

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40101-MWf-22

Short Title: DOT Legislative Changes.-AB (Public)

Sponsors: Representative B. Jones.

Referred to:

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

4 The General Assembly of North Carolina enacts:

5
6 **EXPAND AUTHORIZED USE OF TRANSPORTATION EMERGENCY RESERVE**

7 **SECTION 1.** G.S. 136-44.2E reads as rewritten:

8 **"§ 136-44.2E. Transportation Emergency Reserve.**

9 (a) Creation. – The Transportation Emergency Reserve (Emergency Reserve) is
10 established as a special fund in the Department of Transportation.

11 (b) Funding; Use of Funds. – Subject to subsection (d) of this section, no later than July
12 30 of each fiscal year, the Department of Transportation shall transfer from the Highway Fund
13 to the Emergency Reserve the sum of one hundred twenty-five million dollars (\$125,000,000),
14 and these funds are hereby appropriated for expenses related to ~~an emergency~~ an unreimbursed
15 expenditure arising from an emergency. For purposes of this section, the term "emergency" has
16 the same meaning as in G.S. 166A-19.3.

17 (c) Access to Funds. – The Department may only use funds in the Emergency ~~Reserve~~
18 Reserve (i) after the President of the United States issues a declaration under the Stafford Act (42
19 U.S.C. §§ 5121 – 5207) that a major disaster exists in the ~~State~~ State, (ii) the United States
20 Secretary of Transportation authorizes the expenditure of emergency relief funds pursuant to 23
21 U.S.C § 125, or (iii) the Governor has declared a disaster pursuant to G.S. 166A-19.21. The
22 Secretary of Transportation shall ensure all funds in the Emergency Reserve are accessed and
23 used pursuant to this section, and in a manner that ensures to the extent practicable that the funds
24 are eligible for federal reimbursement or cost sharing with the federal funds. ~~section for~~
25 unreimbursable expenditures. Funds in the reserve may be used for a disaster past or present and
26 for any unreimbursed expenditures related to the declared disaster.

27 (d) Limitation on Funds. – The total funds in the Emergency Reserve shall not exceed the
28 sum of one hundred twenty-five million dollars (\$125,000,000). If a transfer under subsection
29 (b) of this section would cause the Emergency Reserve to exceed this limitation, the amount
30 transferred shall equal the difference between one hundred twenty-five million dollars
31 (\$125,000,000) and the amount of funds in the Emergency Reserve on the transfer date set forth
32 in subsection (b) of this section.

33 (e) Evaluation of Emergency Reserve. – No later than February 1 of the first year of the
34 2021-2023 fiscal biennium, and biennially thereafter, the Department of Transportation shall
35 submit a report on the Emergency Reserve to the House of Representatives Appropriations
36 Committee on Transportation, the Senate Appropriations Committee on the Department of



1 Transportation, and the Fiscal Research Division. The report shall contain the results of an
2 evaluation of the Emergency Reserve, based on a methodology developed jointly by the Office
3 of State Budget and Management and the Department of Transportation, to determine the
4 minimum amount of funds needed in the Emergency Reserve.

5 (f) Notification of Governor; Reimbursement. – The Secretary shall notify the Governor
6 within 24 hours of determining that anticipated emergency expenses by the Department under
7 this section will exceed the funds in the Emergency Reserve. Upon notification, the Governor
8 shall immediately proceed under G.S. 166A-19.20(e). Federal reimbursements for funds
9 expended in relation to a major disaster, declared in accord with subsection (c) of this section,
10 shall be used to reimburse expenditures from the following accounts in order of priority:

- 11 (1) Emergency Reserve, subject to the limitation in subsection (d) of this section.
- 12 (2) Reserve for General Maintenance in the Highway Fund.
- 13 (3) Savings Reserve."

14 **REPEAL BIENNIAL TRANSPORTATION EMERGENCY RESERVE EVALUATION**

15 **SECTION 2.** G.S. 136-44.2E(e) is repealed.

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

17 **SECTION 3.** Section 5.4 of S.L. 2022-74 is amended by adding a new subsection to
18 read:

19 "SECTION 5.4.(k) Subdivision (1) of Section 1.7 of S.L. 2019-251 reads as rewritten:

- 20 (1) \$30,000,000 for current and future activities related to recovery from
21 Hurricane Dorian such as debris removal and repair of highway infrastructure
22 damage. Any remaining funds not required for Hurricane Dorian expenses
23 shall be used to continue the Department's Resilience Program."

