2019-2020

SENATE TRANSPORTATION

MINUTES

TRANSPORTATION

Senate Standing Committee

Chairs


Sen. J. Davis


Sen. McInnis

Members


Sen. J. Alexander


Sen. Ballard


Sen. Britt


Sen. Daniel


Sen. deViere


Sen. Fitch


Sen. Ford


Sen. Garrett


Sen. Gunn


Sen. Harrington


Sen. J. Jackson


Sen. Rabon


Sen. Smith


Sen. Waddell

North Carolina General Assembly
Through Se[illegible] Committee on
Tra[illegible]ation

2019-2020 Biennium
Leg. Day: H-156/S-153

Date: 12/11/2019
Time: 12:08:14 PM

Bill	Introducer	Short Title		Latest Action	Date In	Date Out
H 67	McNeill	Road Barrier Prohibition.	*R	Ch. SL 2019-84	06/12/2019	06/19/2019
H 82	Pierce	Railroad Crossings/On-Track Equipment.	*R	Ch. SL 2019-36	05/24/2019	06/05/2019
H 131	Conrad	Repeal Map Act.	*R	Ch. SL 2019-35	05/24/2019	06/05/2019
H 158	Presnell	DOT Reporting Changes.-AB	*S	Re-ref to Transportation. If fav, re-ref to Rules and Operations of the Senate	06/12/2019	
H 179	Stevens	Mini-Truck Classification.	R	Ch. SL 2019-34	05/20/2019	06/05/2019
H 206	Torbett	Various Transportation Changes.	*R	Ch. SL 2019-199	06/12/2019	06/26/2019
H 211	Shepard	Various DMV Changes.	*R	Ch. SL 2019-227	05/24/2019	06/26/2019
H 337	Torbett	Change Salvage Vehicle Transfer Requirements.	*R	Ch. SL 2019-153	06/11/2019	06/19/2019
H 368	Howard	Bermuda Run/Speed Restrictions.	*R	Ch. SL 2019-100	06/04/2019	06/19/2019
H 391	Bell	Passenger Protection Act.	*R	Ch. SL 2019-194	07/08/2019	07/10/2019
H 537	Conrad	Alt. Hwy Use Tax Vehicle Subscriptions.	*R	Ch. SL 2019-69	04/29/2019	06/05/2019
H 620	Szoka	Street Database/Manual/Public Record Except.	*R	Ch. SL 2019-156	06/12/2019	06/26/2019
H 645	Saine	Revisions to Outdoor Advertising Laws.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	05/20/2019	06/26/2019
H 917	Horn	Emergency Declaration/Clarify Rd Closure.	*R	Ch. SL 2019-89	06/06/2019	06/19/2019
H1002	Rogers	Expand Use of CAM Systems.	*S	Re-ref to Transportation. If fav, re-ref to Judiciary. If fav, re-ref to Rules and Operations of the Senate	08/16/2019	
$ S 61	**Davis**	**Community Colleges Budget/2019-2021 Biennium.**	***R**	**Ch. SL 2019-235**	**02/21/2019**	**02/27/2019**

'$' indicates the bill is an appropriations bill.
A bold line indicates that the bill is an appropriations bill.
'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill

S 68	Brown	Relocation of Water/Sewer Line Costs.	*R	Ch. SL 2019-197	02/21/2019	02/27/2019
$ S 105	**Jackson**	**Tax Rebate/Roanoke Rapids.**	***H**	**Re-ref Com On Rules, Calendar, and Operations of the House**	**02/26/2019**	**03/06/2019**
S 113	Davis	DMV/Emergency Contact Information.	H	Re-ref Com On Rules, Calendar, and Operations of the House	02/26/2019	03/06/2019
S 186	Sanderson	Beaufort-Morehead Cty Airport Authority/Amend.	*R	Ch. SL 2019-121	03/19/2019	03/27/2019
S 202	Britt	DMV/High-Risk Driving Behaviors.	*H	Ref To Com On Rules, Calendar, and Operations of the House	03/14/2019	03/20/2019
S 210	Krawiec	Organ & Tissue Donation/Heart Heroes.	R	Ch. SL 2019-143	03/20/2019	03/27/2019
S 213	Gallimore	Handicapped Parking Decal.	S	Re-ref to Transportation. If fav, re-ref to Finance. If fav, re-ref to Rules and Operations of the Senate	04/17/2019	
S 220	Davis	Removal of Political Signs by Citizens.	*R	Ch. SL 2019-119	03/14/2019	03/27/2019
S 432	Ballard	Birth Center & Pharm Benefits Mgr. Licensure.	*H	Conferees Changed	04/03/2019	04/10/2019
S 446	Davis	Electric/Plug-In Hybrid Vehicle Reg. Fees.	*S	Re-ref Com On Rules and Operations of the Senate	04/03/2019	04/10/2019
S 480	McInnis	Subdivision Streets/DOT Acceptance.	S	Re-ref to Transportation. If fav, re-ref to Rules and Operations of the Senate	04/30/2019	
S 511	Nickel	EV Charging Station/Parking.	S	Re-ref to Transportation. If fav, re-ref to Rules and Operations of the Senate	04/18/2019	
S 534	Edwards	Revisions to Outdoor Advertising Laws.	S	Re-ref to Transportation. If fav, re-ref to Judiciary. If fav, re-ref to Rules and Operations of the Senate	04/25/2019	
S 557	Krawiec	Various Finance Law Changes.	*R	Ch. SL 2019-246	04/11/2019	10/17/2019
S 606	Rabon	Prioritize Native NC Plants on Highway ROW.	R	Ch. SL 2019-148	04/04/2019	04/10/2019
S 620	McKissick	Electric Standup Scooters.	*S	Re-ref Com On Commerce and Insurance	06/25/2019	07/10/2019

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S 623	Tillman	Clearing Vehicle Registration Stops.	S	Re-ref to Transportation. If fav, re-ref to Rules and Operations of the Senate	05/02/2019
S 625	Tillman	Adjust LPA Pay Rates/DMV Advertising.	S	Re-ref to Transportation. If fav, re-ref to Finance. If fav, re-ref to Rules and Operations of the Senate	04/15/2019

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TRANSPORTATION COMMITTEE
February 27, 2019 at 12:00 PM
Room 1124/1224 in the Legislative Building

The Transportation Committee met on Wednesday, February 27, 2019 at 12:00 PM. The meeting was held in Room 1124/1224 in the Legislative Building.

Senator Tom McInnis presided.

Chair Senator McInnis called the meeting to order. He recognized the following Senate pages: Kalil Barnes from Salemburg sponsored by Senator Brent Jackson; Zaleha Mohamad Ali from Salemburg sponsored by Senator Brent Jackson, and Elius Momanyi, also from Salemburg and sponsored by Senator Brent Jackson. Senator McInnis recognized Sergeant-At-Arms Linda Matthews, Frank Ervin, and Archie Smith.

Senator McInnis announced Senate Bill 105 would be displaced and removed from today's calendar, to come back at another time. Senate Bill 68 and Senate Bill 61 would be heard and the committee will hear SB 68 first.

Senator Brown was recognized to explain SB 68 Relocation of Water/Sewer Line Costs. He explained there is an associated cost when cities and towns have to relocate water and sewer lines for transportation projects. If you are a town under 10,000 people, at this time you basically pay nothing and DOT pays for it. From 10 to 25,000 in population, you pay 25% of the cost. From 25 to 50,000 people you pay 50% of the cost and anything above 50,000 people, you pay all the cost to relocate those lines. What this bill does is it raises the 50,000 threshold up to 100,000 to help some of these cities and towns who are really struggling with relocating some of these water and sewer lines within their cities. The cost is about $2 million dollars to DOT.

Chair Senator McInnis opened the floor for questions from the committee. Senator Fitch was recognized to ask how long has this law been in existence.

Senator Brown responded it is his understanding it was put in place as law in 2015.

Chair Senator McInnis recognized Senator Fitch for a follow up comment. He said it's a good deal, and it's also a good time for us to understand when there's a long range plan for something it behooves us to put something in the hold in the beginning. It is cheaper when you do it earlier than it is when you come back.

Senator McInnis recognized Senator Harrington. She put forth a motion for a favorable report with a referral to Rules. The motion carried unanimously.

Chair Senator McInnis recognized Senator Jeff Jackson to present SB 61 The Guardian/Parent Authorized Plate. Senator Jackson said this bill was filed by Senator Jim Davis. He stated it was uncontroversial. If you are eligible and you apply, you can get a handicap placard. We are all familiar with those. You can also get a handicap license plate. They have the exact same privileges, and one is not more special than the other. You can apply for the placard if you are the handicapped person or if you are the parent or legal guardian of a handicapped person. What this bill does is create the option with the license plate. Right now only the handicapped individual can get the license plate. The parent or legal guardian cannot. This simply allows the parent or legal guardian to have the choice to have the placard or to have the license plates.

Chair Senator McInnis recognized Senator Fitch who commented you are allowing people to do what this bill does and what they ought to have been doing from the beginning. He happens to have a handicap placard himself, but he stated the handicap license would be better.

Chair Senator McInnis recognized Senator Warren Daniel for a question for the chair. "I see on this bill there are two esteemed Republican sponsors," he said. "I was just wondering why y'all had to go get a Charlotte lawyer to explain your bill for you?"

Chair Senator McInnis said every now and then we need a lawyer to put a blessing on something. Senator Jeff Jackson said, "That will be $500!" Warren Daniel.

Chair Senator McInnis recognized Senator Fitch who motioned for a favorable report for SB 61 with a referral to Rules. The motion passed unanimously.

Chair Senator McInnis reminded the committee SB 105 was on the calendar today. They did find it contained a couple of challenges. It will be worked on and brought forth at a future time. Having no other business for the Transportation Committee today, Senator McInnis recognized the members of the North Carolina Highway Patrol.

There being no further business, Chair Senator McInnis adjourned the meeting at 12:08 pm.

_____

Senator Tom McInnis
Presiding

_____

Lynn Taylor, Committee Clerk

Principal Clerk ____
Reading Clerk ____

Updated #1: SB 105 Added Back On

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	February 27, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 61	Community Colleges Budget/2019-2021 Biennium.	Senator J. Davis Senator McInnis Senator J. Jackson
SB 68	Relocation of Water/Sewer Line Costs.	Senator Brown
SB 105	Tax Rebate/Roanoke Rapids.	Senator J. Jackson Senator J. Davis Senator Britt

Chair: Senator Mcinnis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

TRANSPORTATION COMMITTEE REPORT
Senator J. Davis, Co-Chair
Senator McInnis, Co-Chair

Wednesday, February 27, 2019

Senator McInnis,
submits the following with recommendations as to passage:

FAVORABLE

SB **61** Guardian/Parent Authorized Plate.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

SB **68** Relocation of Water/Sewer Line Costs.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Jim Davis will handle SB 61
Senator Harry Brown will handle SB 68



SENATE BILL 61

Short Title:	Guardian/Parent Authorized Plate.	(Public)
Sponsors:	Senators J. Davis, McInnis, J. Jackson (Primary Sponsors); Garrett, Marcus, and Mohammed.	
Referred to:	Rules and Operations of the Senate	

February 14, 2019

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF HANDICAPPED LICENSE PLATES TO A REGISTERED VEHICLE OWNER THAT IS THE GUARDIAN OR PARENT OF A HANDICAPPED PERSON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-37.5 reads as rewritten:

"…

(1a) Guardian. – Any of the following:

a. Custodian. – As defined in G.S. 7B-101(8).

b. General Guardian. – As defined in G.S. 35A-1202(7).

c. Guardian of the person. – As defined in G.S. 35A-1202(10).

…."

SECTION 2. G.S. 20-37.6 reads as rewritten:

"…

(b) ~~Handicapped Car Owners;~~ Distinguishing License Plates. – If the ~~handicapped person is a~~ registered owner of a ~~vehicle,~~ vehicle is handicapped or the registered owner certifies that the registered owner is the guardian or parent of a handicapped person, the registered owner may apply for and display a distinguishing license plate. This license plate shall be issued for the normal fee applicable to standard license plates. Any vehicle owner who qualifies for a distinguishing license plate shall be notified by the Division at the time the plate is issued that the applicant is also eligible to receive one removable windshield placard and, upon request, shall be issued a placard at that time. A vehicle with a distinguishing license plate may be lawfully used when a handicapped person is not a driver or passenger so long as the vehicle is not using handicapped privileges including parking in a space designated with a sign pursuant to subsection (d) of this section.

(c) ~~Handicapped Drivers and Passengers;~~ Distinguishing Placards. – A handicapped person may apply for the issuance of a removable windshield placard or a temporary removable windshield placard. Upon request, one additional placard may be issued to applicants who do not have a distinguishing license plate. Any organization which, as determined and certified by the State Vocational Rehabilitation Agency, regularly transports handicapped persons may also apply. These organizations may receive one removable windshield placard for each transporting vehicle. When the removable windshield or temporary removable windshield placard is properly displayed, all parking rights and privileges extended to vehicles displaying a distinguishing license plate issued pursuant to subsection (b) shall apply. The removable windshield placard or the temporary removable windshield placard shall be displayed so that it may be viewed from

the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle using a parking space allowed for handicapped persons. When there is no inside rearview mirror, or when the placard cannot reasonably be hung from the rearview mirror by the handicapped person, the placard shall be displayed on the driver's side of the dashboard. A removable windshield placard placed on a motorized wheelchair or similar vehicle shall be displayed in a clearly visible location. The Division shall establish procedures for the issuance of the placards and may charge a fee sufficient to pay the actual cost of issuance, but in no event less than five dollars ($5.00) per placard. The Division shall issue a placard registration card with each placard issued to a handicapped person. The registration card shall bear the name of the person to whom the placard is issued, the person's address, the placard number, and an expiration date. The registration card shall be in the vehicle in which the placard is being used, and the person to whom the placard is issued shall be the operator or a passenger in the vehicle in which the placard is displayed.

(c1) Application and Renewal; Medical Certification. – The initial application for a distinguishing license plate, removable windshield placard, or temporary removable windshield placard shall be accompanied by a certification of a licensed physician, a licensed ophthalmologist, a licensed optometrist, a licensed physician assistant, a licensed nurse practitioner, or the Division of Services for the Blind that the applicant or person in the applicant's custody or care is handicapped or by a disability determination by the United States Department of Veterans Affairs that the applicant or person in the applicant's custody or care is handicapped. For an initial application for a temporary removable windshield placard only, the certification that the applicant is handicapped may be made by a licensed certified nurse midwife. The application for a temporary removable windshield placard shall contain additional certification to include the period of time the certifying authority determines the applicant will have the disability. Distinguishing license plates shall be renewed annually, but subsequent applications shall not require a medical certification that the applicant is ~~handicapped.~~ handicapped, except that a registered owner that certified pursuant to subsection (b) of this section that the registered owner is the guardian or parent of a handicapped person must recertify every five years. Removable windshield placards shall be renewed every five years, and, except for a person certified as totally and permanently disabled at the time of the initial application or a prior renewal under this subsection, the renewal shall require a medical recertification that the person is handicapped; provided that a medical certification shall not be required to renew any placard that expires after the person to whom it is issued is 80 years of age. Temporary removable windshield placards shall expire no later than six months after issuance.

...."

SECTION 3. This act becomes effective February 1, 2020.

SENATE BILL 61:
Handicapped & Various Other License Plates.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	**Date:**	July 23, 2019
Introduced by:	Sens. J. Davis, McInnis, J. Jackson	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 61 would authorize the Division of Motor Vehicles to issue a handicapped license plate to a vehicle owner who is the parent or legal guardian of a handicapped person. The bill also includes the contents of House Bill 449,[1] as passed by the House on April 16, which authorizes the Division of Motor Vehicles to produce four new special registration plates for which the organizations requesting the plates have completed the statutory plate development process.

