible for removal in accordance with subsections (c), (d), and (e) of~~
 37 ~~this section. Native dogwoods and native redbuds shall be preserved. For the purposes of this~~
 38 ~~section, an existing tree is defined as a tree that had a diameter of four inches or greater as~~
 39 ~~measured six inches from the ground at the time that the outdoor advertising structure was~~
 40 ~~erected. An outdoor advertising sign is considered erected when the sign is completely~~
 41 ~~constructed with a sign face.~~
 42 ...
 43 (e) ~~Removal of trees and vegetation of any age, including complete removal, except for~~
 44 ~~native dogwoods and native redbuds, dogwoods, shall be permitted within the cut or removal~~
 45 ~~zone established in subsection (a) of this section if the applicant for the selective vegetation~~
 46 ~~removal permit, in lieu of compliance with subsection (d) of this section, agrees to submit to the~~
 47 ~~Department a plan for beautification and replanting related to the site for which the vegetation~~
 48 ~~permit request is made. The Department shall develop rules for compensatory replanting,~~
 49 ~~including the criteria for determining which sites qualify for replanting, and shall, in consultation~~
 50 ~~with the applicant and local government representatives, determine which sites must be~~
 51 ~~replanted, and the types of plants and trees to be replanted. The replanting and maintenance shall~~

1 be conducted by the applicant or his or her agents in accordance with the rules adopted by the
 2 Department. If the conditions detailed in this subsection are agreed to by the applicant and
 3 approved by the Department, there shall be no reimbursement to the Department under
 4 G.S. 136-93.2 for removal of trees that existed at the time the outdoor sign was erected, nor shall
 5 the applicant be required to remove two nonconforming outdoor advertising signs for removal of
 6 existing trees at the site.

7 (f) Tree branches within a highway right-of-way that encroach into the zone created by
 8 ~~points A, B, D, and E~~ subsection (a) of this section may be cut or pruned. Except as provided in
 9 subsection (g) of this section, no person, firm, or entity shall cut, trim, prune, or remove or
 10 otherwise cause to be cut, trimmed, pruned, or removed vegetation that is in front of, or adjacent
 11 to, outdoor advertising and within the limits of the highway right-of-way for the purpose of
 12 enhancing the visibility of outdoor advertising unless permitted to do so by the Department in
 13 accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4.

14 (g) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign
 15 defined by subsection (a) of this section or the owner's designees may, working only from the
 16 private property side of the fence, without charge and without obtaining a selective vegetation
 17 removal permit, cut, trim, prune, or remove any tree or other vegetation except for native
 18 dogwoods ~~or native redbuds~~ that is (i) less than four inches in diameter at the height of the
 19 controlled access fence, (ii) located within ~~200-300~~ feet on either side of the existing sign ~~location~~
 20 ~~as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), location,~~ and (iii) a distance
 21 of three feet from a controlled access fence within the limits of the highway right-of-way. The
 22 activities permitted by this subsection must be performed from the private property owner side
 23 of the controlled access fence and with the consent of the owner of the land that is used to access
 24 said fence.

25"

26 **SECTION 27.(b)** G.S. 136-133.2 reads as rewritten:

27 "**§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

28 (a) Except as provided in subsection (b) of this section and G.S. 136-133.1(g), permits to
 29 remove vegetation may be granted for outdoor advertising locations that have been permitted for
 30 at least two years prior to the date of application. The Department shall approve or deny an
 31 application submitted pursuant to this section, including the fee required by G.S. 136-18.7 and
 32 all required documentation, within 30 days of the receipt of an application for a selective
 33 vegetation removal permit. If written notice of approval or denial is not given to the applicant
 34 within the 30-day period, then the application shall be deemed approved. If the application is
 35 denied, the Department shall advise the applicant, in writing, by registered or certified mail,
 36 return receipt requested, addressed to the party to be noticed, and delivering to the addressee, the
 37 reasons for the denial.

38 (b) Notwithstanding the two-year period required in subsection (a) of this section, permits
 39 to remove vegetation may be granted for outdoor advertising locations where outdoor advertising
 40 has been relocated pursuant to G.S. 136-131.5 and that otherwise comply with the requirements
 41 of this section and rules adopted by the Department in accordance with this section.