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

25 **SECTION 4.(a)** Definition. – For purposes of this section, the term "Progressive
26 Design-Build" means a project delivery method that uses a stepped, or progressive qualifications
27 based selection process, followed by a progression to a contract price. The Progressive
28 Design-Build Team is selected exclusively on qualifications, without consideration of schedule
29 or costs, and delivers the project in two distinct phases with two separate contracts. The
30 Progressive Design-Build Team is initially under contract for preconstruction activities,
31 including developing preliminary designs, performing constructability reviews, and developing
32 construction schedules and pricing. If the Department of Transportation and the Progressive
33 Design-Build Team reach agreement on a guaranteed maximum construction cost, the
34 Department of Transportation and the Progressive Design-Build Team will execute a second
35 contract for completion of the preliminary designs and construction of the project.

36 **SECTION 4.(b)** Pilot Project. – Notwithstanding any provision of Chapter 136 of
37 the General Statutes to the contrary, the Department of Transportation may establish and
38 implement a pilot project to award contracts for up to five transportation projects using the
39 Progressive Design-Build procurement process. The Department of Transportation may only
40 award a contract under this section if (i) the Department determines that the project cost is less
41 than five hundred million dollars (\$500,000,000), (ii) the Department determines that it is in the
42 public's interest to use the Progressive Design-Build procurement process, (iii) the Department
43 prequalifies the prime contractor and lead design firm that will be awarded the contract, (iv) the
44 Department complies with the pre-award reporting requirement set forth in subsection (c) of this
45 section, and (v) the Department establishes and implements Progressive Design-Build
46 Guidelines, as required under subsection (d) of this section.

47 **SECTION 4.(c)** Report. – Prior to the award of a contract under the authority set
48 forth in subsection (b) of this section, the Department of Transportation shall submit a pre-award
49
50
51

1 report to the Joint Legislative Transportation Oversight Committee on the nature and scope of
2 the project and the reasons the Progressive Design-Build procurement process will best serve the
3 public interest. Upon completion of a project awarded under subsection (b) of this section, the
4 Department of Transportation shall submit a post-completion report to the Joint Legislative
5 Transportation Oversight Committee and the Fiscal Research Division detailing the project
6 results, including any cost and time efficiencies achieved using the Progressive Design-Build
7 procurement process.

8 **SECTION 4.(d) Guidelines.** – The Department of Transportation shall develop and
9 implement Progressive Design-Build Guidelines for awarding contracts under subsection (b) of
10 this section.

11 **SECTION 4.(e) Expiration.** – This section expires upon submission of the
12 post-completion report required under subsection (c) of this section for the final project
13 completed under the authority set forth in subsection (b) of this section.
14

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

16 **SECTION 5.** Section 34.13(b) of S.L. 2018-5, as amended by Section 21 of S.L.
17 2022-68, reads as rewritten:

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

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

31 **SECTION 6.** G.S. 136-93.1A(g) is repealed.
32

33 **REPEAL CASH BALANCE TARGET AMOUNT REPORT**

34 **SECTION 7.** G.S. 143C-6-11(m) is repealed.
35

36 **EXEMPTION FOR DEPARTMENT OF TRANSPORTATION STATEWIDE** 37 **PURCHASING CONTRACTS RELATED TO PUBLIC TRANSPORTATION**

38 **SECTION 8.** Article 2 of Chapter 136 of the General Statutes is amended by adding
39 a new section to read:

40 **"§ 136-28.1A. Contracts for capital assets, technology, or services.**

41 (a) Notwithstanding Chapter 143 of the General Statutes or any other provision of law to
42 the contrary, the Department of Transportation, Integrated Mobility Division, may independently
43 establish statewide purchasing contracts with private vendors for capital assets, technology, or
44 services related to public transportation, bicycle, pedestrian, and related transportation modes,
45 where such statewide purchasing contracts are established through competitive procurement and
46 selection in accordance with Federal Transit Administration or Federal Highway Administration
47 requirements, and where such statewide purchasing contracts are established primarily for the
48 convenience of the Department of Transportation, local government agencies, Metropolitan
49 Planning Organizations, Rural Planning Organizations, Councils of Government, or public
50 transportation agencies to select and enter into contractual relationships with vendors without
51 completing additional procurement or competitive selection processes.