SECTIONS 1& 2: GUARDIAN/PARENT AUTHORIZED PLATE

CURRENT LAW: G.S. 20-37.6 provides for parking privileges for handicapped[2] drivers and passengers who have applied for and obtained from the Division of Motor Vehicles a handicapped windshield placard or registration plate. Any vehicle that is driven by or is transporting a person who is handicapped and that displays a handicapped placard or plate is authorized to park in spaces designated as handicapped spaces.

If the handicapped person is a registered owner of a vehicle, he or she may apply for a distinguishing plate. A handicapped person who is not the owner of a vehicle may apply for a removable windshield placard. An initial application for a plate or a placard must be accompanied by certification from a medical professional that the applicant is handicapped.

Handicapped plates must be renewed annually but do not require medical recertification. Placards must be renewed every five years and require medical recertification that the applicant is handicapped, unless the applicant has been certified as totally and permanently disabled or is over the age of 80 at the time of the placard's expiration.

BILL ANALYSIS: Sections 1 and 2 of the bill would authorize the Division of Motor Vehicles to issue a handicapped plate to a vehicle owner who is the parent or legal guardian of a handicapped person. Currently, an owner who is not handicapped but regularly cares for a handicapped person would only have the option of applying for a removable placard for that individual.

These sections would allow a vehicle owner to apply for the plate by certifying that he or she is the parent or guardian of a handicapped person, as well as providing medical certification for the handicapped individual. Guardian is defined in the bill as a person who has been awarded legal custody of a juvenile by a court under Chapter 7B, or a guardian appointed for the purpose of performing duties related to the care, custody, and control of a ward under Chapter 35A.

[1] The Senate removed 3 of the 4 plates from House Bill 449, and the House did not concur in the Senate Committee Substitute.

[2] The statutory definition of "handicapped" appears at the end of this Bill Analysis.

A plate issued to the parent or guardian of a handicapped person would be renewed annually, and recertification would be required every five years.

These sections would also make clear that a person operating a vehicle with a handicapped plate is not entitled to park in a handicapped space when a handicapped person is not a driver or passenger in the vehicle.

SECTIONS 3-7: AUTHORIZE NEW SPECIAL REGISTRATION PLATES

CURRENT LAW: North Carolina offers a number of special registration plates. Upon application and payment of the required registration fees, a person may obtain from the Division of Motor Vehicles a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the plate. The issuance of most authorized plates is contingent upon the receipt by the Division of at least 300 applications for the particular plate, or 500 applications for full-color background plates.

As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee. The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $1.3 million is appropriated to provide operating assistance for Visitor Centers. The remaining revenue in the account is transferred quarterly to the Department of Transportation for highway beautification (50%) and the Highway Fund for the Roadside Vegetation Management Program (50%). The cost of some special plates includes a fee in addition to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries.

In 2014, the General Assembly enacted legislation creating a development process for special registration plates, which requires the organization desiring the plate to submit the required number of paid applications to the Division before legislation is introduced to authorize the plate. Once legislation has passed, the organization must submit the final artwork and list of paid applicants to the Division within 60 days, or the authorization expires.

BILL ANALYSIS: Sections 3-7 of the bill would authorize the Division to produce four new special registration plates as follows:

- ALS Research - A First in Flight plate with a picture of a baseball and the phrase "Cure ALS". The fee would be $30, with $20 going to The ALS Association of North Carolina Chapter to support ALS research.
- A Pet Is Family – A First in Flight plate with a picture of a paw print and the phrase "My Pet Is Family". The fee would be $15, with $5 going to The Sergei Foundation, Inc. to further its mission of saving companion pets' lives by coordinating care for sick and injured dogs and cats and providing families with resources to obtain life-saving veterinary care.
- Keeping The Lights On – A full color background plate with a background of mountains to the coast and a picture of a line worker on a utility pole and the phrase "Keeping The Lights On". The fee would be $30, with $20 going to the UNC Jaycee Burn Center.
- Wrightsville Beach – A First in Flight plate with the Town of Wrightsville Beach logo and the suffix WB after the assigned characters. The fee would be $20, with $10 going to the Town of Wrightsville Beach to help fund the Town's continuing efforts to maintain and improve recreational opportunities for residents and visitors of Wrightsville Beach.

Each of the organizations requesting these plates has completed the requirements of the plate development process, including submitting the required number of paid applications for the plate, as reported by the Division of Motor Vehicles.

EFFECTIVE DATE: The act would become effective March 1, 2020.

Trina Griffin, counsel to House Finance, contributed to this summary.

§ 20-37.5. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Article to the defined words and phrases and their cognates:

...

(2) "Handicapped" shall mean a person with a mobility impairment who, as determined by a licensed physician:

a. Cannot walk 200 feet without stopping to rest;

b. Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

c. Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume of one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

d. Uses portable oxygen;

e. Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;

f. Is severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition; or

g. Is totally blind or whose vision with glasses is so defective as to prevent the performance of ordinary activity for which eyesight is essential, as certified by a licensed ophthalmologist, optometrist, or the Division of Services for the Blind.

...

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 3

SENATE BILL 61
House Committee Substitute Favorable 7/11/19
House Committee Substitute #2 Favorable 10/8/19

Short Title: Community Colleges Budget/2019-2021 Biennium. (Public)

Sponsors:

Referred to:

February 14, 2019

A BILL TO BE ENTITLED

AN ACT, CONSISTENT WITH HOUSE BILL 966 OF THE 2019 REGULAR SESSION, TO ENACT A BUDGET FOR THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM; TO MAKE ADDITIONAL APPROPRIATIONS, TRANSFERS, AND REDUCTIONS TO THE BUDGET OF THE COMMUNITY COLLEGE SYSTEM; AND TO MAKE OTHER MODIFICATIONS RELATED TO THE OPERATIONS OF THE COMMUNITY COLLEGE SYSTEM.

The General Assembly of North Carolina enacts:

PART I. APPROPRIATIONS FOR THE COMMUNITY COLLEGE SYSTEM

INTRODUCTION

SECTION 1.1. The appropriations made in this act and S.L. 2019-209 are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget for the Community College System in accordance with the State Budget Act. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes, and the savings shall revert to the appropriate fund at the end of each fiscal year, except as otherwise provided by law.

CURRENT OPERATIONS AND EXPANSION

SECTION 1.2. In addition to the appropriations set forth in S.L. 2019-209 for the Community College System, appropriations from the General Fund for the budget of the Community College System are made for the fiscal biennium ending June 30, 2021, as follows:

Current Operations – General Fund	**FY 2019-2020**	**FY 2020-2021**
Community College System		
Requirements	$1,577,080,779	$1,574,065,397
Less: Receipts	380,447,392	380,212,392
Net Appropriation	**1,196,633,387**	**1,193,853,005**

COMMUNITY COLLEGE SYSTEM BUDGET APPROPRIATIONS

SECTION 1.3.(a) State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated for each fiscal year of the 2019-2021 fiscal biennium, as follows:

(1) All budget codes listed in the Governor's Recommended Budget and in the Budget Support Document for the Community College System for the 2019-2021 fiscal biennium submitted pursuant to G.S. 143C-3-5 are appropriated up to the amounts specified, as adjusted by the General Assembly in this act.

(2) Departmental receipts up to the amounts needed to implement the legislatively mandated salary increases and employee benefit increases provided in this act for each fiscal year of the 2019-2021 fiscal biennium.

SECTION 1.3.(b) Receipts collected in a fiscal year in excess of the amounts appropriated by this section shall remain unexpended and unencumbered until appropriated by the General Assembly, unless the expenditure of overrealized receipts in the fiscal year in which the receipts were collected is authorized by G.S. 143C-6-4. Overrealized receipts are appropriated in the amounts necessary to implement this subsection.

SECTION 1.3.(c) Funds may be expended only for the specified programs, purposes, objects, and line items or as otherwise authorized by the General Assembly.

OTHER RECEIPTS FROM PENDING AWARD GRANTS

SECTION 1.4.(a) Notwithstanding G.S. 143C-6-4, the Community Colleges System Office may, with approval of the Director of the Budget, spend funds received from grants awarded subsequent to the enactment of this act for grant awards that are for less than two million five hundred thousand dollars ($2,500,000), do not require State matching funds, and will not be used for a capital project. The Community Colleges System Office shall report to the Joint Legislative Commission on Governmental Operations within 30 days of receipt of such funds.

The Community Colleges System Office may spend all other funds from grants awarded after the enactment of this act only with approval of the Director of the Budget and after consultation with the Joint Legislative Commission on Governmental Operations.

SECTION 1.4.(b) The Office of State Budget and Management shall work with the Community Colleges System Office to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a time-limited basis. Funds received from such grants are hereby appropriated and shall be incorporated into the authorized budget of the Community College System.

SECTION 1.4.(c) Notwithstanding the provisions of this section, the Community Colleges System Office may not accept a grant not anticipated in this act if acceptance of the grant would obligate the State to make future expenditures relating to the program receiving the grant or would otherwise result in a financial obligation as a consequence of accepting the grant funds.

ESTABLISHING OR INCREASING FEES

SECTION 1.5. Notwithstanding G.S. 12-3.1, for the 2019-2021 fiscal biennium, the State Board of Community Colleges is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in this act.

DIRECTED GRANTS

SECTION 1.6.(a) Directed Grants; Definitions. – For purposes of this act, the following definitions apply:

(1) Directed grant. – Nonrecurring funds allocated by a State agency to a non-State entity as directed by an act of the General Assembly.

(2) Non-State entity. – As defined in G.S. 143C-1-1.

SECTION 1.6.(b) Directed Grants; Requirements. – Nonrecurring funds appropriated in this act as directed grants are subject to all of the following requirements:

(1) Directed grants are subject to the provisions of subsections (b) through (k) of G.S. 143C-6-23.

(2) Directed grants of one hundred thousand dollars ($100,000) or less may be made in a single annual payment in the discretion of the Director of the Budget. Directed grants of more than one hundred thousand dollars ($100,000) shall be made in quarterly or monthly payments in the discretion of the Director of the Budget. The Community Colleges System Office shall administer a directed grant to begin disbursement of funds to a non-State entity that meets all applicable requirements as soon as practicable, but no later than 100 days after the date this act becomes law.

(3) Beginning on the first day of a quarter following the deadline provided in subdivision (2) of this subsection and quarterly thereafter, the Community Colleges System Office shall report to the Fiscal Research Division on the status of funds disbursed for each directed grant until all funds are fully disbursed. At a minimum, the report required under this subdivision shall include updates on (i) the date of the initial contract, (ii) the date the contract was sent to the entity receiving the funds, (iii) the date the Community Colleges System Office received the fully executed contract back from the entity, (iv) the contract execution date, and (v) the payment date.

(4) Notwithstanding any provision of G.S. 143C-1-2(b) to the contrary, nonrecurring funds appropriated in this act as directed grants shall not revert until June 30, 2021.

(5) Directed grants are for nonsectarian, nonreligious purposes only.

SECTION 1.6.(c) Directed Grants; Sunset. – This section expires on June 30, 2021.

PART II. ADJUSTMENTS TO GENERAL FUND APPROPRIATIONS

USE OF GENERAL FUND APPROPRIATIONS FOR THE COMMUNITY COLLEGE SYSTEM

SECTION 2.1. Of the funds appropriated in this act to the Community Colleges System Office from the General Fund, the sum of thirty-two million six hundred ninety-three thousand nine hundred sixty-four dollars ($32,693,964) for the 2019-2020 fiscal year and the sum of twenty-nine million nine hundred thirteen thousand five hundred eighty-two dollars ($29,913,582) for the 2020-2021 fiscal year shall be used as follows:

(1) Residency Determination Service – Two million two hundred eighty-five thousand seven hundred fifty-seven dollars ($2,285,757) in recurring funds for each fiscal year of the 2019-2021 fiscal biennium for the statutorily required utilization of the Residency Determination Service, a centralized system for verification of residency status of postsecondary students in North Carolina.

(2) Workforce Development Focused IT and ERP (Fund Code 1200) – Ten million five hundred fifteen thousand dollars ($10,515,000) in nonrecurring funds for the 2019-2020 fiscal year and eight million five hundred thousand dollars ($8,500,000) in nonrecurring funds for the 2020-2021 fiscal year to implement system-wide Enterprise Resource Planning (ERP) solutions, including online registration for workforce development courses. These funds shall be transferred to Budget Code 26802, Fund Code 2307, and are hereby appropriated.

(3) North Carolina Independent Colleges and Universities (NCICU) Campus Police Training (Fund Code 1620) – Total tuition receipts shall be reduced by one hundred ten thousand dollars ($110,000) in recurring funds for the 2020-2021 fiscal year, and one hundred ten thousand dollars ($110,000) in recurring funds for the 2020-2021 fiscal year shall be provided for a tuition waiver granted to campus police officers from private colleges and universities in accordance with Section 3.2 of this act. Total requirements for this purpose shall remain the same.

(4) Short-Term Workforce Training Parity (Fund Code 1622) – Twelve million fifty-one thousand four hundred seventy-seven dollars ($12,051,477) in recurring funds for each fiscal year of the 2019-2021 fiscal biennium for short-term continuing education and workforce development courses leading to industry credentials. These funds shall be used to reduce the full-time equivalent (FTE) enrollment determination disparity between short-term workforce training and curriculum programs.

(5) Career Coaches (Fund Code 1624) – One million seven hundred thirty-three thousand four hundred thirteen dollars ($1,733,413) in recurring funds for the 2019-2020 fiscal year and two million three hundred thousand dollars ($2,300,000) in recurring funds for the 2020-2021 fiscal year for the Career Coaches program, which places career coaches employed by local community colleges with partnering high schools.

(6) North Carolina Military Business Center (Fund Code 1624) – Nine hundred thousand dollars ($900,000) in recurring funds for each fiscal year of the 2019-2021 fiscal biennium for the North Carolina Military Business Center at Fayetteville Technical Community College.

(7) South Piedmont Community College Training Center (Fund Code 1624) – One million five hundred thousand dollars ($1,500,000) in nonrecurring funds for the 2020-2021 fiscal year as a directed grant for an Aseptic Training Center at South Piedmont Community College.

(8) Piedmont Community College (Fund Code 1624) – One million one hundred seventy thousand dollars ($1,170,000) in nonrecurring funds for the 2019-2020 fiscal year to provide a matching grant in accordance with Section 3.6 of this act for an Educational and Agricultural Development Center at Piedmont Community College.

(9) Veterinary Equipment (Fund Code 1624) – Six hundred thirty-one thousand nine hundred sixty-nine dollars ($631,969) in nonrecurring funds for the 2019-2020 fiscal year as a directed grant to Gaston College to equip the Veterinary Medical Technology building.

(10) Anspach Advanced Manufacturing School (Fund Code 1624) – Five hundred fifteen thousand dollars ($515,000) in nonrecurring funds for the 2019-2020 fiscal year for the Anspach Advanced Manufacturing School at the Yancey County campus of Mayland Community College for the purchase of equipment and nonrecurring operational expenses.

(11) Randolph Community College (Fund Code 1624) – Two hundred fifty thousand dollars ($250,000) in nonrecurring funds for the 2019-2020 fiscal year as a directed grant for the purchase of equipment for Randolph Community College.

(12) Wayne Community College (Fund Code 1624) – One hundred thousand dollars ($100,000) in nonrecurring funds for the 2019-2020 fiscal year as a directed grant for repairs, renovations, and capital needs at Wayne Community College.

(13) Cape Fear Botanical Gardens (Fund Code 1624) – One hundred thousand dollars ($100,000) in nonrecurring funds for the 2019-2020 fiscal year as a directed grant to Fayetteville Technical Community College to support the Cape Fear Botanical Gardens.

(14) Truck Driver Training Program (Fund Code 1624) – Seventy-five thousand dollars ($75,000) in nonrecurring funds for the 2019-2020 fiscal year as a directed grant to Johnston Community College for a truck driver training program.