42 (c) A new site for relocation shall not be denied by the Department of Transportation due
 43 to the presence of vegetation obstructing the visibility of the outdoor advertising from the viewing
 44 zone. Notwithstanding any law to the contrary, the owner or operator of the outdoor advertising
 45 sign shall be permitted to improve the visibility of the sign by removing any vegetation on private
 46 property upon receiving written consent of the landowner."

47 **SECTION 27.(c)** This section becomes effective July 1, 2023, and applies to
 48 applications for selective vegetation removal permits submitted on or after that date.

49
 50 **PILOT PROGRAM TO AUTHORIZE AUTOMATIC LICENSE PLATE READERS IN**
 51 **STATE RIGHTS-OF-WAY**

1 **SECTION 28.(a)** The Department of Transportation may enter into agreements with
2 the North Carolina State Bureau of Investigation for the placement and use of automatic license
3 plate reader systems, as defined in G.S. 20-183.30(1), within land or right-of-way owned by the
4 Department of Transportation as part of a pilot program established by this section; provided that
5 (i) the use of the land or right-of-way is temporary in nature, (ii) the automatic license plate reader
6 system is above ground, removeable, and contains no combustible fuel, (iii) the placement and
7 use does not unreasonably interfere with the operation and maintenance of public utility facilities
8 or cause the facilities to fail to comply with all applicable laws, codes, and regulatory
9 requirements, (iv) the authorization to locate the automatic license plate reader system within the
10 right-of-way is revocable by the Department for cause with at least 30 days' notice, (v) the use
11 of the automatic license plate reader system complies with provisions of Article 8A of Chapter
12 87 of the General Statutes, and (vi) the automatic license plate reader system is operated in
13 accordance with Article 3D of Chapter 20 of the General Statutes. Placement and use of an
14 automatic license plate reader system and related equipment under this subsection must be
15 terminated and removed by the Department upon request by any affected public utility. The
16 Department or a public utility may relocate an automatic license plate reader system and related
17 equipment in the event that the Department or public utility needs immediate access to its utilities
18 or facilities and shall only be liable for damages to the automatic license plate reader system and
19 related equipment caused solely by its gross negligence or willful misconduct. If an automatic
20 license plate reader system or related equipment is moved for immediate access, the Department
21 or applicable public utility must provide notice to the State Bureau of Investigation. For purposes
22 of this subsection, the term "public utility" means any of the following: a public utility, as defined
23 in G.S. 62-3(23), an electric membership corporation, telephone membership corporation, a joint
24 municipal power agency, or a municipality, as defined in G.S. 159B-3(5). The State Bureau of
25 Investigation may enter into an agreement under this section on its own behalf or as an
26 administrative agent of a local law enforcement agency in this State.

27 **SECTION 28.(b)** No later than October 1, 2024, the North Carolina State Bureau of
28 Investigation shall submit a report to the Joint Legislative Oversight Committee on Justice and
29 Public Safety and the Joint Legislative Transportation Oversight Committee on automatic license
30 plate reader systems placed on rights-of-way owned or maintained by the Department of
31 Transportation. The report shall contain the written policy governing use of each automatic
32 license plate reader system, the number of requests for captured data by requesting agency, and
33 the amount of data preserved for more than 90 days compared to the amount of data captured
34 during the pilot program.

35 **SECTION 28.(c)** G.S. 136-27.3A and G.S. 20-183.32A are repealed.

36 **SECTION 28.(d)** G.S. 20-183.30 reads as rewritten:

37 **"§ 20-183.30. Definitions.**

38 The following definitions apply in this Article:

39 (1) Automatic license plate reader system. – A system of one or more mobile or
40 fixed automated high speed cameras used in combination with computer
41 algorithms to convert images of license plates into computer readable data.
42 This term shall not include a traffic control photographic system, as that term
43 is defined in G.S. 160A-300.1(a), or an open road tolling system, as that term
44 is defined in G.S. 136-89.210(3).

45 (1a) Reserved for future codification purposes.

46 (1b) Reserved for future codification purposes.

47 (1c) Reserved for future codification purposes.

48 (1d) Criminal justice officer. – A criminal justice officer as defined in G.S. 17C-2
49 and justice officer as defined in G.S. 17E-2.

50 (2) Law enforcement agency. – Any agency or officer of the State of North
51 Carolina or any political subdivision thereof who is empowered by the laws

of this State to conduct investigations or to make arrests and any attorney, including the Attorney General of North Carolina, authorized by the laws of this State to prosecute or participate in the prosecution of those persons arrested or persons who may be subject to civil actions related to or concerning an arrest.