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

4 (c) The Department of Transportation shall notify the Department of Administration of
5 the nature and scope of all statewide purchasing contracts and notify the Department of
6 Information Technology of the nature and scope of all statewide purchasing contracts related to
7 information technology projects the Department of Transportation is undertaking pursuant to the
8 exemption under subsection (a) of this section.

9 (d) The Department of Transportation shall report to the Joint Legislative Transportation
10 Oversight Committee, the Joint Legislative Oversight Committee on Information Technology,
11 and the Fiscal Research Division within 30 days of entering into a statewide purchasing schedule
12 for a project the Integrated Mobility Division is undertaking pursuant to the exemption under
13 subsection (a) of this section."

14
15 **EXEMPTION FOR CERTAIN PUBLIC BUILDING CONTRACTS**

16 **SECTION 9.** G.S. 143-134 is amended by adding a new subsection to read:

17 "(c) Notwithstanding subsection (a) of this section, this Article does not apply to public
18 building contracts entered into by the Department of Transportation for the erection,
19 construction, alteration, or repair of facilities that are or will be jointly occupied by personnel
20 from the Division of Motor Vehicles and the Highway Patrol, but, with respect to these contracts,
21 the powers and duties established in that Article shall be exercised by the Department of
22 Transportation and the Secretary of Administration, and other State officers, employees, or
23 agencies shall have no duties or responsibilities concerning the contracts."

24
25 **DEPARTMENT MAY SPECIFY MATERIAL SUBSTITUTION REQUIREMENTS**

26 **SECTION 10.** G.S. 136-28.1 is amended by adding a new subsection to read:

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

32
33 **ADJUST REQUIREMENTS FOR ROW REGISTRATIONS**

34 **SECTION 11.** G.S. 136-19.4 reads as rewritten:

35 "**§ 136-19.4. Registration of right-of-way plans.**

36 (a) ~~A copy of the cover sheet and plan and profile sheets of the final right-of-way plans~~
37 ~~for all Department of Transportation projects, on those projects for which plans are prepared,~~
38 ~~under which right-of-way or other interest in real property is acquired or access is controlled shall~~
39 ~~be certified by the Department of Transportation to the register of deeds of the county or counties~~
40 ~~within which the project is located. The Department shall certify said plan sheets to the register~~
41 ~~of deeds within two weeks from their formal approval by the Board of Transportation.~~

42 ...

43 ~~(d) If after the approval of said final right of way plans the Board of Transportation shall~~
44 ~~by resolution alter or amend said right of way or control of access, the Department of~~
45 ~~Transportation, within two weeks from the adoption by the Board of Transportation of said~~
46 ~~alteration or amendment, shall certify to the register of deeds in the county or counties within~~
47 ~~which the project is located a copy of the amended plan and profile sheets approved by the Board~~
48 ~~of Transportation and the register of deeds shall remove the original plan sheets and record the~~
49 ~~amended plan sheets in lieu thereof.~~

1 (e) The register of deeds in each county shall collect a fee from the Department of
2 Transportation for recording right-of-way plans ~~and profile sheets~~ in the amount set out in
3 G.S. 161-10."
4

5 REVISION TO BRIDGE PROGRAM OUTSOURCING

6 **SECTION 12.** G.S. 136-76.2(c) reads as rewritten:

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

- 10 (1) Inspection.
- 11 (2) Pre-engineering.
- 12 (3) Contract preparation.
- 13 (4) Contract administration and oversight.
- 14 (5) Planning activities.
- 15 (6) Installation of culverts described in subsection (b) of this section, ~~but only in~~
16 ~~eases of emergency section on non-outlet roads.~~"
17

18 REVISION TO ADVANCE RIGHT-OF-WAY ACQUISITION ACCOUNT

19 **SECTION 13.** Section 41.7 of S.L. 2022-74 reads as rewritten:

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

26 "**SECTION 41.7.(b)** The Department shall streamline the Undue Hardship Program to
27 ensure that property in a planned transportation project area is purchased expeditiously from a
28 property owner experiencing an undue hardship, as that term is defined in G.S. 136-186(a)(3),
29 resulting from a rescheduled or reprioritized Strategic Transportation Investment (STI) project.
30 ~~Beginning October 1, 2022, the Department shall submit a quarterly report to the Joint Legislative~~
31 ~~Transportation Oversight Committee (JLTOC) and the Fiscal Research Division containing the~~
32 ~~Department's streamlined efforts, the amount of property purchased, and the number of hardship~~
33 ~~claims by the Highway Division."~~
34

35 EXTEND EXPIRATION DATE OF BUILD NC BOND ACT

36 **SECTION 14.** Section 7 of S.L. 2018-16 reads as rewritten:

37 "**SECTION 7.** This act becomes effective January 1, 2019, and expires ~~December 31,~~
38 ~~2028.~~December 31, 2030."
39

40 EXTEND DATE TO BUILD NC BOND CASH BALANCE REQUIREMENT

41 **SECTION 15.** Section 41.3 of S.L. 2021-180, as amended by Section 7.1 of S.L.
42 2021-189, reads as rewritten:

43 "**SECTION 41.3.** Notwithstanding G.S. 142-97(2)a., ~~for the 2021–2023 fiscal biennium,~~ the
44 Department of Transportation average month end cash balance for the first three months in the
45 calendar year prior to the date of determination must be equal to or less than two billion dollars
46 (\$2,000,000,000); provided, however, that for any issuance and sale of Build NC Bonds on or
47 before ~~June 30, 2022,~~ June 30, 2024, the cash balance requirement under G.S. 142-97(2)a. shall
48 not apply, and the consultation requirement under G.S. 142-97(2)c. shall be no later than two
49 months prior to the expected issuance of the bonds."
50

51 REMOVE DOT EMPLOYEE LIMIT ON TRAVEL

1 **SECTION 16.** Section 34.5 of S.L. 2014-100, as amended by Section 29.7 of S.L.
2 2015-241, is repealed.

3
4 **REMOVE BOARD OF TRANSPORTATION LIMIT ON TRAVEL**

5 **SECTION 17.** Section 29.5A of S.L. 2015-241 is repealed.

6
7 **REPEAL REGIONAL PUBLIC TRANSPORTATION AUTHORITY BOARD OF**
8 **TRUSTEES RESIDENCY REQUIREMENT**

9 **SECTION 18.** G.S. 160A-605(d) is repealed.

10
11 **TURNPIKE BILL COLLECTION**

12 **SECTION 19.** G.S. 136-89.213 reads as rewritten:

13 "**§ 136-89.213. Administration of tolls and requirements for open road tolls.**

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

26 ...

27 (c) Electronic Collection. – The Authority may utilize digital communications and
28 methods to obtain information for a registered owner of a motor vehicle through verification of
29 phone numbers, connected or enabled vehicle applications, and other digital means to pursue bill
30 by first-class mail."

31
32 **ADD VIN NUMBER TO UNPAID TOLL BILL**

33 **SECTION 20.** G.S. 136-89.214(b) reads as rewritten:

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

36 ...

37 (1a) The vehicle identification number (VIN) or other vehicle identifying
38 information of the motor vehicle that traveled on the Turnpike project.

39"

40
41 **INCREASE TURNPIKE PROCESSING FEE FOR BILLING**

42 **SECTION 21.** G.S. 136-89.215(b) reads as rewritten:

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

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

50
51 **HOV LANE RESTRICTIONS**

1 **SECTION 22.** G.S. 20-146.2(a) reads as rewritten:

2 "(a) HOV Lanes. – The Department of Transportation may designate one or more travel
3 lanes as high occupancy vehicle (HOV) lanes on streets and highways on the State Highway
4 System and cities may designate one or more travel lanes as high occupancy vehicle (HOV) lanes
5 on streets on the Municipal Street System. HOV lanes shall be reserved for vehicles with a
6 specified number of passengers as determined by the Department of Transportation or the city
7 having jurisdiction over the street or highway. When HOV lanes have been designated, and have
8 been appropriately marked with signs or other markers, they shall be reserved for privately or
9 publicly operated buses, and automobiles or other vehicles containing the specified number of
10 persons. Where access restrictions are applied on HOV lanes through designated signing and
11 pavement markings, vehicles shall only cross into or out of an HOV lane at designated openings.
12 A motor vehicle shall not travel in a designated HOV lane if the motor vehicle has more than
13 three axles, regardless of the number of occupants. HOV lane restrictions shall not apply to any
14 of the following:

15 (1) ~~Motoreycles.~~

16 (2) ~~Vehicles designed to transport 15 or more passengers, regardless of the actual
17 number of occupants.~~

18 (3) Emergency vehicles. As used in this subdivision, the term "emergency
19 vehicle" means any law enforcement, fire, police, or other government
20 vehicle, and any public and privately owned ambulance or emergency service
21 vehicle, when responding to an emergency.

22 (4) ~~Plug-in electric vehicles as defined in G.S. 20-4.01(28b), regardless of the
23 number of passengers in the vehicle. These vehicles must be able to travel at
24 the posted speed limit while operating in the HOV lane.~~

25 (5) ~~Dedicated natural gas vehicles as defined in G.S. 20-4.01(5a), regardless of
26 the number of passengers in the vehicle. These vehicles must be able to travel
27 at the posted speed limit while operating in the HOV lane.~~

28 (6) ~~Fuel cell electric vehicles as defined in G.S. 20-4.01(12a), regardless of the
29 number of passengers in the vehicle. These vehicles must be able to travel at
30 the posted speed limit while operating in the HOV lane.~~

31 (7) Publicly operated buses and transit vehicles, regardless of actual number of
32 occupants."

33
34 **AUTHORIZE TOLLING FOR CERTAIN LANES**

35 **SECTION 23.** G.S. 20-146.2 reads as rewritten:

36 **"§ 20-146.2. Rush hour traffic lanes authorized.**

37 ...

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

45 (c) Directional Flow Peak Traffic Lanes. – The Department of Transportation may
46 designate travel lanes for the directional flow of peak traffic on streets and highways on the State
47 Highway System and cities may designate travel lanes for the directional flow of peak traffic on
48 streets on the Municipal Street System. These travel lanes may be designated for time periods by
49 the agency controlling the streets and highways. The Turnpike Authority may authorize tolling
50 for travel in a lane designated and marked as in use under this subsection."
51

REMOVE RESTRICTION ON STI BICYCLE FUNDS

SECTION 24. G.S. 136-189.11(d)(3) reads as rewritten:

"(3) Division Need Projects. – Thirty percent (30%) of the funds subject to this section shall be allocated in equal share to each of the Department divisions, as defined in G.S. 136-14.1, and used for Division Need Projects:

a. Criteria. – A combination of transportation-related quantitative criteria, qualitative criteria, and local input shall be used to rank Division Need Projects involving highways that address cost-effective needs from a Division-wide perspective, provide access, and address safety-related needs of local communities. Local input is defined as the rankings identified by the Department's Transportation Division Engineers, Metropolitan Planning Organizations, and Rural Transportation Planning Organizations. Transportation Division Engineer local input scoring shall take into account public comments. The Department shall ensure that the public has a full opportunity to submit public comments, by widely available notice to the public, an adequate time period for input, and public hearings. Board of Transportation input shall be in accordance with G.S. 136-189.11(g)(1) and G.S. 143B-350(g). The criteria utilized for selection of Division Need Projects shall be based fifty percent (50%) on local input and fifty percent (50%) on consideration of a numeric scale of 100 points based on the following quantitative criteria, except as provided in sub-subdivision b. of this subdivision:

...

b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:

...

e. ~~Bicycle and pedestrian limitation. —The Department shall not provide financial support for independent bicycle and pedestrian improvement projects, except for federal funds administered by the Department for that purpose. This sub-subdivision shall not apply to funds allocated to a municipality pursuant to G.S. 136-41.1 that are committed by the municipality as matching funds for federal funds administered by the Department and used for bicycle and pedestrian improvement projects. This limitation shall not apply to funds authorized for projects in the State Transportation Improvement Program that are scheduled for construction as of October 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015."~~

AUTHORIZE FERRY TO USE STAFFING COMPANY FOR TEMPORARY HIRES

SECTION 25. G.S. 126-6.3(b) reads as rewritten:

"(b) Compliance Monitoring. – The Office of State Human Resources shall monitor the employment of temporary employees by Cabinet and Council of State agencies and shall report biannually to the Joint Legislative Oversight Committee on General Government and to the Fiscal Research Division on agency compliance with this section and policies and rules adopted pursuant to it. Each State agency granted an exception under this section from using the Temporary Solutions Program and any Council of State agency that elected to not use the Temporary Solutions Program shall record the time worked by each temporary employee in the agency, including the number of hours worked per week, number of months worked, and the amount of time the employee was not employed after 11 consecutive months of service with the

1 agency. To the extent possible for temporary employees, agencies shall use BEACON, or the
2 State payroll system that supersedes BEACON, for payroll purposes. If it is not feasible for an
3 agency to use BEACON, or the superseding system for payroll purposes, the agency shall report
4 the information required by this section to the Office of State Human Resources in accordance
5 with guidelines and requirements established by the Director of Temporary Solutions. The
6 Department of Transportation, Ferry Division, shall be exempt from the required use of
7 Temporary Solutions when there is an established need for peak season hires or when the
8 expertise requires a specific skillset beyond the scope of temporary employees."
9

10 **RESIDENT PASSES ON HATTERAS-OCRACOKE**

11 **SECTION 26.** G.S. 136-82(b) reads as rewritten:

12 "(b) Tolling of Certain Ferry Routes. – The Board of Transportation shall establish tolls
13 on the passenger-only Hatteras-Ocracoke ferry route. The Board of Transportation shall establish
14 resident priority passes for the Hatteras to Ocracoke route at an amount set by the Board per
15 vehicle for those who provide a valid driver's license with an Ocracoke address and a current
16 vehicle registration with an Ocracoke address. The Board of Transportation shall continue tolling
17 the following ferry routes:

- 18 (1) Southport-Fort Fisher.
- 19 (2) Cedar Island-Ocracoke.
- 20 (3) Swan Quarter-Ocracoke."

21 **FERRY PRIORITY BOARDING**

22 **SECTION 27.** G.S. 136-82(f3) reads as rewritten:

23 "(f3) Priority Boarding Fee for Certain Vehicles. – For vehicles providing commercial
24 goods and services, the Department of Transportation shall charge an annual fee of one hundred
25 fifty dollars (\$150.00) for an annual pass that entitles the vehicle or vehicles owned by the person
26 issued the annual pass to priority when boarding a ferry vessel. Only one annual pass per vendor
27 vehicle shall be issued per year. Except as authorized under this subsection, the Department of
28 Transportation shall not provide priority boarding to a ferry vessel to any vehicle providing
29 commercial goods and services. The following limits shall apply to priority boarding under this
30 subsection:

- 31 (1) For ferry vessels departing Hatteras, priority boarding shall not be authorized
32 except between 10:00 A.M. and 4:00 P.M., and for ferry vessels departing
33 Ocracoke, priority boarding shall not be authorized except between 4:00 P.M.
34 and 9:00 P.M.
- 35 (2) No more than 10 vehicles may priority board a ferry as authorized under
36 subdivision (1) of this subsection."
37

38 **AUTHORIZE CARRYFORWARD OF FERRY FUNDS**

39 **SECTION 28.** G.S. 136-82(h) reads as rewritten:

40 "(h) Transfer of Funds. – Notwithstanding G.S. 136 44.2(f), G.S. 136 44.2(f1), and any
41 other provision of law to the contrary, beginning with the 2021 2022 fiscal year, no later than 45
42 days after the first day of the fiscal year, the Department of Transportation shall transfer from the
43 Highway Fund to the Ferry Capital Special Fund all unexpended funds appropriated to the Ferry
44 Division's budget from the prior fiscal year. Any funds categorized as unencumbered shall be
45 deposited in the Ferry Systemwide ~~fund code~~ fund code and those funds shall carryforward. Any
46 funds categorized as encumbered shall be deposited into a specified fund code for
47 encumbrances."
48

49 **REPEAL OSBM/CERTIFY FERRY FUND CODE**

1 **SECTION 29.** Subsections (a) and (b) of Section 41.15A of S.L. 2021-180 are
2 repealed.

3
4 **REPEAL DRONE ACTIVITY REPORTING REQUIREMENT**

5 **SECTION 30.** G.S. 63-74.5(2) is repealed.