(15) McDowell Technical Community College (Fund Code 1624) – Seventy-five thousand dollars ($75,000) in nonrecurring funds for the 2019-2020 fiscal year as a directed grant for a pediatric patient simulator for the nursing program at McDowell Technical Community College and twenty-five thousand dollars ($25,000) in nonrecurring funds for the 2019-2020 fiscal year as a directed grant for a Wi-Fi connectivity project at McDowell Technical Community College.

(16) Workforce-Focused Multicampus Centers (Fund Code 1625) – Two million two hundred sixty-six thousand four hundred forty-eight dollars ($2,266,448) in recurring funds for each fiscal year of the 2019-2021 fiscal biennium to support four approved multicampus sites as follows: Forsyth Tech Transportation Campus, RTP Campus of Wake Technical Community College, the Scotland County Campus of Richmond Community College, and the Aviation Campus of Guilford Technical Community College.

GENERAL FUND REDUCTION

SECTION 2.2. For each fiscal year of the 2019-2021 fiscal biennium, the total requirements for the Community College System shall be reduced by the sum of seventeen million three hundred sixty-one thousand one hundred ninety-two dollars ($17,361,192), and the receipts for the Community College System shall be reduced by the sum of twelve million eight hundred eighty-four thousand two hundred sixteen dollars ($12,884,216) for enrollment changes and formula adjustments based on the decrease in community college enrollment.

CONTINGENT GENERAL FUND AGENCY TRANSFER

SECTION 2.3. If House Bill 966, 2019 Regular Session, becomes law, or if substantially similar legislation that appropriates the sum of one hundred twenty-five thousand dollars ($125,000) in nonrecurring funds from the General Fund to the Department of Environmental Quality for the 2019-2020 fiscal year for the Carteret Community College Aquaculture Program becomes law, the Department of Environmental Quality shall transfer the sum of one hundred twenty-five thousand dollars ($125,000) in nonrecurring funds to the Community Colleges System Office for the 2019-2020 fiscal year for the Shellfish Aquaculture Demonstration Center, a collaboration between NC Sea Grant and Carteret Community College. The funds shall be used to complete construction of a shelter to cover an outdoor area with nursery tanks and a workspace that shall be used for building aquaculture gear, sorting, processing, and handling product.

PART III. MODIFICATIONS TO THE COMMUNITY COLLEGES SYSTEM

CODIFY REORGANIZATION AUTHORITY OF COMMUNITY COLLEGES SYSTEM OFFICE

SECTION 3.1. G.S. 115D-3 reads as rewritten:

"**§ 115D-3. Community Colleges System Office; ~~staff.~~staff; reorganization authority.**

(a) The Community Colleges System Office shall be a principal administrative department of State government under the direction of the State Board of Community Colleges, and shall be separate from the free public school system of the State, the State Board of Education, and the Department of Public Instruction. The State Board has authority to adopt and administer all policies, regulations, and standards which it deems necessary for the operation of the System Office.

The State Board shall elect a President of the North Carolina System of Community Colleges who shall serve as chief administrative officer of the Community Colleges System Office. The compensation of this position shall be fixed by the State Board from funds provided by the General Assembly in the Current Operations Appropriations Act.

The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on nomination of the President. The compensation of the staff members elected by the Board shall be fixed by the State Board of Community Colleges, upon recommendation of the President of the Community College System, from funds provided in the Current Operations Appropriations Act. These staff members shall include such officers as may be deemed desirable by the President and State Board. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the State Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the State Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. The State Board of Community Colleges shall have all other powers, duties, and responsibilities delegated to the State Board of Education affecting the Community Colleges System Office not otherwise stated in this Chapter.

(b) Notwithstanding any other provision of law, the President may reorganize the System Office in accordance with recommendations and plans submitted to and approved by the State Board of Community Colleges. If a reorganization is implemented pursuant to this subsection, including any movement of positions and funds between fund codes on a recurring basis, the President shall report by June 30 of the fiscal year in which the reorganization occurred to the Joint Legislative Education Oversight Committee and the Fiscal Research Division of the General Assembly."

COMMUNITY COLLEGE TUITION WAIVER/CAMPUS POLICE OF PRIVATE INSTITUTIONS OF HIGHER EDUCATION

SECTION 3.2.(a) G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds. The State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for the following:

(1) Persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate.

(2) Courses requested by the following entities that support the organizations' training needs and are on a specialized course list approved by the State Board of Community Colleges:

a. Volunteer fire departments.
b. Municipal, county, or State fire departments.
c. Volunteer EMS or rescue and lifesaving departments.
d. Municipal, county, or State EMS or rescue and lifesaving departments.
d1. Law enforcement, fire, EMS or rescue and lifesaving entities serving a lake authority that was created by a county board of commissioners prior to July 1, 2012.
e. Radio Emergency Associated Communications Teams (REACT) under contract to a county as an emergency response agency.
f. Municipal, county, or State law enforcement agencies.
f1. Campus police agencies of private institutions of higher education certified by the Attorney General pursuant to Chapter 74G of the General Statutes.
g. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the training of full-time custodial employees and employees of the Division required to be certified under Article 1 of Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.
h. Repealed by Session Laws 2017-186, s. 2(hhhhh), effective December 1, 2017.
i. The Eastern Band of Cherokee Indians law enforcement, fire, EMS or rescue and lifesaving tribal government departments or programs.
j. The Criminal Justice Standards Division of the Department of Justice for the training of criminal justice professionals, as defined in G.S. 17C-20(6), who are required to be certified under (i) Article 1 of Chapter 17C of the General Statutes and the rules of the North Carolina Criminal Justice Education and Training Standards Commission or (ii) Chapter 17E of the General Statutes and the rules of the North Carolina Sheriffs' Education and Training Standards Commission. The waivers provided for in this sub-subdivision apply to participants and recent graduates of the North Carolina Criminal Justice Fellows Program to obtain certifications for eligible criminal justice professions as defined in G.S. 17C-20(6).

...."

SECTION 3.2.(b) This section applies beginning with the 2019-2020 academic year.

NC CAREER COACHES/LOCAL MATCHING FUNDS

SECTION 3.3. G.S. 115D-21.5(c) reads as rewritten:

"(c) Application for NC Career Coach Program Funding. – The board of trustees of a community college and a local board of education of a local school administrative unit within the service area of the community college jointly may apply for available funds for NC Career Coach Program funding from the State Board of Community Colleges. The State Board of Community Colleges shall establish a process for award of funds as follows:

(1) Advisory committee. – Establishment of an advisory committee, which shall include representatives from the NC Community College System, the Department of Public Instruction, the Department of Commerce, and at least three representatives of the business community, to review applications and make recommendations for funding awards to the State Board.

(2) Application submission requirements. – The State Board of Community Colleges shall require at least the following:
a. Evidence of a signed memorandum of understanding that meets, at a minimum, the requirements of this section.
b. Evidence that the funding request will be matched ~~dollar-for-dollar~~ with local ~~funds.~~funds in accordance with the following:
1. Matching funds may come from public or private sources.
2. The match amount shall be determined based on the development tier designation of the county in which the local school administrative unit is located where the career coach is assigned on the date of the award of funds by the State Board of Community Colleges according to the following:
I. If located in a tier one county as defined in G.S. 143B-437.08, no local match shall be required.
II. If located in a tier two county as defined in G.S. 143B-437.08, one dollar ($1.00) of local funds for every two dollars ($2.00) in State funds shall be required.
III. If located in a tier three county as defined in G.S. 143B-437.08, one dollar ($1.00) of local funds for every one dollar ($1.00) in State funds shall be required.

(3) Awards criteria. – The State Board of Community Colleges shall develop criteria for consideration in determining the award of funds that shall include the following:
a. Consideration of the workforce needs of business and industry in the region.
b. Targeting of resources to enhance ongoing economic activity within the community college service area and surrounding counties.
c. Geographic diversity of awards."

ALLOW COMMUNITY COLLEGES TO EARN FTE FOR INSTRUCTION IN LOCAL JAILS

SECTION 3.4.(a) Section 8.3(b) of S.L. 2010-31 reads as rewritten:

"**SECTION 8.3.(b)** Courses in federal prisons ~~or local jails~~ shall not earn regular budget full-time equivalents, but may be offered on a self-supporting basis."

SECTION 3.4.(b) G.S. 115D-5 reads as rewritten:

"**§ 115D-5. Administration of institutions by State Board of Community Colleges; personnel exempt from North Carolina Human Resources Act; extension courses; tuition waiver; in-plant training; contracting, etc., for establishment and operation of extension units of the community college system; use of existing public school facilities.**

...

(c) No course of instruction shall be offered by any community college at State expense or partial State expense to any captive or co-opted group of students, as defined by the State Board of Community Colleges, without prior approval of the State Board of Community Colleges. All course offerings approved for State prison inmates or prisoners in local jails must be tied to clearly identified job skills, transition needs, or both. Approval by the State Board of Community Colleges shall be presumed to constitute approval of both the course and the group served by that institution. The State Board of Community Colleges may delegate to the President the power to make an initial approval, with final approval to be made by the State Board of

Community Colleges. A course taught without such approval will not yield any full-time equivalent students, as defined by the State Board of Community Colleges.

(c1) Community colleges shall report full-time equivalent (FTE) student hours for correction education programs on the basis of ~~contact hours rather than~~ student membership hours. No community college shall operate a multi-entry/multi-exit class or program in a prison facility, except for a literacy class or program.

The State Board shall work with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety on offering classes and programs that match the average length of stay of an inmate in a prison facility.

...."

SECTION 3.4.(c) Beginning with the 2019-2020 academic year, community college courses offered in local jails shall earn regular budget full-time equivalents.

WAIVE TUITION/DEPENDENTS OF FALLEN CORRECTIONAL OFFICERS

SECTION 3.5.(a) G.S. 115B-1 reads as rewritten:

"**§ 115B-1. Definitions.**

The following definitions apply in this Chapter:

(1) Correctional officer. – An employee of an employer who is certified as a State correctional officer under the provisions of Article 1 of Chapter 17C of the General Statutes.

~~(1)~~(1a) Employer. – The State of North Carolina and its departments, agencies, and institutions; or a county, city, town, or other political subdivision of the State.

...

(4) Permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty. – A person: (i) who as a law enforcement officer, correctional officer, firefighter, volunteer firefighter, or rescue squad worker suffered a disabling injury while in active service or training for active service, (ii) who at the time of active service or training was a North Carolina resident, and (iii) who has been determined to be permanently and totally disabled for compensation purposes by the North Carolina Industrial Commission.

...

(6) Survivor. – Any person whose parent, legal guardian, legal custodian, or spouse: (i) was a law enforcement officer, a correctional officer, a firefighter, a volunteer firefighter, or a rescue squad worker, (ii) was killed while in active service or training for active service or died as a result of a service-connected disability, and (iii) at the time of active service or training was a North Carolina resident. The term does not include the widow or widower of a law enforcement officer, correctional officer, firefighter, volunteer firefighter, or a rescue squad worker if the widow or widower has remarried.

...."

SECTION 3.5.(b) G.S. 115B-2(a) reads as rewritten:

"(a) The constituent institutions of The University of North Carolina and the community colleges as defined in G.S. 115D-2(2) shall permit the following persons to attend classes for credit or noncredit purposes without the required payment of tuition:

...

(2) Any person who is the survivor of a law enforcement officer, correctional officer, firefighter, volunteer firefighter, or rescue squad worker killed as a direct result of a traumatic injury sustained in the line of duty.

(3) The spouse of a law enforcement officer, correctional officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty.

(4) Any child, if the child is at least 17 years old but not yet 24 years old, whose parent, legal guardian, or legal custodian is a law enforcement officer, correctional officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty. However, a child's eligibility for a waiver of tuition under this Chapter shall not exceed: (i) 54 months, if the child is seeking a baccalaureate degree, or (ii) if the child is not seeking a baccalaureate degree, the number of months required to complete the educational program to which the child is applying.

...."

SECTION 3.5.(c) G.S. 115B-5(b)(3) reads as rewritten:

"(3) The cause of death of the law enforcement officer, correctional officer, firefighter, volunteer firefighter, or rescue squad worker shall be verified by certification from the records of the Department of State Treasurer, the appropriate city or county law enforcement agency that employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under the Department of State Auditor, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities."

SECTION 3.5.(d) This section applies beginning with the 2019-2020 academic year.

PIEDMONT COMMUNITY COLLEGE CENTER FOR EDUCATIONAL AND AGRICULTURAL DEVELOPMENT/MATCHING FUNDS

SECTION 3.6. The funds appropriated to the Community Colleges System Office by this act for the 2019-2020 fiscal year for the Center for Educational and Agricultural Development at Piedmont Community College shall be matched by the Board of Trustees of Piedmont Community College on the basis of two dollars ($2.00) in allocated State funds for every one dollar ($1.00) in non-State funds. The Community Colleges System Office shall only allocate the funds upon the Board of Trustees providing the required match of non-State funds for the total amount of State funds. These matching funds shall not revert at the end of each fiscal year to the General Fund, but shall remain available until June 30, 2023. If the Community Colleges System Office has not allocated these funds to Piedmont Community College by the end of the 2022-2023 fiscal year, the funds shall then revert to the General Fund.

COMMUNITY COLLEGE ENROLLMENT GROWTH/PAMLICO CORRECTIONAL INSTITUTION

SECTION 3.7. When calculating the enrollment growth budget request for the 2020-2021 fiscal year, the Community Colleges System Office shall adjust the full-time equivalent (FTE) enrollment to reflect the FTE lost due to the fire at Pamlico Correctional Institution.

COMMUNITY COLLEGE SYSTEM TRANSITION

SECTION 3.8.(a) G.S. 143B-1325(d) reads as rewritten:

"(d) Report on Transition Planning. – The ~~Community College System Office, the~~ Department of Public ~~Instruction,~~ Instruction and the Bipartisan State Board of Elections and Ethics Enforcement shall work with the State CIO to plan their transition to the Department. The information technology transfer and consolidation from the Department of Revenue to the Department shall not take place until the Secretary of the Department of Revenue determines that the system and data security of the Department meets the heightened security standards required by the federal government for purposes of sharing taxpayer information. By October 1, 2018, the Department of Public Instruction and the Bipartisan State Board of Elections and Ethics

Enforcement, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on their respective transition plans. ~~By October 1, 2019, the Community College System Office, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its transition plan.~~"

SECTION 3.8.(b) The Community Colleges System Office shall enter into a memorandum of understanding with the Department of Information Technology with respect to coordinating information technology systems and policies. By February 1, 2020, the Community Colleges System Office, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the memorandum of understanding.

PART IV. MODIFICATIONS FOR COMMUNITY COLLEGE STUDENT FINANCIAL ASSISTANCE PROGRAMS

EDUCATION LOTTERY SCHOLARSHIP MODIFICATIONS

SECTION 4.1.(a) G.S. 115C-499.2 reads as rewritten:

"**§ 115C-499.2. Eligibility requirements for a scholarship.**

In order to be eligible to receive a scholarship under this Article, a student seeking a degree, diploma, or certificate at an eligible postsecondary institution must meet all of the following requirements:

(1) Only needy North Carolina students are eligible to receive scholarships. For purposes of this subsection, "needy North Carolina students" are those eligible students whose expected family contribution under the federal methodology does not exceed ~~five~~ six thousand dollars ~~($5,000).~~($6,000).

...."

SECTION 4.1.(b) G.S. 115C-499.3(a) reads as rewritten:

"(a) Subject to the amount of net income available under G.S. 18C-164(b)(2), a scholarship awarded under this Article to a student at an eligible postsecondary institution shall be based upon the enrollment status and expected family contribution of the student and shall not exceed ~~four~~ five thousand one hundred dollars ~~($4,000)~~ ($5,100) per academic year, including any federal Pell Grant, to be used for the costs of attendance as defined for federal Title IV programs."