(3) Reserved for future codification purposes.

(4) Reserved for future codification purposes.

(5) Law enforcement purpose. – Any of the following:

a. Actions related to criminal investigations, arrests, prosecutions, post-conviction confinement, or supervision.

b. Apprehending an individual with an outstanding felony warrant.

c. Locating a missing or endangered person.

d. Locating a lost or stolen vehicle.

(6) Reserved for future codification purposes.

(7) Reserved for future codification purposes.

(8) Missing or endangered person. – A person who has been identified as a missing or endangered person by at least one of the following:

a. The National Criminal Information Center.

b. The National Center for Missing and Exploited Children.

c. A "be on the lookout" bulletin issued by a law enforcement agency."

SECTION 28.(e) G.S. 20-183.31(b) reads as rewritten:

"(b) Data obtained by a law enforcement agency in accordance with this Article shall be obtained, accessed, preserved, or disclosed only for law enforcement ~~or criminal justice~~ purposes. Notwithstanding, data obtained under the authority of this Article shall not be used for the enforcement of traffic violations."

SECTION 28.(f) G.S. 20-183.32(e) reads as rewritten:

"(e) Captured plate data obtained in accordance with this Article is confidential and not a public record as that term is defined in G.S. 132-1. Data shall not be disclosed except to a ~~federal, State, criminal justice officer at a State or local law enforcement agency or a similar official at a federal law enforcement agency~~ for a legitimate law enforcement ~~or public safety~~ purpose pursuant to a written request from the requesting agency. Written requests may be in electronic format. Nothing in this subsection shall be construed as requiring the disclosure of captured plate data if a law enforcement agency determines that disclosure will compromise an ongoing investigation. Captured plate data shall not be sold for any purpose."

SECTION 28.(g) Article 3D of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-183.33. Penalty for violation.

Any person who violates the provisions of this Article by obtaining, accessing, preserving, or disclosing data obtained in accordance with this Article in a manner other than that allowed by the provisions of this Article is guilty of a Class 1 misdemeanor."

SECTION 28.(h) Subsection (g) of this section becomes effective December 1, 2023, and applies to offenses committed on or after that date. The remainder of this section becomes effective July 1, 2023. Subsection (a) of this section expires July 1, 2024, and any agreement entered into under the pilot program established in that section shall terminate no later than that date.

INCREASE FREQUENCY OF TAX REVENUE TRANSFER TO HIGHWAY FUND

SECTION 29.(a) G.S. 105-164.44M(b) reads as rewritten:

"(b) Transportation Needs. – At the end of each ~~quarter, month,~~ the Secretary must transfer to the Funds listed below a percentage of the net proceeds of the tax collected under this Article

1 at the State's general rate of tax set in G.S. 105-164.4(a). The percentages that must be transferred
 2 are as follows:

	Percentage to	Percentage to
Fiscal Year	Highway Fund	Highway Trust Fund
5 2022-23	2%	0%
6 2023-24	1%	3%
7 2024-25 and thereafter	1.5%	4.5%."

8 **SECTION 29.(b)** This section becomes effective July 1, 2023.

9
 10 **REVISE MONTHLY FINANCIAL STATEMENT REPORT**

11 **SECTION 30.** G.S. 143C-6-11(q) reads as rewritten:

12 "(q) Monthly Financial Statement Report. – Each month the Department of Transportation
 13 shall post on the Department's Web site and submit to the Board of Transportation, the Joint
 14 Legislative Transportation Oversight Committee, and the Fiscal Research Division a financial
 15 statement report that includes the following information:

- 16 ...
 17 (6) Projected revenues and Spend Plan of the Department for the ~~next 18 months,~~
 18 current fiscal year, noting any changes.
 19"

20
 21 **MODIFY STIP REPORTING AND LOCAL CONSULTATION REQUIREMENTS**

22 **SECTION 31.(a)** G.S. 136-12 reads as rewritten:

23 "**§ 136-12. Reports to General Assembly; Transportation Improvement Program posted**
 24 **and submitted to members and staff of General Assembly.**