6
7 **AUTHORIZE COOPERATION WITH ADJOINING STATES ON RAILROAD**
8 **REVITALIZATION**

9 **SECTION 31.** G.S. 136-44.36(a) reads as rewritten:

10 "(a) The General Assembly hereby designates the Department of Transportation as the
11 agency of the State of North Carolina responsible for administering all State and federal railroad
12 revitalization programs. The Department of Transportation is authorized to develop, and the
13 Board of Transportation is authorized to adopt, a State railroad plan, and the Department of
14 Transportation is authorized to do all things necessary under applicable State and federal
15 legislation to properly administer State and federal railroad revitalization programs ~~within the~~
16 ~~State, both within the State and adjoining states, as agreed to with the adjoining state entity.~~ Such
17 authority shall include, but shall not be limited to, the power to receive federal funds and
18 distribute and expend federal and State funds for rail programs designed to cover the costs of
19 acquiring, by purchase, lease or other manner as the department considers appropriate, a railroad
20 line or other rail property to maintain existing or to provide future rail service; the costs of
21 rehabilitating and improving rail property on railroad lines to the extent necessary to permit safe,
22 adequate and efficient rail service on such lines; and the costs of constructing rail or rail related
23 facilities for the purpose of improving the quality, efficiency and safety of rail service. The
24 Department shall also have the authority to preserve railroad corridors for future railroad use and
25 interim compatible uses and may lease such corridors for interim compatible uses. Such authority
26 shall also include the power to receive and administer federal financial assistance without State
27 financial participation to railroad companies to cover the costs of local rail service continuation
28 payments, of rail line rehabilitation, and of rail line construction as listed above. This Article
29 shall not be construed to grant to the department the power or authority to operate directly any
30 rail line or rail facilities."

31
32 **REVISE USE OF CERTAIN MATCHING FUNDS OF RAIL DIVISION**

33 **SECTION 32.** Part XLI of S.L. 2022-74 is amended by adding a new section to read:

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

40
41 **REVISE OUTDOOR ADVERTISING LAW**

42 **SECTION 33.(a)** G.S. 136-133.1 reads as rewritten:

43 "**§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

44 (a) ~~The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) [G.S.~~
45 ~~136-129(4)] or G.S. 136-129(a)(5) [G.S. 136-129(5)] who obtains a selective vegetation removal~~
46 ~~permit, and the owner's designees, may cut, thin, prune, or remove vegetation in accordance with~~
47 ~~this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for~~
48 ~~vegetation for each sign face shall be determined as follows:~~

49 (1) ~~The point located on the edge of the right-of-way that is the closest point to~~
50 ~~the centerline of the sign face shall be point A.~~