SECTION 4.1.(c) This section applies beginning with the award of scholarships for the 2020-2021 academic year.

PART V. MISCELLANEOUS

STATE BUDGET ACT APPLIES

SECTION 5.1.(a) The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

SECTION 5.1.(b) The budget enacted by the General Assembly is for the maintenance of the Community College System for the 2019-2021 biennial budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted a recommended budget to the General Assembly in the Governor's Recommended Budget and in the Budget Support Document for the Community College System for the 2019-2021 fiscal biennium, dated March 2019. The adjustments to the recommended budget for the Community College System made by the General Assembly are set out in this act.

SECTION 5.1.(c) The budget enacted by the General Assembly for the Community College System shall also be interpreted in accordance with the provisions of this act and other appropriate legislation. In the event that there is a conflict between the line-item budget certified by the Director of the Budget for the Community College System and the budget enacted by the General Assembly for the Community College System, the budget enacted by the General Assembly for the Community College System shall prevail.

APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

SECTION 5.2.(a) If House Bill 966, 2019 Regular Session, becomes law, then Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.9, 8A.5, 18.17C, and 37.3 of that act are repealed.

SECTION 5.2.(b) Except where expressly repealed or amended, S.L. 2019-209, S.L. 2019-224, and any other enactments affecting the State budget during the 2019 Regular Session of the General Assembly shall remain in effect.

MOST TEXT APPLIES ONLY TO THE 2019-2021 FISCAL BIENNIUM

SECTION 5.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2019-2021 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2019-2021 fiscal biennium.

EFFECT OF HEADINGS

SECTION 5.4. The headings to the Parts, subparts, and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part or subpart.

SEVERABILITY CLAUSE

SECTION 5.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

PART VI. EFFECTIVE DATE

SECTION 6.1. Except as otherwise provided, this act becomes effective July 1, 2019.

SENATE BILL 61: Community Colleges Budget/2019-2021 Biennium.

2019-2020 General Assembly

Committee:	House Appropriations	**Date:**	October 7, 2019
Introduced by:	Sens. J. Davis, McInnis, J. Jackson	**Prepared by:**	Leslie Karkanawi Staff Attorney
Analysis of:	PCS to Second Edition S61-CSMKa-1		

OVERVIEW: The Proposed Committee Substitute for Senate Bill 61 would enact a budget with adjustments consistent with House Bill 966 for the North Carolina Community College System.

CURRENT LAW:

Part I: Appropriates funds to the Community College System for the 2019-2021 fiscal biennium based on the Governor's Recommended Budget and Budget Support Document for the Community College System, as adjusted by the General Assembly. This part also contains boiler plate language governing the receipt and use of grant funds, establishing or increasing fees, and the appropriation of directed grants.

Part II: Adjusts the Governor's Recommended Budget and Budget Support Document for the Community College System for the 2019-2021 fiscal biennium. These adjustments are identical to the Joint Conference Committee Report on the Current Operations Appropriations Act of 2019, House Bill 966, dated June 25, 2019, for the Community College System, with the following revision: contingency language for a potential agency transfer of funds for the Carteret Community College Aquaculture Program depending on the availability of funds, consistent with House Bill 966.

Part III: Contains Community College System special provisions from House Bill 966 from Part VI, Part XVIII related to an FTE adjustment due to a fire at Pamlico Correctional Institution, and Part XXXVII related to the coordination of information technology systems and policies with a date revision. The provision from Part VI on surety bonds and related insurance is not included as it was previously enacted by S.L. 2019-139.

Part IV: Contains a Community College System special provision from House Bill 966 from Part VIII-A related to student financial assistance programs.

Part V: Sets forth boilerplate language governing enactment of the Community College System budget.

EFFECTIVE DATE: Except as otherwise provided, this act becomes effective July 1, 2019.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 1

SENATE BILL 68

Short Title:	Relocation of Water/Sewer Line Costs.	(Public)
Sponsors:	Senators Brown (Primary Sponsor); Harrington and Hise.	
Referred to:	Rules and Operations of the Senate	

February 18, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PERCENTAGE OF NONBETTERMENT COST PAID BY MUNICIPALITIES FOR THE RELOCATION OF WATER AND SEWER LINES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-27.1(b) reads as rewritten:

"(b) A municipality with a population of greater than 10,000 shall pay a percentage of the nonbetterment cost for relocation of water and sewer lines owned by the municipality and located within the existing State transportation project right-of-way that are necessary to be relocated for a State transportation improvement project. The percentage shall be based on the municipality's population, with the Department paying the remaining costs, as follows:

(1) A municipality with a population of greater than 10,000, but less than 25,000, shall pay twenty-five percent (25%) of the cost.

(2) A municipality with a population of 25,000 or greater, but less ~~than 50,000,~~ than 100,000, shall pay fifty percent (50%) of the cost.

(3) A municipality with a population ~~of 50,000~~ of 100,000 or greater shall pay one hundred percent (100%) of the cost."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 68:
Relocation of Water/Sewer Line Costs.

2019-2020 General Assembly

Committee:	Senate Rules and Operations of the Senate	**Date:**	February 28, 2019
Introduced by:	Sen. Brown	**Prepared by:**	Shawn Middlebrooks
Analysis of:	First Edition		Staff Attorney*

OVERVIEW: House Bill 68 would amend the law requiring the North Carolina Department of Transportation (NCDOT) to pay a percentage of nonbetterment costs for certain water and sewer line relocations when located within the right-of-way (ROW) of State transportation improvement projects.

CURRENT LAW: G.S. 136-27.1(a) requires DOT to pay for nonbetterment costs for water and sewer relocations within State transportation improvement project ROW and owned by a:

- municipality with a population of less than 10,000;
- non-profit water and sewer association or corporation;
- water and sewer system organized under Chapter 162A;
- County operating a rural water system as an enterprise system;
- A sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A;
- a municipality with a population of greater than 10,000 when the system was constructed by water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to that municipality; or
- a local board of education.

G.S. 136-27.1(b) generally requires municipalities with a population greater than 10,000 to pay a percentage of the nonbetterment costs for the relocation of water and sewer lines as follows:

- A municipality with a population greater than 10,000, but less than 25,000, shall pay twenty-five percent (25%) of the cost.
- A municipality with a population of 25,000 or greater, but less than 50,000, shall pay fifty percent (50%) of the cost.
- A municipality with a population of 50,000 or greater shall pay one hundred percent (100%) of the cost.

BILL ANALYSIS: This bill would modify the population ranges upon which the percentages are based. The bill would make the following changes: Municipalities between 25,000 and 100,000 would be responsible for 50% of costs; and municipalities with populations of 100,000 or greater would be responsible for 100% of the costs.

EFFECTIVE DATE: This act would become effective when it becomes law.

**Staff Attorney Howard Marsilio contributed substantially to this summary*

ıren Cochrane-Brown
Director

S68-SMBQ-10 E1 -V-3

Legislative Analysis Division
(919) 733-2578

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

NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Legislative Fiscal Note

Short Title: Relocation of Water/Sewer Line Costs.
Bill Number: Senate Bill 68 (First Edition)
Sponsor(s): **Senator Brown**

SUMMARY TABLE

FISCAL IMPACT OF S.B. 68, 1st Edition

	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
State Impact					
Highway Trust Fund Revenue	-	-	-	-	-
Less Expenditures	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Highway Trust Fund Impact	**(2,000,000)**	**(2,000,000)**	**(2,000,000)**	**(2,000,000)**	**(2,000,000)**
Special Fund Revenues	0	0	0	0	0
Less Expenditures	0	0	0	0	0
Special Fund Impact	**0**	**0**	**0**	**0**	**0**
NET STATE IMPACT	**($2,000,000)**	**($2,000,000)**	**($2,000,000)**	**($2,000,000)**	**($2,000,000)**
Local Impact/Certain Municipalities* **					
Local Revenue	-	-	-	-	-
Less Local Expenditures	(2,000,000)	(2,000,000)	(2,000,000)	(2,000,000)	(2,000,000)
NET LOCAL IMPACT	**$2,000,000**	**$2,000,000**	**$2,000,000**	**$2,000,000**	**$2,000,000**

***Certain Municipalities with populations between 50,000 and 100,000 (see Fiscal Analysis Section)

TECHNICAL CONSIDERATIONS: **N/A**

FISCAL IMPACT SUMMARY

SB 68 will cost North Carolina Department of Transportation (NCDOT) approximately $2M annually. SB 68 reduces the amount of financial responsibility for certain municipalities to relocate water/sewer lines resulting from construction of a State transportation improvement project. Under the current law municipalities with populations with 50,000-100,000 are required

to pay 100% of the cost to relocate these utility lines. SB 68 would require NCDOT to participate in 50% of the relocation costs for these municipalities resulting in approximately $2M annually.

Fiscal Analysis

The additional cost to NCDOT relates to new cost-sharing with certain municipalities which had previously been responsible for 100% of the cost for relocation of water and sewer lines. The chart below shows the breakout of municipalities by population and the current and proposed financial responsibility broken out by municipalities and NCDOT and the one proposed change related to those municipalities between populations of 50,000 and 100,000. The estimated additional costs to NCDOT would be approximately $2M annually, based upon four complete years of data and one partial year.

Municipalities	Current Law	SB 68	Additional NCDOT Cost
<10,000 Population	$0 paid by Municipalities	No Change	-
Greater Than10,000 - Less Than 25,000 Population	25% of cost paid by Municipality	No Change	-
25,000 - Less Than 50,000 Population	50% of cost paid by Municipality	No Change	-
50,000 - Less Than 100,000 Population	100% of Cost paid by Municipalities	DOT would cost-share at 50%	$2M/year
100,000 or Greater in Population	100% of Cost paid by Municipalities	No Change	-
Projected Total Cost of SB 68			$2M/year

Technical Considerations

N/A.

Data Sources

North Carolina Department of Transportation

Legislative Fiscal Note – Purpose and Limitations

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

ESTIMATE PREPARED BY

Lisa Hollowell

ESTIMATE APPROVED BY

Mark Trogdon, Director of Fiscal Research
Fiscal Research Division
July 17, 2019



Signed copy located in the NCGA Principal Clerk's Offices

SENATE BILL 105

Short Title:	Federal Motor Carrier Safety/PRISM.	(Public)
Sponsors:	Senators J. Jackson, J. Davis, and Britt (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

February 25, 2019

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT REQUIREMENTS OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION'S PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT (PRISM) PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-43.3. Authorization for the collection of data to enforce the Federal Motor Carrier Safety Administration's Performance and Registration Information Systems Management (PRISM) program.**

The Division is authorized to collect and maintain necessary motor carrier or commercial motor vehicle data in a manner that complies with the information system established by the United States Secretary of Transportation under 49 U.S.C. § 31106."

SECTION 2. G.S. 20-54(9) reads as rewritten:

"(9) The applicant motor carrier is subject to an order issued by the Federal Motor Carrier Safety Administration or the ~~Division to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~Division. The Division shall deny registration of a vehicle of a motor carrier if the applicant fails to disclose material information required, or if the applicant has made a materially false statement on the application, or if the applicant has applied as a subterfuge for the real party in interest who has been issued a Federal out-of-service order, or if the applicant's business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, family member, corporate officer, or shareholder. The Department shall deny registration for a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the Federal Motor Carrier Safety Administration or a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, family member, corporate officer, or shareholder."

SECTION 3. G.S. 20-110 reads as rewritten:

"...

(m) The Division shall rescind and cancel the registration of vehicles of a motor carrier that is the subject ~~to an~~ of an order issued by the Federal Motor Carrier Safety Administration or the ~~Division to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~Division.

(n) The Division shall rescind and cancel the registration of a vehicle of a motor carrier if the applicant fails to disclose material information required, or if the applicant has made a

materially false statement on the application, or if the applicant has applied as a subterfuge for the real party in interest who has been issued a Federal out-of-service order, or if the applicant's business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, family member, corporate officer, or shareholder. The Division shall rescind and cancel the registration for a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the Federal Motor Carrier Safety Administration or a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, family member, corporate officer, or shareholder."

SECTION 4. G.S. 20-381(a) reads as rewritten:

"(a) The Department of Public Safety has the following powers and duties concerning motor carriers:

...

(4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers ~~rated unsatisfactory, to determine whether the continued operations of intrastate motor carriers pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the operation of an intrastate motor carrier found to be an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~when subject to an out-of-service order issued by the Federal Motor Carrier Safety Administration or the department.

(5) To ~~prohibit the intrastate operation of a motor carrier subject to an~~ enforce any order issued by the Federal Motor Carrier Safety Administration ~~to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~including the authority to seize registration plates pursuant to the provisions of G.S. 20-45 from motor carriers whose registration was rescinded and cancelled pursuant to G.S. 20-110(m) or G.S. 20-110(n)."

SECTION 5. This act is effective 90 days after it becomes law.

SENATE BILL 105:
Federal Motor Carrier Safety/PRISM.

2019-2020 General Assembly

Committee:	Senate Rules and Operations of the Senate	**Date:**	March 7, 2019
Introduced by:	Sens. J. Jackson, J. Davis, Britt	**Prepared by:**	Susan Sitze*
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: Senate Bill 105 would make various changes to the motor vehicle laws of this State to incorporate requirements of the Federal Motor Carrier Safety Administration's (FMCSA) Performance and Registration Information Systems Management (PRISM) Program.

CURRENT LAW: G.S. 20-4.01 defines "motor carrier" as either a for-hire motor carrier or a private motor carrier. Under federal law generally, motor carriers operate commercial motor vehicles that (1) has a gross weight rating of 10,001 pounds or more; (2) is designed or used to transport more than 8 passengers (including the driver) for compensation; or is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or (4) is used in transporting material found by the Secretary of Transportation to be hazardous under federal law.

G.S. 20-54 outlines the grounds for which NCDMV is authorized to refuse registration or issuance of a certificate of title for motor vehicles. Currently G.S. 20-54(9), authorizes NCDMV to refuse a registration when an applicant motor carrier is subject to a Federal Motor Carrier Safety Administration (FMCSA) or NCDMV order to cease operations, for an imminent hazard as defined under federal law.

G.S. 20-110 outlines the grounds for which NCDMV is authorized to rescind and cancel a registration issued by NCDMV. Currently G.S. 20-110(m), authorizes NCDMV to rescind and cancel registrations of vehicles of a motor carrier subject to a Federal Motor Carrier Safety Administration or NCDMV order to cease operations for an imminent hazard as defined under federal law.

G.S. 20-377 establishes that the North Carolina Department of Public Safety (NCDPS) "shall have and exercise such general power and authority to supervise and control the motor carriers of the State as may be necessary to carry out the laws providing for their regulation...." G.S. 20-381 outlines the specific duties of the NCDPS related to motor carriers. As part of their duties, subdivisions (4) and (5) of that section, authorize NCDPS to prohibit the operation of intrastate motor carriers based on their own finding that a motor carrier poses an imminent hazard, or based on an order from the FMCSA ceasing operations based on an imminent hazard as defined under federal law.

BILL ANALYSIS: Section 1 of the bill would authorize the NCDMV to collect and maintain necessary motor carrier or commercial motor vehicle data in compliance with Performance and Registration Information Systems Management program.

Section 2 and Section 3 of the bill amends G.S. 20-54 and G.S. 20-110 respectively. Section 2 of the bill would amend G.S. 20-54(9), by striking the language specifying that the order must be based on an imminent hazard, and would give NCDMV the broader authority to refuse registration based on any order of the FMCSA or the Division.

aren Cochrane-Brown
Director

Legislative Analysis
Division
919-733-2578

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

Section 3 of the bill would amend G.S. 20-110(m), by striking the language specifying that the order must be based on an imminent hazard, and would give NCDMV the broader authority to rescind and cancel registrations based on any order of the FMCSA or the Division.