25 (a) The Department of Transportation ~~shall~~ shall, on or before the tenth day after the
 26 convening of each regular session of the General Assembly of North Carolina, make a full
 27 printed, detailed report to the Joint Legislative Transportation Oversight Committee by March 1
 28 of each year on how the previous fiscal year's funds for General Assembly that includes the cost
 29 of maintenance and construction were allocated and expended. The work undertaken by the
 30 Department, receipts of license fees, disbursements of the Department, and other financial
 31 information relevant to illustrate the Department's financial condition during the previous fiscal
 32 year. For maintenance and construction work undertaken by the Department, the report shall also
 33 include expenditures of both State and federal funds and shall be in sufficient detail that the
 34 county can be identified. A full account of each road project shall be kept by and under the
 35 direction of the Department of Transportation or its representatives, to ascertain at any time the
 36 expenditures and the liabilities against all projects; also records of contracts and force account
 37 work. The account records, together with all supporting documents, shall be open at all times to
 38 the inspection of the Governor or road authorities of any county, or their authorized
 39 representatives, and copies thereof shall be furnished such officials upon request.

40 (a1) Repealed by Session Laws 2011-145, s. 28.35(a), effective July 1, 2011.

41 (b) At least ~~30-10~~ days before it approves a Transportation Improvement Program in
 42 accordance with G.S. 143B-350(f)(4) or approves interim changes to a Transportation
 43 Improvement Program, the Department shall post the proposed Transportation Improvement
 44 Program or proposed interim changes to a Transportation Improvement Program on the
 45 Department's website, and also submit the proposed Transportation Improvement Program or
 46 proposed interim changes to a Transportation Improvement Program to all of the following
 47 members and staff of the General ~~Assembly:~~ Assembly.

- 48 (1) The Speaker and the Speaker Pro Tempore of the House of
 49 ~~Representatives;~~ Representatives.
 50 (2) The Lieutenant Governor and the President Pro Tempore of the ~~Senate;~~ Senate.
 51 (3) The Chairs of the House and Senate Appropriations ~~Committees;~~ Committees.

- 1 (4) Each member of the Joint Legislative Transportation Oversight ~~Committee;~~
 2 ~~and Committee.~~
 3 (5) The Fiscal Research Division of the Legislative Services Commission."

4 **SECTION 31.(b)** G.S. 136-11.1 reads as rewritten:

5 **"§ 136-11.1. Prior consultation on transportation projects.**

6 Prior to any action of the Board on a transportation project, the Department shall inform all
 7 ~~municipalities, counties, and utility providers~~ municipalities and counties affected by a planned
 8 transportation project and request each affected municipality and county to submit within 45 days
 9 a written resolution expressing their views on the project. A municipality or county may
 10 designate a Transportation Advisory Committee to submit its response to the Department's
 11 request for a resolution. Upon receipt of a written resolution from all affected ~~parties~~
 12 municipalities and counties, or their designees, or the expiration of the 45-day period, whichever
 13 occurs first, the Board may take action. The Department and the Board shall consider, but shall
 14 not be bound by, the views of the affected ~~parties~~ municipalities and counties, or their ~~designees~~
 15 designees, on each transportation project. The failure of an affected ~~party~~ municipality or county
 16 to express its views within the time provided shall not prevent the Department or the Board from
 17 taking action. The Department shall not be required to send notice under this section if it has
 18 already received a written resolution from the affected ~~party~~ municipality or county on the
 19 planned transportation ~~project~~ project, or if the planned transportation project appears on a
 20 proposed Transportation Improvement Program posted on the Department's website pursuant to
 21 G.S. 136-12(b). "Action of the Board", as used in this section, means approval by the Board of:
 22 the Transportation Improvement Program and amendments to the Transportation Improvement
 23 Program; the Secondary Roads Paving Program and amendments to the Secondary Roads Paving
 24 Program; and individual applications for access and public service road projects, contingency
 25 projects, small urban projects, and spot safety projects that exceed two hundred fifty thousand
 26 dollars (\$250,000). The 45-day notification provision may be waived upon a finding by the
 27 Secretary of Transportation that emergency action is required. Such findings must be reported to
 28 the Joint Legislative Transportation Oversight Committee."
 29

30 **EXCLUDE FEDERAL FERRY BOAT AND TERMINAL FACILITIES**
 31 **CONSTRUCTION PROGRAM FUNDS FROM TRANSPORTATION INVESTMENT**
 32 **STRATEGY FORMULA**

33 **SECTION 32.(a)** G.S. 136-189.11(b) reads as rewritten:

34 "(b) Funds Excluded From Formula. – The following funds are not subject to this section:

35 ...