- 1 (2) ~~The point located 200 feet down the right-of-way line in the direction of the~~
2 ~~sign viewing zone shall be point B.~~
- 3 (3) ~~The point on the edge of the pavement of the travel way, including~~
4 ~~acceleration and deceleration ramps, that is the closest to the centerline of the~~
5 ~~sign shall be point C.~~
- 6 (4) ~~The point 50 feet down the edge of the pavement in the direction of the sign~~
7 ~~viewing zone from point C shall be point D.~~
- 8 (5) ~~The point 380 feet down the edge of the pavement in the direction of the sign~~
9 ~~viewing zone from point C shall be point E; provided, however, the following~~
10 ~~shall apply within the corporal limits and territorial jurisdiction of any city, as~~
11 ~~defined in Chapter 160A of the General Statutes:~~
- 12 a. ~~On interstates or other routes with fully controlled access, the point~~
13 ~~340 feet down the edge of the pavement in the direction of the sign~~
14 ~~viewing zone from point C shall be point E.~~
- 15 b. ~~On highways other than interstates and other routes with fully~~
16 ~~controlled access, the point 250 feet down the edge of the pavement in~~
17 ~~the direction of the sign viewing zone from point C shall be point E.~~
- 18 (6) ~~Lines drawn from point A to point D and from point B to point E shall define~~
19 ~~the limits of the vegetation cut or removal area.~~
- 20 (a) The owner of an outdoor advertising sign permitted under G.S. 136-129(4) or
21 G.S. 136-129(5) who obtains a selective vegetation removal permit, and the owner's designees,
22 may cut, thin, prune, or remove vegetation in accordance with this section, G.S. 136-93(b),
23 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation for each sign face
24 shall be determined as follows:
- 25 (1) The point located on the edge of the right-of-way that is the closest point to
26 the centerline of the sign face shall be point A. The point on the edge of the
27 pavement of the travel way, including acceleration and deceleration ramps,
28 that is the closest to the centerline of the sign face shall be point B. The point
29 corresponding to the closest point to the centerline of the sign face along the
30 edge of the pavement of the main traveled way and moving in the direction of
31 the sign viewing zone, according to the distances in sub-subdivisions a. and b.
32 of this subdivision, is point C. The point perpendicular to point C on the edge
33 of the right-of-way separating the public property from private property shall
34 be point D. Lines drawn from point A, to point B, to point C, and to point D
35 shall define the limits of the vegetation cut or removal area.
- 36 a. For a distance of 500 feet for a view zone that has a posted speed limit
37 of over 35 miles per hour.
- 38 b. For a distance of 350 feet for a view zone that has a posted speed limit
39 of 35 miles per hour or less.
- 40 (2) Notwithstanding subdivision (1) of this subsection, the sign owner or designee
41 may also cut vegetation within any area on the State right-of-way located
42 between viewing zones of two sign faces, or otherwise within any area
43 measured perpendicular from any point on the sign structure to the edge of the
44 pavement of the main traveled way, by paying a fee of one hundred dollars
45 (\$100.00) per caliper inch to the Department of Transportation.
- 46 ...
- 47 (b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any
48 tree, shrub, or underbrush within the zone created by ~~points A, B, D, and E.~~ subsection (a) of this
49 section. Any existing tree that was in existence at the time that an outdoor advertising structure
50 was erected shall only be eligible for removal in accordance with subsections (c), (d), and (e) of
51 this section. Native dogwoods and native redbuds shall be preserved. For the purposes of this

1 section, an existing tree is defined as a tree that had a diameter of four inches or greater as
2 measured six inches from the ground at the time that the outdoor advertising structure was
3 erected. An outdoor advertising sign is considered erected when the sign is completely
4 constructed with a sign face.

5 ...

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

17"

18 **SECTION 33.(b)** G.S. 136-133.2 reads as rewritten:

19 **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

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

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

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

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

48
49 **PILOT PROGRAM TO AUTHORIZE AUTOMATIC LICENSE PLATE READERS IN**
50 **STATE RIGHTS-OF-WAY**

1 **SECTION 34.(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 34.(b)** No later than March 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 on
34 an annual basis.

35 **SECTION 34.(c)** Section 41.57(a) and Section 41.57(c) of S.L. 2021-180 are
36 repealed.

37 **SECTION 34.(d)** G.S. 20-183.30 reads as rewritten:

38 **"§ 20-183.30. Definitions.**

39 The following definitions apply in this Article:

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

46 (1a) Reserved for future codification purposes.

47 (1b) Reserved for future codification purposes.

48 (1c) Reserved for future codification purposes.

49 (1d) Criminal justice officer. – Defined in G.S. 17C-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 34.(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 34.(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 34.(g) This section becomes effective July 1, 2023. Subsection (a) of this section expires June 1, 2024, and any agreement entered into under the pilot program established in that section shall terminate no later than that date.

ENVIRONMENTAL RULES LIMITED TO FEDERAL LAW REQUIREMENTS

SECTION 35. G.S. 150B-19.3(b) reads as rewritten:

"(b) For purposes of this section, "an agency authorized to implement and enforce State and federal environmental laws" means any of the following:

...

(10) The Department of Transportation created pursuant to G.S. 143B-345."

INCREASE FREQUENCY OF TAX REVENUE TRANSFER TO HIGHWAY FUND

SECTION 36. 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 at the State's general rate of tax set in G.S. 105-164.4(a). The percentages that must be transferred are as follows:

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

REVISE MONTHLY FINANCIAL STATEMENT REPORT

SECTION 37. G.S. 143C-6-11(q) reads as rewritten:

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

- ...
- (6) Projected revenues and Spend Plan of the Department for the next ~~18 months,~~ 12-month period, noting any changes.
-"

EFFECTIVE DATE

SECTION 38. Except as otherwise provided, this act is effective when it becomes law.