Both Sections 2 and 3 of the bill add additional grounds for refusing to issue registrations, or rescinding and cancelling existing registrations if:

- the applicant fails to disclose material information required, or if the applicant has made a materially false statement on the application;
- the applicant has applied as a subterfuge for the real party in interest who has been issued a federal out of service order;
- the applicant's business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, family member, corporate officer, or shareholder; or
- a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the Federal Motor Carrier Safety Administration or a carrier whose business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the owner, a relative, family member, corporate officer, or shareholder.

Section 4 of the bill would amend G.S. 20-381 by removing the imminent hazard criteria and allowing NCDPS to prohibit the operations of intrastate carriers when subject to an out-of-service order issued by the FMCSA or the Department of Public Safety, and giving NCDPS authority to enforce any order of the FMCSA and clarifying their authority to seize registration plates pursuant to G.S. 20-45 of an intrastate motor carrier whose registration was rescinded and cancelled under Section 2 and 3 of this act.

EFFECTIVE DATE: This act is effective 90 days after it becomes law.

**Howard Marsilio, Staff Attorney, substantially contributed to this summary.*

NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Legislative Fiscal Note

Short Title: Federal Motor Carrier Safety/PRISM.
Bill Number: Senate Bill 105 (First Edition)
Sponsor(s): **Senators J. Jackson, J. Davis, and Britt**

SUMMARY TABLE

FISCAL IMPACT OF S.B.105, V.1

	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
State Impact					
Highway Fund Revenue	$ -	$ -	$ -	$ -	$ -
Less Expenditures	$ 369,000	$ 36,900	$ 36,900	$ 36,900	$ 36,900
Highway Fund Impact	**$ (369,000)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**
NET STATE IMPACT	**$ (369,000)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**

TECHNICAL CONSIDERATIONS: **See Technical Considerations Section**

FISCAL IMPACT SUMMARY

It is estimated that S.B. 105 will result one-time costs of $369,000 in the first year and annual maintenance costs of $36,900 beginning in year two.

S.B. 105 implements requirements of the Federal Motor Carrier Safety Administration's (FMCSA) Performance and Registration Information Systems Management (PRISM) Program.

Section 1 authorizes DMV to collect and maintain necessary motor carrier and commercial motor vehicle data in a manner that complies with federal standards.

Section 2 amends G.S. 20-54(9) by requiring the DMV to deny vehicle registration for a motor carrier for the following reasons:

- Failed to disclose material information required;
- Provided a materially false statement on the application;
- Applied as a subterfuge for the real party in interest who has been issued a Federal out-of-service order; or,
- If the motor carrier's business is controlled or affiliated with a person who is ineligible for registration.

DMV will also be required to deny registration for a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the FMCSA or a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration.

Section 3 amends G.S. 20-110 to make conforming changes to the cancelling and rescinding of a vehicle of a motor carrier.

Section 4 amends G.S. 20-381(a) to broaden the powers of the Department of Public Safety (DPS) to (1) prohibit the operation of intrastate motor carriers subject to any out-of-service order issued by DPS or by FMCSA and (2) enforce any FMCSA order.

Section 5 makes all changes effective 90 days after becoming law.

FISCAL ANALYSIS

Sections 1-3

DMV operates and maintains the computer systems that maintains vehicle data and motor carrier data. Vehicle data resides in STARS and motor carrier data in the IRP system. Both systems will require technical modifications for full compliance with expanded federal requirements.

DMV estimates that the changes required by S.B. 105 will incur one-time costs of $369,000 to develop and modify the STARS and IRP systems for federal compliance. This estimate includes an estimated 4,630 in-house labor hours. Additionally, it is estimated that maintenance costs will be $36,900 annually following the completion of program modification.

Section 4

S.B. 105, Section 4 does not have a fiscal impact.

TECHNICAL CONSIDERATIONS

DMV cannot implement this law within 90 days due to the time estimated by DMV to complete modifications to the STARS and IRP systems. DMV proposes a new effective date of August 31, 2020.

DATA SOURCES

DIVISION OF MOTOR VEHICLES, DEPARTMENT OF TRANSPORTATION, NORTH CAROLINA STATE HIGHWAY PATROL

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

ESTIMATE PREPARED BY

Mary Greeson

ESTIMATE APPROVED BY

Mark Trogdon, Director of Fiscal Research
Fiscal Research Division
March 5, 2019



Signed copy located in the NCGA Principal Clerk's Offices

Principal Clerk ____
Reading Clerk ____

Updated #1: TIME: 12 PM

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	March 6, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 105	Tax Rebate/Roanoke Rapids.	Senator J. Jackson Senator J. Davis Senator Britt
SB 113	DMV/Emergency Contact Information.	Senator J. Davis

Chair: Senator McInnis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation

Wednesday, March 6th, 2019, at 12:00 PM

1027/1128 Legislative Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on Wednesday, March 6th, 2019, in Room 1027/1128 of the Legislative Building. There were 16 Senator present at the committee meeting.

Senator Jim Davis, Chair, presided.

Senator Jim Davis opened the meeting at 12:01 p.m. Chairman Davis introduced the Co-Chairs and the Sergeant of Arms.

The goals of the Committee were to discuss and vote on Senate Bill 105 entitled Federal Motor Carrier Safety/PRISM and Senate Bill 113 entitled DMV/Emergency Contact Information.

Senate Bill 105 was introduced by Senator J. Davis. Senator Britt spoke on the bill. Major Freddie Johnson Spoke in support of the bill. Senator Britt made a motion for a proposed committee substitute to the bill which he then briefly spoke on. Senator Harrington made a motion for a favorable vote on the proposed committee substitute. The Proposed Committee Substitute was voted aye by voice vote. Senator Harrington then made a motion in support of the bill and the bill was voted aye by voice vote. The bill was reported unfavorable as to the original and favorable as the proposed committee substitute.

Senator Tom McInnis took over as chair of the committee and introduced Senate Bill 113. Senator J. Davis rose to speak on the bill. Senator Waddell made a motion for a favorable vote and the bill was voted favorable by a voice vote. The bill was reported out of the committee as favorable.

Questions

Senator John Alexander asked "how does the officer know if license is in the DMV database?"

Senator Fitch asked "if this was open record?"

Senate Bill 105 was reported unfavorable as to the original and favorable as the proposed committee substitute. Senate Bill 113 was reported out of the committee as favorable.

Senator J. Davis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 12:34 p.m.

Senator Jim Davis, Chair

J. Hunter Blohm, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 1

SENATE BILL 105

Short Title:	Federal Motor Carrier Safety/PRISM.	(Public)
Sponsors:	Senators J. Jackson, J. Davis, and Britt (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

February 25, 2019

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT REQUIREMENTS OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION'S PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT (PRISM) PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-43.3. Authorization for the collection of data to enforce the Federal Motor Carrier Safety Administration's Performance and Registration Information Systems Management (PRISM) program.**

The Division is authorized to collect and maintain necessary motor carrier or commercial motor vehicle data in a manner that complies with the information system established by the United States Secretary of Transportation under 49 U.S.C. § 31106."

SECTION 2. G.S. 20-54(9) reads as rewritten:

"(9) The applicant motor carrier is subject to an order issued by the Federal Motor Carrier Safety Administration or the ~~Division to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~Division. The Division shall deny registration of a vehicle of a motor carrier if the applicant fails to disclose material information required, or if the applicant has made a materially false statement on the application, or if the applicant has applied as a subterfuge for the real party in interest who has been issued a Federal out-of-service order, or if the applicant's business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, family member, corporate officer, or shareholder. The Department shall deny registration for a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the Federal Motor Carrier Safety Administration or a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, family member, corporate officer, or shareholder."

SECTION 3. G.S. 20-110 reads as rewritten:

"...

(m) The Division shall rescind and cancel the registration of vehicles of a motor carrier that is the subject ~~to an~~ of an order issued by the Federal Motor Carrier Safety Administration or the ~~Division to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~Division.

(n) The Division shall rescind and cancel the registration of a vehicle of a motor carrier if the applicant fails to disclose material information required, or if the applicant has made a

materially false statement on the application, or if the applicant has applied as a subterfuge for the real party in interest who has been issued a Federal out-of-service order, or if the applicant's business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, family member, corporate officer, or shareholder. The Division shall rescind and cancel the registration for a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the Federal Motor Carrier Safety Administration or a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, family member, corporate officer, or shareholder."

SECTION 4. G.S. 20-381(a) reads as rewritten:

"(a) The Department of Public Safety has the following powers and duties concerning motor carriers:

...

(4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers ~~rated unsatisfactory, to determine whether the continued operations of intrastate motor carriers pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the operation of an intrastate motor carrier found to be an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~when subject to an out-of-service order issued by the Federal Motor Carrier Safety Administration or the department.

(5) To ~~prohibit the intrastate operation of a motor carrier subject to an~~ enforce any order issued by the Federal Motor Carrier Safety Administration ~~to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).~~including the authority to seize registration plates pursuant to the provisions of G.S. 20-45 from motor carriers whose registration was rescinded and cancelled pursuant to G.S. 20-110(m) or G.S. 20-110(n)."

SECTION 5. This act is effective 90 days after it becomes law.

SENATE BILL 105:
Federal Motor Carrier Safety/PRISM.

2019-2020 General Assembly

Committee:	Senate Rules and Operations of the Senate	**Date:**	March 7, 2019
Introduced by:	Sens. J. Jackson, J. Davis, Britt	**Prepared by:**	Susan Sitze* Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 105 would make various changes to the motor vehicle laws of this State to incorporate requirements of the Federal Motor Carrier Safety Administration's (FMCSA) Performance and Registration Information Systems Management (PRISM) Program.

CURRENT LAW: G.S. 20-4.01 defines "motor carrier" as either a for-hire motor carrier or a private motor carrier. Under federal law generally, motor carriers operate commercial motor vehicles that (1) has a gross weight rating of 10,001 pounds or more; (2) is designed or used to transport more than 8 passengers (including the driver) for compensation; or is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or (4) is used in transporting material found by the Secretary of Transportation to be hazardous under federal law.

G.S. 20-54 outlines the grounds for which NCDMV is authorized to refuse registration or issuance of a certificate of title for motor vehicles. Currently G.S. 20-54(9), authorizes NCDMV to refuse a registration when an applicant motor carrier is subject to a Federal Motor Carrier Safety Administration (FMCSA) or NCDMV order to cease operations, for an imminent hazard as defined under federal law.

G.S. 20-110 outlines the grounds for which NCDMV is authorized to rescind and cancel a registration issued by NCDMV. Currently G.S. 20-110(m), authorizes NCDMV to rescind and cancel registrations of vehicles of a motor carrier subject to a Federal Motor Carrier Safety Administration or NCDMV order to cease operations for an imminent hazard as defined under federal law.

G.S. 20-377 establishes that the North Carolina Department of Public Safety (NCDPS) "shall have and exercise such general power and authority to supervise and control the motor carriers of the State as may be necessary to carry out the laws providing for their regulation...." G.S. 20-381 outlines the specific duties of the NCDPS related to motor carriers. As part of their duties, subdivisions (4) and (5) of that section, authorize NCDPS to prohibit the operation of intrastate motor carriers based on their own finding that a motor carrier poses an imminent hazard, or based on an order from the FMCSA ceasing operations based on an imminent hazard as defined under federal law.

BILL ANALYSIS: Section 1 of the bill would authorize the NCDMV to collect and maintain necessary motor carrier or commercial motor vehicle data in compliance with Performance and Registration Information Systems Management program.

Section 2 and Section 3 of the bill amends G.S. 20-54 and G.S. 20-110 respectively. Section 2 of the bill would amend G.S. 20-54(9), by striking the language specifying that the order must be based on an imminent hazard, and would give NCDMV the broader authority to refuse registration based on any order of the FMCSA or the Division.

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

Section 3 of the bill would amend G.S. 20-110(m), by striking the language specifying that the order must be based on an imminent hazard, and would give NCDMV the broader authority to rescind and cancel registrations based on any order of the FMCSA or the Division.

Both Sections 2 and 3 of the bill add additional grounds for refusing to issue registrations, or rescinding and cancelling existing registrations if:

- the applicant fails to disclose material information required, or if the applicant has made a materially false statement on the application;
- the applicant has applied as a subterfuge for the real party in interest who has been issued a federal out of service order;
- the applicant's business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, family member, corporate officer, or shareholder; or
- a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the Federal Motor Carrier Safety Administration or a carrier whose business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the owner, a relative, family member, corporate officer, or shareholder.

Section 4 of the bill would amend G.S. 20-381 by removing the imminent hazard criteria and allowing NCDPS to prohibit the operations of intrastate carriers when subject to an out-of-service order issued by the FMCSA or the Department of Public Safety, and giving NCDPS authority to enforce any order of the FMCSA and clarifying their authority to seize registration plates pursuant to G.S. 20-45 of an intrastate motor carrier whose registration was rescinded and cancelled under Section 2 and 3 of this act.

EFFECTIVE DATE: This act is effective 90 days after it becomes law.

**Howard Marsilio, Staff Attorney, substantially contributed to this summary.*

NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Legislative Fiscal Note

Short Title: Federal Motor Carrier Safety/PRISM.
Bill Number: Senate Bill 105 (First Edition)
Sponsor(s): **Senators J. Jackson, J. Davis, and Britt**

SUMMARY TABLE

FISCAL IMPACT OF S.B.105, V.1

	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
State Impact					
Highway Fund Revenue	$ -	$ -	$ -	$ -	$ -
Less Expenditures	$ 369,000	$ 36,900	$ 36,900	$ 36,900	$ 36,900
Highway Fund Impact	**$ (369,000)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**
NET STATE IMPACT	**$ (369,000)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**	**$ (36,900)**

TECHNICAL CONSIDERATIONS: **See Technical Considerations Section**

FISCAL IMPACT SUMMARY

It is estimated that S.B. 105 will result one-time costs of $369,000 in the first year and annual maintenance costs of $36,900 beginning in year two.

S.B. 105 implements requirements of the Federal Motor Carrier Safety Administration's (FMCSA) Performance and Registration Information Systems Management (PRISM) Program.

Section 1 authorizes DMV to collect and maintain necessary motor carrier and commercial motor vehicle data in a manner that complies with federal standards.

Section 2 amends G.S. 20-54(9) by requiring the DMV to deny vehicle registration for a motor carrier for the following reasons:

- Failed to disclose material information required;
- Provided a materially false statement on the application;
- Applied as a subterfuge for the real party in interest who has been issued a Federal out-of-service order; or,
- If the motor carrier's business is controlled or affiliated with a person who is ineligible for registration.

DMV will also be required to deny registration for a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the FMCSA or a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration.

Section 3 amends G.S. 20-110 to make conforming changes to the cancelling and rescinding of a vehicle of a motor carrier.

Section 4 amends G.S. 20-381(a) to broaden the powers of the Department of Public Safety (DPS) to (1) prohibit the operation of intrastate motor carriers subject to any out-of-service order issued by DPS or by FMCSA and (2) enforce any FMCSA order.

Section 5 makes all changes effective 90 days after becoming law.

FISCAL ANALYSIS

Sections 1-3
DMV operates and maintains the computer systems that maintains vehicle data and motor carrier data. Vehicle data resides in STARS and motor carrier data in the IRP system. Both systems will require technical modifications for full compliance with expanded federal requirements.

DMV estimates that the changes required by S.B. 105 will incur one-time costs of $369,000 to develop and modify the STARS and IRP systems for federal compliance. This estimate includes an estimated 4,630 in-house labor hours. Additionally, it is estimated that maintenance costs will be $36,900 annually following the completion of program modification.

Section 4
S.B. 105, Section 4 does not have a fiscal impact.

TECHNICAL CONSIDERATIONS

DMV cannot implement this law within 90 days due to the time estimated by DMV to complete modifications to the STARS and IRP systems. DMV proposes a new effective date of August 31, 2020.