36 (13) Funds received from the federal government that under federal law may only
 37 be used for Ferry Boat and Terminal Facilities Construction Program (FBP)
 38 projects."

39 **SECTION 32.(b)** This section is effective when it becomes law and applies to State
 40 Transportation Improvement Program plan updates on or after that date.

41
 42 **AMEND BICYCLE AND PEDESTRIAN PROJECT STATE FUND LIMITATION**

43 **SECTION 33.(a)** G.S. 136-189.11(d)(3)c. reads as rewritten:

44 "c. Bicycle and pedestrian limitation. – The Department shall not provide
 45 financial support for independent bicycle and pedestrian improvement
 46 projects, except for federal funds administered by the Department for
 47 that purpose. This sub-subdivision shall not apply to funds allocated
 48 to a municipality pursuant to G.S. 136-41.1 that are committed by the
 49 municipality as matching funds for federal funds administered by the
 50 Department and used for bicycle and pedestrian improvement projects.
 51 This limitation shall not apply to any bicycle and pedestrian

1 improvement project that may provide improved access to
2 opportunities or community services for low-income, elderly, or
3 disabled individuals. This limitation shall not apply to funds
4 authorized for projects in the State Transportation Improvement
5 Program that are scheduled for construction as of October 1, 2013, in
6 State fiscal year 2012-2013, 2013-2014, or 2014-2015."

7 **SECTION 33.(b)** This section is effective when it becomes law and applies to State
8 Transportation Improvement Program plan updates on or after that date.

9
10 **DEPARTMENT FEE AUTHORIZATION FOR DRIVEWAY, SUBDIVISION, TRAFFIC**
11 **IMPACT ANALYSIS, AND ENCROACHMENT REVIEW PROGRAMS**

12 **SECTION 34.(a)** Article 7 of Chapter 136 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 136-93.03. Fee authorization for driveway, subdivision, traffic impact analysis, and**
15 **encroachment review permits, approvals, or certifications.**

16 (a) Program Fees Authorized. – Except as otherwise provided by law, the Department is
17 authorized to determine and assess fees for all programs that issue permits, approvals, or
18 certifications concerning driveways, subdivisions, traffic impact analyses, and encroachment
19 reviews.

20 (b) The Department shall be responsible for the administration and collection of fees. The
21 fees shall be applied to fund a portion of the cost of administering the program for which the fee
22 was assessed.

23 (c) The Department shall develop and publish rules, policies, and procedures for the
24 implementation of fee assessments authorized by this section."

25 **SECTION 34.(b)** This section becomes effective July 1, 2023.

26
27 **INCREASE DEPARTMENT LIAISON PERSONNEL**

28 **SECTION 35.** G.S. 120C-500 is amended by adding a new subsection to read:

29 "(f) Notwithstanding subsection (c) of this section, the Secretary of Transportation shall
30 designate at least one, but no more than five, liaison personnel to lobby for legislative action for
31 all offices, commissions, and agencies within the Department of Transportation, as established
32 by Article 8 of Chapter 143B of the General Statutes."

33
34 **REPEAL UNMANNED AIRCRAFT SYSTEM OPERATION REGULATIONS**

35 **SECTION 36.(a)** Article 10 of Chapter 63 of the General Statutes is repealed.

36 **SECTION 36.(b)** G.S. 15A-300.3(b)(3)d. reads as rewritten:

37 "d. Uses the unmanned aircraft system for commercial purposes pursuant
38 to and in compliance with (i)–Federal Aviation Administration
39 regulations, authorizations, or ~~exemptions and (ii) Article 10 of~~
40 ~~Chapter 63 of the General Statutes.~~exemptions."

41 **SECTION 36.(c)** Prosecutions for offenses committed before the effective date of
42 this section are not abated or affected by this section, and the statutes that would be applicable
43 but for this section remain applicable to those prosecutions.

44 **SECTION 36.(d)** This section becomes effective December 1, 2023.

45
46 **LIMITATIONS ON DEPARTMENT LIABILITY FOR S-LINE CORRIDOR**
47 **ACQUISITION**

48 **SECTION 37.(a)** Article 2D of Chapter 136 of the General Statutes is amended by
49 adding a new section to read:

50 **"§ 136-44.40. Limitations on rail transportation liability for S-Line Corridor acquisition.**

51 (a) As used in this section:

1 (1) "Claim" means a claim, action, suit, or request for damages, whether
2 compensatory, punitive, or otherwise, made by any person or entity against
3 any of the following:

4 a. The Department of Transportation, or a railroad.

5 b. A Regional Public Transportation Authority as defined by
6 G.S. 160A-601(6), a city as defined by G.S. 160A-1(2), or a county
7 listed in G.S. 153A-10 pursuant to a contract authorized by subsection
8 (b) of this section.

9 c. An officer, director, trustee, employee, parent, subsidiary, or affiliated
10 corporation as defined in G.S. 105-130.2, or agent of: the Department,
11 a railroad, or a Regional Public Transportation Authority, city, or
12 county as authorized by subsection (b) of this section.

13 (2) "S-Line Corridor" means that portion of the rail corridor located generally
14 along the CSX Transportation, Inc., Raleigh to Ridgeway corridor, also
15 known as the S-Line, which is to be acquired by the Department.

16 (3) "Passenger rail claims" means claims arising out of or relating to any of the
17 following:

18 a. The transportation of rail passengers on behalf of the Department on
19 the S-Line Corridor.

20 b. Services performed by a railroad pursuant to a contract with the
21 Department in connection with the transportation of rail passengers on
22 the S-Line Corridor, including, but not limited to, the operation of
23 trains; the use of right-of-way, trackage, public or private roadway and
24 rail crossings, equipment, or station areas or appurtenant facilities; the
25 design, construction, reconstruction, operation, or maintenance of rail
26 related equipment, tracks, and any appurtenant facilities.

27 c. An incident occurring on property owned by the Department and
28 acquired as a part of the Department's purchase of the S-Line Corridor
29 and intended for current or future use in connection with passenger
30 rail.

31 (4) "Railroad" means CSX Transportation, Inc., its successors in interest, the
32 National Railroad Passenger Corporation, or any other intercity rail passenger
33 service provider that has entered into any contracts or operating agreements
34 of any kind with the Department for operations on the S-Line Corridor.

35 (b) Contracts Allocating Financial Responsibility Authorized. – The Department may
36 contract with any railroad, Regional Public Transportation Authority authorized pursuant to
37 G.S. 160A-626, county authorized pursuant to G.S. 153A-279, or city authorized pursuant to
38 G.S. 160A-326, to allocate financial responsibility for passenger rail claims as defined in
39 subsection (a) of this section, including, but not limited to, the execution of indemnity
40 agreements, notwithstanding any other statutory, common law, public policy, or other prohibition
41 against the same, and regardless of the nature of the claim or the conduct giving rise to such
42 claim.

43 (c) Insurance Required. – If the Department enters into any contract authorized by
44 subsection (b) of this section, the Department shall secure and maintain, or cause to be secured
45 and maintained, a liability insurance policy covering the liability of the parties to the contract and
46 a railroad that owns or claims an interest in any real property subject to the contract for all
47 property damage, personal injury, bodily injury, and death arising out of or related to passenger
48 rail claims, regardless of whether or not the claim exceeds the self-insured retention of the policy.
49 The policy shall name the parties to the contract and the railroad that owns or claims an interest
50 in any real property subject to the contract as named insureds and shall have policy limits as
51 provided in the contract, which amount shall not exceed the current limitation of liability

1 provided in 49 U.S.C. § 28103 (or any successor legislation), and may include a self-insured
 2 retention in an amount of not more than five million dollars (\$5,000,000). The Department shall
 3 establish a fund or other means of satisfying passenger rail claims up to the amount of the
 4 self-insured retention.

5 (d) Liability Limit. – The aggregate liability of the Department and railroad for all
 6 passenger rail claims arising from a single accident or incident for property damage, personal
 7 injury, bodily injury, and death of passengers is limited to the current limitations of liability
 8 provided in 49 U.S.C. § 28103 (or any successor legislation) or to any proceeds available under
 9 any insurance policy secured pursuant to subsection (c) of this section, whichever is greater.

10 (e) Effect on Other Laws. – This section shall not affect the damages that may be
 11 recovered under the Federal Employers' Liability Act, 45 U.S.C. § 51, et seq., (1908); or under
 12 Article 1 of Chapter 97 of the General Statutes.