DATA SOURCES

DIVISION OF MOTOR VEHICLES, DEPARTMENT OF TRANSPORTATION, NORTH CAROLINA STATE HIGHWAY PATROL

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

ESTIMATE PREPARED BY

Mary Greeson

ESTIMATE APPROVED BY

Mark Trogdon, Director of Fiscal Research
Fiscal Research Division
March 5, 2019

Official
Fiscal Research Division
Publication

Signed copy located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 113

Short Title:	DMV/Emergency Contact Information.	(Public)
Sponsors:	Senator J. Davis (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

February 25, 2019

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERSON TO PROVIDE EMERGENCY CONTACT INFORMATION TO THE DIVISION OF MOTOR VEHICLES FOR USE BY LAW ENFORCEMENT IN AN EMERGENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7 is amended by adding a new subsection to read:

"(b6) Emergency Contact Information. –

(1) Each application form provided by the Division under subsection (b1) of this section shall include the option for the applicant to provide emergency contact information.

(2) The Division shall develop a system whereby emergency contact information may be added and updated in person, online, or by mail.

(3) Emergency contact information shall not be considered a public record as that term is defined in G.S. 132-1.

(4) The Division may not charge a fee for information provided, added, or updated under this subsection.

(5) In the event of an emergency situation, the Division shall make emergency contact information in customer records electronically available to a law enforcement officer who in the exercise of the law enforcement officer's official duties requires assistance in reaching an emergency contact.

(6) In the absence of gross negligence or willful misconduct, the Division, its employees, and law enforcement officers shall be immune from any civil or criminal liability in connection with the maintenance and use of emergency contact information voluntarily provided for use in an emergency situation."

SECTION 2. This act becomes effective July 1, 2020.

SENATE BILL 113:
DMV/Emergency Contact Information.

2019-2020 General Assembly

Committee:	Senate Rules and Operations of the Senate	**Date:**	March 7, 2019
Introduced by:	Sen. J. Davis	**Prepared by:**	Susan Sitze*
Analysis of:	First Edition		Staff Attorney

OVERVIEW: ***Senate Bill 113 would allow a person applying for a drivers license, permit, or identification card to provide emergency contact information to the Division of Motor Vehicles to be made available to law enforcement in an emergency situation.***

CURRENT LAW: G.S. 20-7(b1) sets out requirements for applications to the Division of Motor Vehicles to obtain drivers licenses, permits, and identification cards. The statute specifies what information is to be requested on the application form provided by the Division. There is currently no provision allowing an applicant to provide emergency contact information to the Division as part of the application process.

BILL ANALYSIS: Senate Bill 113 would direct the Division to include on the application form for a drivers license, permit, or identification card, the option of providing emergency contact information for use by law enforcement in an emergency situation. The bill would further direct the Division to develop a system for updating the information in person, online, or by mail. The Division would not be authorized to charge a fee for providing this option. Emergency contact information would not be considered a public record, and the Division and law enforcement officers using the information would be immune from any liability in maintaining and using the information in the absence of gross negligence or willful misconduct.

EFFECTIVE DATE: The act would become effective July 1, 2020.

**Wendy Ray, Staff Attorney, substantially contributed to this summary.*

'aren Cochrane-Brown
Director

S113-SMSA-8 E1 -V-2

Legislative Analysis
Division
919-733-2578

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

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	March 20, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 202	DMV/High-Risk Driving Behaviors.	Senator Britt Senator McInnis Senator McKissick
SB 220	Removal of Political Signs by Citizens.	Senator D. Davis Senator Tillman Senator Hise

Chair: Senator McInnis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, March 20, 2019, 12:00 PM
1124/1224 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 202	DMV/High-Risk Driving Behaviors.	Senator Britt Senator McInnis Senator McKissick
SB 220	Removal of Political Signs by Citizens.	Senator D. Davis Senator Tillman Senator Hise

Presentations

Other Business

Adjournment

Senate Committee on Transportation

Wednesday, March 20th 2019, at 12:00 PM

1027/1128 Legislative Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on March 20, 2019, in Room 1027/1128 of the Legislative Building.
There were 12 senators present.
Senator Tom McInnis, Chair, presided.

Chairman Tom McInnis opened the meeting at 12:01 p.m. Chairman McInnis introduced the Co-Chairs and the Sergeant of Arms. The Sergeant of Arms for the Committee meeting were Terry Edmondson and Chris Moore.

The goals of the committee were to discuss and vote on Senate Bill 202 DMV/High-Risk driving Behaviors and Senate Bill 220 Removal of Political Signs By Citizens.

Chairman McInnis introduced Senate Bill 202 DMV/High-Risk driving Behaviors. Senator Britt Made a motion to speak on the bill. Senator Waddell made a motion to approve the bill. The motion was approved by voice vote. Senate Bill 202 was reported favorable.

Chairman McInnis introduced Senate Bill 220 Removal of Political Signs By Citizens. Senator Fitch made a motion to speak on the bill. Senator Smith made a motion to speak on the bill. Senator Smith proposed an amendment. The amendment would delete 72 hours and change it to 5 days. Senator Harrington made a motion to hear the amendment. Senator Britt accepted the amendment. Senator Waddell made a motion to accept the amendment. The amendment passed by voice vote. Senator Gunn made a motion to speak on the bill. Senator Davis spoke on the bill. The bill was reported favorable as to the amended version by voice vote.

Questions asked by members:

Senator Harrington asked "what the cost to accomplish the purpose of the bill was?"

Senator Fitch asked "do I understand that this is an attempt to clean up highway signage?"

Senator Fitch asked a follow up "if they are guilty of a crime what are we doing?"

Senator Fitch asked another follow up "who is the citizen, are they are a good Samaritan or a candidate?"

Senator Gunn asked "does the board of elections currently accept the signs?"

Senator Gunn asked a follow up "when these signs go to the board of elections is it on their dime and time to find the folks?"

Senator Gunn follow up "has the board of elections been contacted to see if they are okay with taking on this responsibility?"

Senator Smith "how the bill sponsor arrived at the 72 hour time limit?"

Senator Smith asked a follow up "would the bill sponsor be okay with an amendment of 120 hours or 5 days?"

Senator Waddell asked "what kind of penalty the bill carries?"

Senator Fitch asked "is the sheriff levying a fine or forfeiture on raising toys for tots?"

Chairman McInnis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 1:12 p.m.

Senator Tom McInnis, Chair

J. Hunter Blohm, Committee Clerk

SENATE BILL 220:
Removal of Political Signs by Citizens.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	March 20, 2019
Introduced by:	Sens. D. Davis, Tillman, Hise	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	First Edition		

OVERVIEW: Senate Bill 220 would authorize a citizen to remove political signs that remain in public right-of-way after a specified time, and would require that the citizen deliver the signs to county boards of elections within 72 hours of removal, and would further require directors of county boards of elections to attempt to return political signs.

CURRENT LAW: Currently, G.S. 136-32 permits the placement of political signs within the State highway right-of-way if they comply with the following requirements:

- Must only be placed during the period beginning on the 30th day before the beginning date of "one-stop" early voting and ending on the 10th day after the primary or election day.
- Must be removed by the end of the 10th day after the primary or election day.
- The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected.
- No sign shall be permitted in the right-of-way of a fully controlled access highway.
- No sign shall be closer than three feet from the edge of the pavement of the road.
- No sign shall obscure motorist visibility at an intersection.
- No sign shall be higher than 42 inches above the edge of the pavement of the road.
- No sign shall be larger than 864 square inches.
- No sign shall obscure or replace another sign.

The Department of Transportation may remove any signs erected without authority or allowed to remain beyond the 10 day deadline.

It is currently a Class 1 misdemeanor to violate any provision of G.S. 136-32.

It is currently a Class 3 misdemeanor, under G.S. 136-32(e), for a person to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed.

BILL ANALYSIS: Senate Bill 220 would authorize a citizen to remove political signs that remain in the public right-of-way after 30 days after the deadline for political sign removal under current law.

The citizen that removed the signs would be required to deliver the sign to the county board of elections within 72 hours of removal. If the citizen fails to deliver a sign within the 72 hours, the person would be subject to the same penalties as a violation of the unlawful removal of signs prohibition under subsection (e) of G.S. 136-32 – a Class 3 misdemeanor.

Karen Cochrane-Brown
Director



Legislative Analysis Division
919-733-2578

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

Upon receiving a sign, the director of the county board of elections would be required to attempt to notify and return the political sign to the appropriate candidate, committee, or organization's campaign. If after 15 days, attempts to notify the appropriate person is unsuccessful, the county board of elections would be allowed to dispose of the signs. Failure to comply with these requirements would be a Class 1 misdemeanor pursuant to subsection (a) of G.S. 136-32.

EFFECTIVE DATE: This act would be effective when it becomes law and would apply to the removal of political signs for a primary or election held on or after that date.

SENATE BILL 220

Short Title:	Removal of Political Signs by Citizens.	(Public)
Sponsors:	Senators D. Davis, Tillman, and Hise (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 12, 2019

A BILL TO BE ENTITLED

AN ACT TO ALLOW ANY CITIZEN TO REMOVE A POLITICAL SIGN THAT REMAINS IN A PUBLIC RIGHT-OF-WAY THIRTY DAYS AFTER THE TIME WITHIN WHICH POLITICAL SIGNS ARE TO BE REMOVED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-32 is amended by adding a new subsection to read:

"(e1) Notwithstanding subsection (e) of this section, a citizen may remove a political sign that remains in a public right-of-way after 30 days from the date political signs are to be removed pursuant to subsection (b) of this section. Within 72 hours of removing the political sign, the citizen shall deliver the political sign to the county board of elections office in the county in which the sign was located. If a citizen fails to deliver the political sign to the county board of elections within the time frame required by this subsection, the citizen is subject to the penalties for unlawful removal of signs under subsection (e) of this section. Upon receiving a political sign pursuant to this subsection, the director of the county board of elections shall attempt to notify and return the political sign to the appropriate candidate, committee, or organization's campaign. However, if after 15 days attempts to notify the campaign are unsuccessful, the county board of elections may dispose of the political sign as it deems appropriate."

SECTION 2. This act is effective when it becomes law and applies to the removal of political signs for a primary or election held on or after that date.

SENATE BILL 202:
DMV/High-Risk Driving Behaviors.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	March 20, 2019
Introduced by:	Sens. Britt, McInnis, McKissick	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 202 would require the Division of Motor Vehicles, in consultation with the Department of Public Safety, to develop a program and advertising campaign to educate the public on certain high-risk driving behaviors and to incorporate testing on these behaviors into written, traffic sign, and driving skills tests.

CURRENT LAW: The Division of Motor Vehicles administers tests to individuals applying for drivers licenses in North Carolina. These include a written knowledge test covering traffic laws and safe driving practice, a traffic sign test covering regulatory and warning signs, and a driving skills test covering driving skills and ability to perform basic driving patterns.

BILL ANALYSIS: Senate Bill 202 would require the Division, in consultation with the Department of Public Safety, to develop a program, engage in public outreach, and execute an advertising campaign on the following high-risk driving behaviors:

- Texting while driving
- The Move Over Law
- Speed limits and restrictions in school and construction zones

The bill would also require the Division to incorporate testing on these behaviors into its written, traffic sign, and driving skills tests.

The Division would be required to report to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Oversight Committee on Justice and Public Safety on its efforts by December 1, 2019.

EFFECTIVE DATE: The act would be effective when it becomes law.

Karen Cochrane-Brown
Director

S202-SMSU-24 E1 -V-1

Legislative Analysis
Division
919-733-2578

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 1

SENATE BILL 202

Short Title:	DMV/High-Risk Driving Behaviors.	(Public)
Sponsors:	Senators Britt, McInnis, and McKissick (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 7, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO EDUCATE THE PUBLIC ON HIGH-RISK DRIVING BEHAVIORS.

The General Assembly of North Carolina enacts:

SECTION 1. The Division of Motor Vehicles (hereinafter "Division"), in consultation with the Department of Public Safety, shall develop a program to educate the public on the following high-risk driving behaviors: (i) dangers of texting while driving, (ii) requirements of the Move Over Law, and (iii) speed limits and other restrictions in school and construction zones. As part of the program, the Division shall engage in public outreach efforts to inform as many people as possible about high-risk driving behaviors, including developing and executing an advertising campaign. In addition, the Division shall incorporate testing on high-risk driving behaviors into the Division's written, traffic sign, and driving skills tests.

SECTION 2. By December 1, 2019, the Division shall report to the chairs of the Joint Legislative Transportation Oversight Committee and the Joint Legislative Oversight Committee on Justice and Public Safety on the Division's efforts to educate the public about high-risk driving behaviors and the status of incorporating testing on high-risk driving behaviors into the Division's written, traffic sign, and driving skills tests.

SECTION 3. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 220

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S220-ABG-9 [v.2]

Amends Title [NO]
First Edition

Date _____,2019

Senator Erica Smith

moves to amend the bill on page 1, line 16, by deleting the word "days" and substituting the word "days,";

and on page 1, lines 18 through 19, by rewriting the lines to read:

"**SECTION 2.** This act becomes effective December 1, 2019, and applies to offenses committed on or after that date.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

S220-ABG-9-V-2

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 220 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Smith
Sen.)

1 moves to amend the bill on page 1, line 9
2 ( ) WHICH CHANGES THE TITLE
3 by deleting "72 hours" and substituting
4 "five days".
5
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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee on Transportation

March 20, 2019

Room 1124/1224 LB

12:00 PM

Senate Sergeant at Arms:

Terry Edmondson

Chris Moore

Senate Pages Attending

COMMITTEE: Transportation ROOM: 1124

DATE: 3-20 TIME: Noon

PLEASE PRINT LEGIBLY....*or else!!!!!*

Page Name	Hometown	Sponsoring Senator
1. Larkin Owens	Burlington	Gunn
2. Jessica Neer	Edenton	Smith
3.		
4.		
5.		
6.		
7.		
8.		

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

Senate Committee on

Transportation

March 20, 2019 – Room 1128/1224 LB – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
[illegible]	[illegible]
Justin Delaney	NCDOT
Chandler Swinnaker	gov. off
Ty Ford	MWC
Tim Wiggington	AR

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	March 27, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 186	Beaufort-Morehead Cty Airport Authority/Amend.	Senator Sanderson
SB 210	Organ & Tissue Donation/Heart Heroes.	Senator Krawiec Senator McKissick Senator Horner
SB 220	Removal of Political Signs by Citizens.	Senator D. Davis Senator Tillman Senator Hise

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, March 27, 2019, 12:00 PM
1124/1224 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 186	Beaufort-Morehead Cty Airport Authority/Amend.	Senator Sanderson
SB 210	Organ & Tissue Donation/Heart Heroes.	Senator Krawiec Senator McKissick Senator Horner
SB 220	Removal of Political Signs by Citizens.	Senator D. Davis Senator Tillman Senator Hise

Presentations

Other Business

Adjournment

Transportation Committee
March 27, 2019 at 12:00 PM
Room 1124/1224 of the Legislative Building

MINUTES

The Transportation Committee met at 12:00 PM on March 27, 2019 in Room 1124/1224 of the Legislative Building. 13 Senators were present.

Senator Jim Davis, Chair, presided.

Senator Davis opened the meeting @ 12:00 p.m. Chairman Davis introduced the Co-Chairs and the Sgt. of Arms. Goals for the committee were suggested and staff introduced themselves. The chairs and staff introduced themselves.

Chairman Davis introduced the three bills scheduled to be voted on the calendar. The Bills were SB 186 (Beaufort-Morehead City Airport Authority/Amendment), SB 210 (Organ & Tissue Donation/Heart Heroes), and SB 220 (Removal of Political Signs by Citizens).

Senator Sanderson presented SB 186, and Senator Ford offers an amendment to the bill. Senator Alexander makes a motion to adopt the amendment, committee unanimously votes in favor of adoption. Chairman Davis reads the bill, asking the committee and public if there are any further questions. Senator Alexander makers a motion to move SB 186 as Favorable to Unfavorable for a PCS change

Senator Kraweic presented SB 210. Senator Harrington motioned for a favorable report. The committee unanimously voted in favor of motion.

Senator Don Davis presented SB 220, subsequently offering an amendment for adoption. Senator Smith motioned to adopt amendment. Committee unanimously voted in favor to adopt amendment. Chairman Davis read SB 220, asking if committee or public for any input or questions. Senator Waddell motioned to make bill Favorable to Unfavorable for a PCS change.

Questions asked by members:

1. (Senator Waddell) Pertaining to HB 210, how did this bill come to us?
2. (Senator Smith) Pertaining to SB 210, does this include marrow?
3. (Senator J Davis) Pertaining to SB 210, why doesn't this bill include marrow?

Members unanimously voted for a Favorable Report of HB 210. Subsequently, members voted SB 186 and SB 220 Favorable to Unfavorable for a PCS change.

Chairman Davis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 12:29 p.m.

Senator Jim Davis, Chair
Presiding

Johnny Bravo, Committee Clerk

SENATE BILL 186: Beaufort-Morehead Cty Airport Authority/Amend.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	March 27, 2019
Introduced by:	Sen. Sanderson	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 186 would make the following changes to the Beaufort-Morehead City Airport Authority:

- ***Rename it the Carteret County-Beaufort Airport Authority.***
- ***Increase the number of members from five to seven.***
- ***Change the makeup of the Authority by eliminating the Morehead City appointee and adding three Carteret County appointees.***
- ***Make a conforming change to the Authority's power to acquire property by agreement with the cities and county by deleting Morehead City.***

CURRENT LAW: The Beaufort-Morehead City Airport Authority consists of five members. One of the members must be a resident voter of Beaufort, appointed by Beaufort Commissioners. One of the members must be a resident voter of Morehead City, appointed by Morehead City Commissioners. The other three members must be from the county at large and must be appointed by the Carteret County Board of Commissioners. The term of office is two years.

The Airport Authority is currently permitted to make agreements with Carteret County and the Cities of Beaufort and Morehead City to acquire any real or personal property necessary to construct and operate any airport in Carteret County.

BILL ANALYSIS: Senate Bill 186 would change the name of the Beaufort-Morehead City Airport Authority to the Carteret County-Beaufort Airport Authority and would increase the membership of the Authority from five to seven members.

The bill would also change the makeup of the Authority from one Morehead City appointee, one Beaufort appointee, and three Carteret County appointees, to one Beaufort appointee and six Carteret County appointees. The two new appointees' terms would begin on July 1, 2019, and they would be appointed by the Carteret County Board of Commissioners. The existing Morehead City appointee, whose position would be eliminated by the bill, would serve out his term, which expires on August 31, 2019, and then a replacement would be appointed by Carteret County.

The bill would make a conforming change to the Authority's power to acquire property from Beaufort, Morehead City, and Carteret County for constructing, operating, and maintaining airports by deleting Morehead City from that provision.

EFFECTIVE DATE: The act would be effective when it becomes law.

Brad Krehely, counsel to Senate State and Local Government, contributed to this summary.

Karen Cochrane-Brown
Director

S186-SMSU-33 E1 -V-3

Legislative Analysis Division
919-733-2578

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 1

SENATE BILL 186

Short Title:	Beaufort-Morehead Cty Airport Authority/Amend.	(Local)
Sponsors:	Senator Sanderson (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

March 6, 2019

A BILL TO BE ENTITLED

AN ACT RENAMING THE BEAUFORT-MOREHEAD CITY AIRPORT AUTHORITY AS THE CARTERET COUNTY-BEAUFORT AIRPORT AUTHORITY, INCREASING THE MEMBERSHIP OF THE AIRPORT AUTHORITY FROM FIVE TO SEVEN MEMBERS, AND CHANGING THE MANNER OF APPOINTMENT TO THE AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 426 of the Public-Local Laws of 1941, as amended, reads as rewritten:

"Sec. 1. There is hereby created the ~~"Beaufort-Morehead City Airport Authority" (for brevity hereinafter referred to as the "Airport Authority"),~~ "Carteret County-Beaufort Airport Authority" (hereinafter "Airport Authority"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by future Acts of the General Assembly."

SECTION 2. Section 2 of Chapter 426 of the Public-Local Laws of 1941, as amended by Chapter 396 of the Session Laws of 1981, reads as rewritten:

"Sec. 2. The Airport Authority shall consist of ~~five~~ seven members. One of the members shall be a resident voter of the ~~City~~ Town of Beaufort and shall be appointed by the ~~City~~ Town Commissioners of the ~~City~~ Town of Beaufort. ~~One of the members shall be a resident voter of the City of Morehead City and shall be appointed by the City Commissioners of the City of Morehead City, and the other three~~ Six of the members shall be ~~from the county at large~~ resident voters of Carteret County and shall be appointed by the Carteret County Board of Commissioners. The said members of the Airport Authority shall be appointed to serve for a period of two years. Each of the members and their successors so appointed shall take and subscribe before the Clerk of Superior ~~Court,~~ Court an oath of office and shall file the same with the Carteret County Board of Commissioners."

SECTION 3. Section 5 of Chapter 426 of the Public-Local Laws of 1941, as amended, reads as rewritten:

"Sec. 5. The Airport Authority is hereby authorized and empowered to acquire from the County of ~~Carteret, the Cities of Beaufort and Morehead City,~~ Carteret and the Town of Beaufort, by agreement therewith, and ~~such~~ the county and ~~cities~~ town are hereby authorized and empowered to grant and convey, either by gift or for such consideration as it may be deemed wise, any real or personal property which it now owns or may hereafter be acquired, and which may be necessary for the construction, operation and maintenance of any airport located in the County of Carteret."

SECTION 4. The terms of the two new members of the Airport Authority authorized by Section 1 of this act shall begin July 1, 2019.

SECTION 5. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 186

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

S186-ASU-16 [v.1]

Amends Title [NO]
First Edition

Date _____,2019

Senator Ford

moves to amend the bill on page 1, line 15, by deleting "**SECTION 2.**" and substituting "**SECTION 2.(a)**"; and

on page 1, lines 26-27, by inserting the following between those lines:

"**SECTION 2.(b)** This section becomes effective July 1, 2019. The terms of the two new members of the Airport Authority authorized by this section shall begin on July 1, 2019. The Morehead City appointee who is serving on the effective date of this section shall continue to serve until the appointee's term expires and a replacement is named by the Carteret County Board of Commissioners as provided in this section."; and

on page 2, lines 1-3, by rewriting those lines to read:

"**SECTION 4.** Except as otherwise provided, this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

S186-ASU-16-V-1

SENATE BILL 210:
Organ & Tissue Donation/Heart Heroes.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	March 27, 2019
Introduced by:	Sens. Krawiec, McKissick, Horner	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	First Edition		

OVERVIEW: Senate Bill 210 would amend a method of making an anatomical gift under the Revised Uniform Anatomical Gift Act (UAGA), by removing the specific exclusion of tissue as an anatomical gift authorized by the placement of a symbol on the donor's drivers license or identification card.

CURRENT LAW: Part 3A of Article 16 of Chapter 130A of the General Statutes contains the UAGA and does the following:

- Allows a donor to make an anatomical gift by authorizing the placement of a symbol on the donor's driver's license or identification card. An anatomical gift authorization given in this manor currently excludes tissue and the donor's body. § 130A-412.7(a).
- Defines "anatomical gift" as a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education. § 130A-412.4(3).
- Defines "drivers license" as a license or permit issued by the North Carolina Department of Transportation, Division of Motor Vehicles (DMV), to operate a vehicle, whether or not conditions are attached to the license or permit. § 130A-412.4(10).
- Defines "identification card" as an identification card issued by the DMV. § 130A-412.4(14).
- Defines "tissue" as a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education. § 130A-412.4(30).

BILL ANALYSIS: The act would modify a manner in which a donor authorizes an anatomical gift under the UAGA. This bill would remove the specific exclusion of tissue as an anatomical gift authorized by the placement of a symbol on the donor's driver's license or identification card.

EFFECTIVE DATE: The act would become effective October 1, 2019.

BACKGROUND: Tissue donation is currently authorized by various methods, such as registering online with Donate Life N.C. Tissues that may be donated include skin, bones, heart valves, tendons and veins. As of 2017, 54.5% of North Carolinians have registered as an organ donor at the DMV. The National Conference of Commissioners on Uniform State Laws promulgated the first version of the UAGA in 1968 and has offered two major revisions to the Act since then, first in 1987 and then 2006. Every state has adopted at least one of version of the UAGA.

Karen Cochrane-Brown
Director

S210-SMBG-47 E1 -V-1

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 1

SENATE BILL 210*

Short Title:	Organ & Tissue Donation/Heart Heroes.	(Public)
Sponsors:	Senators Krawiec, McKissick, and Horner (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 11, 2019

A BILL TO BE ENTITLED

AN ACT AMENDING THE REVISED UNIFORM ANATOMICAL GIFT ACT TO INCLUDE TISSUE DONATION AS PART OF THE DRIVERS LICENSE DONOR AUTHORIZATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-412.7(a) reads as rewritten:

"(a) A donor may make an anatomical gift by any of the following methods:

(1) By authorizing that a statement or symbol be imprinted on the donor's drivers license or identification card indicating that the donor has made an anatomical gift. Anatomical gifts made by this method shall not include a donation of ~~tissue or~~ the donor's body.

(2) In a will.

(3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness.

(4) As provided in subsection (b) of this section."

SECTION 2. This act becomes effective October 1, 2019.

SENATE BILL 220:
Removal of Political Signs by Citizens.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	March 27, 2019
Introduced by:	Sens. D. Davis, Tillman, Hise	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	First Edition		

OVERVIEW: Senate Bill 220 would authorize a citizen to remove political signs that remain in public right-of-way after a specified time, and would require that the citizen deliver the signs to county boards of elections within 72 hours of removal, and would further require directors of county boards of elections to attempt to return political signs.

CURRENT LAW: Currently, G.S. 136-32 permits the placement of political signs within the State highway right-of-way if they comply with the following requirements:

- Must only be placed during the period beginning on the 30th day before the beginning date of "one-stop" early voting and ending on the 10th day after the primary or election day.
- Must be removed by the end of the 10th day after the primary or election day.
- The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected.
- No sign shall be permitted in the right-of-way of a fully controlled access highway.
- No sign shall be closer than three feet from the edge of the pavement of the road.
- No sign shall obscure motorist visibility at an intersection.
- No sign shall be higher than 42 inches above the edge of the pavement of the road.
- No sign shall be larger than 864 square inches.
- No sign shall obscure or replace another sign.

The Department of Transportation may remove any signs erected without authority or allowed to remain beyond the 10 day deadline.

It is currently a Class 1 misdemeanor to violate any provision of G.S. 136-32.

It is currently a Class 3 misdemeanor, under G.S. 136-32(e), for a person to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed.

BILL ANALYSIS: Senate Bill 220 would authorize a citizen to remove political signs that remain in the public right-of-way after 30 days after the deadline for political sign removal under current law.

The citizen that removed the signs would be required to deliver the sign to the county board of elections within 72 hours of removal. If the citizen fails to deliver a sign within the 72 hours, the person would be subject to the same penalties as a violation of the unlawful removal of signs prohibition under subsection (e) of G.S. 136-32 – a Class 3 misdemeanor.

Karen Cochrane-Brown
Director

S220-SMBG-48 E1 -V-1

Legislative Analysis Division
919-733-2578

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

Upon receiving a sign, the director of the county board of elections would be required to attempt to notify and return the political sign to the appropriate candidate, committee, or organization's campaign. If after 15 days, attempts to notify the appropriate person is unsuccessful, the county board of elections would be allowed to dispose of the signs. Failure to comply with these requirements would be a Class 1 misdemeanor pursuant to subsection (a) of G.S. 136-32.

EFFECTIVE DATE: This act would be effective when it becomes law and would apply to the removal of political signs for a primary or election held on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 1

SENATE BILL 220

Short Title:	Removal of Political Signs by Citizens.	(Public)
Sponsors:	Senators D. Davis, Tillman, and Hise (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 12, 2019

A BILL TO BE ENTITLED

AN ACT TO ALLOW ANY CITIZEN TO REMOVE A POLITICAL SIGN THAT REMAINS IN A PUBLIC RIGHT-OF-WAY THIRTY DAYS AFTER THE TIME WITHIN WHICH POLITICAL SIGNS ARE TO BE REMOVED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-32 is amended by adding a new subsection to read:

"(e1) Notwithstanding subsection (e) of this section, a citizen may remove a political sign that remains in a public right-of-way after 30 days from the date political signs are to be removed pursuant to subsection (b) of this section. Within 72 hours of removing the political sign, the citizen shall deliver the political sign to the county board of elections office in the county in which the sign was located. If a citizen fails to deliver the political sign to the county board of elections within the time frame required by this subsection, the citizen is subject to the penalties for unlawful removal of signs under subsection (e) of this section. Upon receiving a political sign pursuant to this subsection, the director of the county board of elections shall attempt to notify and return the political sign to the appropriate candidate, committee, or organization's campaign. However, if after 15 days attempts to notify the campaign are unsuccessful, the county board of elections may dispose of the political sign as it deems appropriate."

SECTION 2. This act is effective when it becomes law and applies to the removal of political signs for a primary or election held on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 220

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S220-ABG-10 [v.4]

Amends Title [NO]
First Edition

Date _____,2019

Senator Devaney

moves to amend the bill on page 1, lines 7 through 17, by rewriting those lines to read:

""(e1) Notwithstanding subsection (e) of this section, a political sign that remains in a public right-of-way after 30 days from the date political signs are to be removed pursuant to subsection (b) of this section shall be considered abandoned property, and a citizen may remove the political sign and dispose of it without penalty."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee

ON

Senate Transportation

March 27, 2019

12 Noon Room 1124/1224

Senate Sergeant at Arms

Sheree Hedrick

Linda Matthews

Senate Pages Attending

COMMITTEE: Transportation ROOM: 1124

DATE: 3-27 TIME: Noon

PLEASE PRINT LEGIBLY....*or else!!!!!*

Page Name	Hometown	Sponsoring Senator
1. Trey Wilhoit	China Grove	Ford
2. Taylor Harris	Charlotte	Bishop
3.		
4.		
5.		
6.		
7.		
8.		

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

NAME OF MEETING: Senate Transportation

DATE: March 27, 2019 12 Noon Room 1124/1224

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Kendra Jacobs	NCSU
Brenda Cabrera	NCSU
Sue Ann Forrest	NCMJ
Chandler Spaulding	SA
John Moss	citizen / student
JACK COZORT	CDS
Caleb Wright	LPNC
Matthew Balint	PPAB
Toni Neumann	MWC
Tyler Ford	MWC
Reshe Fortson	SEANC
Flint Benson	SEANC

NAME OF MEETING: Senate Transportation

DATE: March 27, 2019 12 Noon Room 1124/1224

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Anastasia Mebane	S. Don Davis office
Belinda Hu	S. Don Davis office
Jaylon Cozart	NSS
Charles Heald	Medina Door Services
Ashley Peterson	Peterson Law
Tim O Wiggins	ARLG
Claudia Brewmaker	Governors office
Deans Eatman	NCDOT
Justin Delaney	NC DOT

Principal Clerk
Reading Clerk

Updated #1:

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 10, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 432	Mini-Truck Classification.	Senator Ballard
SB 446	Electric/Hybrid Vehicle Registration Fees.	Senator J. Davis Senator McInnis
SB 606	Prioritize Native NC Plants on Highway ROW.	Senator Rabon Senator J. Davis Senator McInnis

Chair: Senator Tom McInnis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, April 10, 2019, 12:00 PM
1124/1224 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 432	Mini-Truck Classification.	Senator Ballard
SB 446	Electric/Hybrid Vehicle Registration Fees.	Senator J. Davis Senator McInnis
SB 606	Prioritize Native NC Plants on Highway ROW.	Senator Rabon Senator J. Davis Senator McInnis

Presentations

Other Business

Adjournment

Senate Committee on Transportation

Wednesday, April 10, 2019, at 12:00 PM

1027/1128 Legislative Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on April 10, 2019, in Room 1027/1128 of the Legislative Building.
There were 12 senators present.
Senator Tom McInnis, Chair, presided.