13 (f) Sovereign Immunity not Waived. – Neither the provisions of this section nor acts of
 14 the Department, including the procurement of insurance or self-insurance, shall be deemed a
 15 waiver of any sovereign immunity for tort to which the Department or its directors, officers,
 16 employees, or agents are otherwise entitled."

17 **SECTION 37.(b)** This section is effective when it becomes law and applies to
 18 contracts entered into on or after that date.
 19

20 **REVISE HIGHWAY FUND AND HIGHWAY TRUST FUND AVAILABILITY FOR**
 21 **FY 2021-2022 AND FY 2022-2023**

22 **SECTION 38.(a)** Section 3.2 of S.L. 2021-180 reads as rewritten:

23 **"SECTION 3.2.** The Highway Fund availability used in adjusting the 2021-2022 fiscal year
 24 budget is shown below:

Highway Fund Availability	FY 2021-2022
Actual Over Collections	249,824,965
Partial Accounting of HTF Cash Advance Repayments	
<u>General Maintenance Reserve (GMR)</u>	(176,577,495)
Transfer of Funds to Emergency Reserve	
(G.S. 136-44.2E(b) and (d))	(61,000,000)
Estimated Ferry Overdrafts	(7,971,879)
Ferry Vessels – Salvo and Avon	(4,275,591)
Beginning Balance	0
Motor Fuels Tax	1,672,500,000
Licenses and Fees	872,600,000
Highway Short-Term Lease	10,000,000
Investment Income	1,500,000
Adjustments to Availability	
Additional Highway Short-Term Lease	69,800,000
Total Highway Fund Availability	\$2,626,400,000"

44 **SECTION 38.(b)** Section 3.4 of S.L. 2021-180, as amended by Section 1.3 of S.L.
 45 2021-189, reads as rewritten:

46 **"SECTION 3.4.** The Highway Trust Fund availability used in adjusting the 2021-2022 fiscal
 47 year budget is shown below:

Highway Trust Fund Availability	FY 2021-2022
Actual Over Collections	326,587,369
Partial Accounting of Cash Advance Repayments	176,577,495

1	STI Projects	(503,164,864)(326,587,369)
2		
3	Beginning Balance	0
4	Highway Use Tax	958,300,000
5	Motor Fuels Tax	418,000,000
6	Fees	173,700,000
7	Investment Income	2,000,000

8

9 **Total Highway Trust Fund Availability** **\$1,552,000,000"**

10 **SECTION 38.(c)** Section 3.2 of S.L. 2022-74 reads as rewritten:

11 "SECTION 3.2. The Highway Fund availability for the 2022-2023 fiscal year in Section 3.2
 12 of S.L. 2021-180 is repealed. The Highway Fund availability used in adjusting the 2022-2023
 13 fiscal year budget is shown below:

14		
15	Highway Fund Availability	FY 2022-2023
16		
17	Projected Over Collections	\$107,700,000
18	Partial Accounting of HTF Cash Advance Repayments	
19	<u>General Maintenance Reserve (GMR)</u>	(107,700,000)
20	Beginning Balance	0
21	Motor Fuels Tax	1,776,100,000
22	Licenses and Fees	872,200,000
23	Sales Tax Transfer – 2%	193,100,000
24	Highway Short-Term Lease	95,300,000
25	Investment income	1,500,000
26		
27	Total Highway Fund Availability	\$2,938,200,000"

28 **SECTION 38.(d)** Section 3.4 of S.L. 2022-74 reads as rewritten:

29 "SECTION 3.4. The Highway Trust Fund availability for the 2022-2023 fiscal year set out
 30 in Section 3.4 of S.L. 2021-180 is repealed. The Highway Trust Fund availability used in
 31 adjusting the 2022-2023 fiscal year budget is shown below:

32		
33	Highway Trust Fund Availability	FY 2022-2023
34		
35	Projected Over Collections	\$74,800,000
36	Partial Accounting of Cash Advance Repayments	107,700,000
37	STI Projects	(182,500,000)(74,800,000)
38	Beginning Balance	0
39	Highway Use Tax	1,086,000,000
40	Motor Fuels Tax	590,100,000
41	Fees	158,000,000
42	Investment Income	1,400,000
43		
44	Total Highway Trust Fund	\$1,835,500,000"

45 **EFFECTIVE DATE**

46 **SECTION 39.** Except as otherwise provided, this act is effective when it becomes
 47 law.
 48