Chairman Tom McInnis opened the meeting at 12:01 p.m. Chairman McInnis introduced the Co-Chairs and the Sergeant of Arms. The Sergeant of Arms for the Committee meeting were Linda Matthews and Billy Fritscher.

The goals of the committee were to discuss and vote on Senate Bill 432 titled Mini-Truck Classification, Senate Bill 446 titled Electric/Hybrid Vehicle Registration Fees and Senate Bill 606 Prioritize Native NC Plants on Highway ROW.

Chairman McInnis introduced Senate Bill 432 titled Mini-Truck Classification. Senator Ballard explained the bill. Senator Daniel made a motion to report the bill as favorable the motion passed by voice vote.

Questions asked by members:

Senator Fitch asked "so the only distinction is the steering wheel is on the opposite side, is that the only issue?"

Senator Fitch asked a follow up "what are we doing?"

Senator Fitch asked a follow up "if they did it at one time under what authority do they not do it now?"

Justin Delancy – DOT liaison – the commissioner and staff determined they do not meet the safety standards but they do not oppose the bill

Senator Fitch asked a follow up "what is the safety problem, why change?"

Senator McInnis asked "before the date mentioned they were titled and allowed on the road?"

Senator Alexander asked "are they all right hand drive?"

Senator Waddell asked "the previous bill said they must travel in the left hand lane – do these vehicles adhere to that?"

Senator Gunn asked "are there to many issues matching up classifications and requirements?"

Senator Gunn asked a follow up "does this vehicle have everything a regular vehicle does and does it check all the boxes?"

Senator Gunn asked a follow up "are they looking for a new way to classify it?"

Senator Gunn asked a follow up "could the DOT rep. address that question?"

Senator Fitch asked "what is the classification for this vehicle – what does this vehicle not have that DMV wants it to have?"

Senator Fitch asked a follow up "you took people off the list and road why?"

Public comment was made by

Ed Tarlington a representative of Tesla spoke in favor of the bill.

Henry jones alliance of automobile manufacturers spoke in favor of the bill.

Chairman McInnis introduced Senate Bill 446 titled Electric/Hybrid Vehicle Registration Fees. Senator Davis spoke on the bill. There was a motion to amend the bill. The amendment was approved by voice vote. Senator Harrington made a motion to approve as amended the motion was approved by voice vote. Senate Bill 446 titled Mini-Truck Classification was reported as favorable as amended.

Questions asked by members:

Senator Waddell asked "why are fees high?"

Senator Waddell asked a follow up "why not do 1.75 and then move forward to 2.75?"

Senator DeViere asked "have we explored other methods or strategies to do this?"

Senator DeViere asked a follow up "have we looked at other pilots or studies to examine how to do this?"

Senator DeViere asked a follow up "was there analysis done between this fee and a different road usage charge?"

Senator DeViere asked a follow up "do we believe this will disincentivize purchasing of these vehicles?"

Senator DeViere asked a follow up "did we request DOT to look at alternative long term ways to fund DOT?"

Senator DeViere asked a follow up "can there be a direct study to look at the long term strategy?"

Senator Harrington moves for a favorable report

Senator Waddell asked "why is it different fees for electric versus hybrid vehicles?"

Senator Ballard asked "where the studies factored into the decisions?"

Senator Ballard asked a follow up "yours is the average?"

Senator Ballard asked a follow up "any specifics?"

Senator Daniel asked "have we done this for fleet vehicles, buses and such?"

Senator Ballard asked "how does our fee compare to other states?"

Chairman McInnis introduced Senate Bill 606 Prioritize Native NC Plants on Highway ROW. Senator Rabon spoke on the bill. Senator Gunn made a motion to report the bill as favorable and the motion was approved by voice vote. Senate Bill 606 Prioritize Native NC Plants on Highway ROW was reported favorable.

Greg Adcock spoke in support of the Senate Bill 606.

Chairman McInnis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 1:00 p.m.

Senator Tom McInnis, Chair

J. Hunter Blohm, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 1

SENATE BILL 432*

Short Title:	Mini-Truck Classification.	(Public)
Sponsors:	Senator Ballard (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

April 1, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE LAWS OF THE STATE TO REGULATE MINI-TRUCKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(27) is amended by adding a new sub-subdivision to read:

"g1. Mini-truck. – A motor vehicle designed, used, or maintained primarily for the transportation of property and having four wheels, an engine displacement of 660cc or less, an overall length of 130 inches or less, an overall height of 78 inches or less, and an overall width of 60 inches or less."

SECTION 2. G.S. 20-87(12) reads as rewritten:

"(12) Low-Speed ~~Vehicles.~~ Vehicles and Mini-Trucks. – The fee for a low-speed vehicle or mini-truck is the same as the fee for private ~~passengers~~ passenger vehicles of not more than 15 passengers. However, the fee for any low-speed vehicle or mini-truck that is offered for rent shall be the same as the fee for a U-drive-it automobile."

SECTION 3. G.S. 20-121.1 reads as rewritten:

"**§ 20-121.1. Operation of a low-speed vehicle or mini-truck on certain roadways.**

The operation of a low-speed vehicle or mini-truck is authorized with the following restrictions:

(1) A low-speed vehicle may be operated only on streets and highways where the posted speed limit is 35 miles per hour or less. A mini-truck may be operated only on streets and highways where the posted speed limit is 55 miles per hour or less. This does not prohibit a low-speed vehicle or mini-truck from crossing a road or street at an intersection where the road or street being crossed has a posted speed limit of more than 35 miles per hour.

(2) A low-speed vehicle or mini-truck shall be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number. Any such required equipment shall be maintained in proper working order.

(3) A low-speed vehicle or mini-truck shall be registered and insured in accordance with G.S. 20-50 and G.S. 20-309.

(4) The Department of Transportation may prohibit the operation of low-speed vehicles or mini-trucks on any road or highway if it determines that the prohibition is necessary in the interest of safety.

(5) Low-speed vehicles must comply with the safety standards in 49 C.F.R. § 571.500.

(6) Regardless of age, a mini-truck shall not qualify as an antique vehicle or historic vehicle as described in G.S. 20-79.4(b)."

SECTION 4. This act is effective when it becomes law.

SENATE BILL 432: Mini-Truck Classification.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	April 10, 2019
Introduced by:	Sen. Ballard	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	First Edition		

OVERVIEW: Senate Bill 432 would make various changes to the motor vehicle laws of this State to define and allow for the operation of mini-trucks on roadways with certain restrictions.

CURRENT LAW: Under current law, mini-trucks are not a specifically defined category of motor vehicle under Chapter 20.

BILL ANALYSIS: **Section 1** of the bill would define a mini-truck as a passenger vehicle, for the purposes of motor vehicle laws, as:

- A motor vehicle designed, used, or maintained primarily for the transportation of property; and
  - having four wheels;
  - an engine displacement of 660cc or less;
  - an overall length of 130 inches or less;
  - an overall height of 78 inches or less; and
  - an overall width of 60 inches or less.

Section 2 of the bill would make the registration fee for mini-trucks the same as a private passenger vehicle of not more than 15 passengers ($36). This section would also require that low-speed vehicles or mini-trucks offered for rent would pay the same registration fee as an U-drive it automobile ($66).

Section 3 of the bill would place restrictions and requirements on the operation of mini-trucks, which would include the following:

- Mini-trucks would only be allowed to operate on streets and highways where the posted speed limit is 55 mph or less.
- Mini-trucks would need to be equipped with certain equipment similar to that of a low-speed vehicle, and that equipment must be maintained in proper working order.
- Mini-trucks would be required to be register and insured.
- Mini-trucks would be required to abide by NCDOT roadway prohibitions in the interest of safety.
- Mini-trucks would not be considered antique or historic vehicles regardless of age.

EFFECTIVE DATE: This bill would become effective when it becomes law.

Karen Cochrane-Brown
Director

S432-SMBG-62 E1 -V-1

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 446

Short Title:	Electric/Hybrid Vehicle Registration Fees.	(Public)
Sponsors:	Senators J. Davis and McInnis (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

April 2, 2019

A BILL TO BE ENTITLED

AN ACT TO REVISE THE ELECTRIC VEHICLE REGISTRATION FEES; TO AUTHORIZE A REGISTRATION FEE FOR HYBRID VEHICLES; AND TO PROVIDE FOR ANNUAL ADJUSTMENTS TO ELECTRIC AND HYBRID VEHICLE REGISTRATION FEES.

The General Assembly of North Carolina enacts:

ELECTRIC VEHICLE REGISTRATION FEE

SECTION 1.(a) Effective January 1, 2020, and applicable to initial registrations and registrations due for renewal on or after that date, G.S. 20-87(13) reads as rewritten:

"(13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of ~~one hundred thirty dollars ($130.00)~~ one hundred seventy-five dollars ($175.00) in addition to any other required registration fees."

SECTION 1.(b) Effective January 1, 2021, and applicable to initial registrations and registrations due for renewal on or after that date, G.S. 20-87(13) reads as rewritten:

"(13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of ~~one hundred seventy-five dollars ($175.00)~~ two hundred twenty-five dollars ($225.00) in addition to any other required registration fees."

SECTION 1.(c) Effective January 1, 2022, and applicable to initial registrations and registrations due for renewal on or after that date, G.S. 20-87(13) reads as rewritten:

"(13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of ~~two hundred twenty-five dollars ($225.00)~~ two hundred seventy-five dollars ($275.00) in addition to any other required registration fees."

HYBRID VEHICLE REGISTRATION FEE

SECTION 2.(a) Effective January 1, 2020, and applicable to initial registrations and registrations due for renewal on or after that date, G.S. 20-87 is amended by adding a new subsection to read:

"(14) Additional fee for hybrid vehicles. – At the time of an initial registration or registration renewal, the owner of a hybrid vehicle shall pay a fee in the amount of eighty-seven dollars and fifty cents ($87.50). For purposes of this subdivision, a hybrid vehicle is one that is capable of being propelled, at least in part by electricity, but is also capable of using motor fuel to propel the vehicle."

SECTION 2.(b) Effective January 1, 2021, and applicable to initial registrations and registrations due for renewal on or after that date, G.S. 20-87(14), as enacted in subsection (a) of this section, reads as rewritten:

"(14) Additional fee for hybrid vehicles. – At the time of an initial registration or registration renewal, the owner of a hybrid vehicle shall pay a fee in the amount of ~~eighty-seven dollars and fifty cents ($87.50).~~ one hundred twelve dollars and fifty cents ($112.50). For purposes of this subdivision, a hybrid vehicle is one that is capable of being propelled at least in part by electricity but is also capable of using motor fuel to propel the vehicle."

SECTION 2.(c) Effective January 1, 2022, and applicable to initial registrations and registrations due for renewal on or after that date, G.S. 20-87(14), reads as rewritten:

"(14) Additional fee for hybrid vehicles. – At the time of an initial registration or registration renewal, the owner of a hybrid vehicle shall pay a fee in the amount of ~~one hundred twelve dollars and fifty cents ($112.50).~~ one hundred thirty-seven dollars and fifty cents ($137.50). For purposes of this subdivision, a hybrid vehicle is one that is capable of being propelled at least in part by electricity but is also capable of using motor fuel to propel the vehicle."

ANNUAL ADJUSTMENT FOR ELECTRIC AND HYBRID VEHICLE REGISTRATION FEES

SECTION 3. G.S. 20-4.02 reads as rewritten:

"**§ 20-4.02. ~~Quadrennial adjustment~~ Adjustment of certain fees and rates.**

(a) Quadrennial Adjustment for Inflation. – Beginning July 1, 2020, and every four years thereafter, the Division shall adjust the fees and rates imposed pursuant to the statutes listed in this subsection for inflation in accordance with the Consumer Price Index computed by the Bureau of Labor Statistics. The adjustment for per transaction rates in subdivision (8a) of this subsection shall be rounded to the nearest cent and all other adjustments under this subsection shall be rounded to the nearest twenty-five cents (25¢):

...

(11) G.S. 20-87, except for the additional fee set forth in G.S. 20-87(6) for private ~~motorcycles.~~motorcycles, G.S. 20-87(13) for electric vehicles, and G.S. 20-87(14) for hybrid vehicles.

...

(b1) Annual Adjustment of Registration Fees for Electric and Hybrid Vehicles. – Beginning January 1, 2023, and every year thereafter, the Division shall adjust the registration fee imposed by G.S. 20-87(13) and G.S 20-87(14) pursuant to the following formula. The registration fee shall be the amount for the preceding calendar year, multiplied by a percentage. The percentage is one hundred percent (100%) plus or minus the sum of the following:

(1) The percentage change in population for the applicable calendar year, as estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).

(2) The annual percentage change in the Consumer Price Index for All Urban Consumers, multiplied by twenty-five percent (25%). For purposes of this subdivision, "Consumer Price Index for All Urban Consumers" means the United States city average for energy index contained in the detailed report released in the October prior to the applicable calendar year by the Bureau of

Labor Statistics of the United States Department of Labor, or data determined by the Secretary to be equivalent.

...

(d) Consultation and Publication. – At least 90 days prior to making an adjustment pursuant to subsection (a) and subsection (b)(1) of this section, and notwithstanding any provision of G.S. 12-3.1 to the contrary, the Division shall (i) consult with the Joint Legislative Commission on Governmental Operations, (ii) provide a report to the chairs of the Senate Appropriations Committee on Department of Transportation and the House of Representatives Appropriations Committee on Transportation, and (iii) publish notice of the fees that will be in effect in the offices of the Division and on the Division's Web site.

...."

EFFECTIVE DATE

SECTION 4. Except as otherwise provided, this act is effective January 1, 2020.

SENATE BILL 446:
Electric/Hybrid Vehicle Registration Fees.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	April 10, 2019
Introduced by:	Sens. J. Davis, McInnis	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 446 would increase registration fees for electric vehicles and hybrid vehicles as follows:

- ***Increase the existing add on registration fee for electric vehicles from $130 to $175 beginning January 1, 2020, to $225 beginning January 1, 2021, and to $275 beginning January 1, 2022.***
- ***Create an add on registration fee for hybrid vehicles of $87.50 beginning January 1, 2020, and increasing the fee to $112.50 beginning January 1, 2021, and to $137.50 beginning January 1, 2022.***
- ***Provide for an annual adjustment of both add on fees beginning in January 1, 2023, using the same formula used to adjust the motor fuel tax rate.***

CURRENT LAW: The Division of Motor Vehicles collects annual registration fees for passenger vehicles, according to classifications set out in statute. The regular private passenger vehicle registration fee is currently $36. Current law provides for an additional fee for the registration of a plug-in electric vehicle that operates solely on electric power. The additional fee is $130 per year, making the annual registration fee for a regular passenger vehicle that operates solely on electric power $166.

North Carolina motor vehicle law does not currently provide a definition for a hybrid motor vehicle. Nor does it provide any additional registration fees for hybrid vehicles. A hybrid vehicle is registered in the same manner as a motor vehicle propelled solely by motor fuel. The annual registration fee for a regular passenger vehicle that operates using a combination of motor fuel and electric power is $36.

The motor fuel tax in North Carolina was modified to a formula-based rate beginning in January 1, 2018. The formula is based on the previous year's tax rate multiplied by a percentage. The percentage is 100% plus or minus the sum of 75% of population percentage change for the upcoming calendar year and 25% of the Consumer Price Index change, as determined in October for the upcoming calendar year. For 2019, the rate is 36.2 cents per gallon

BILL ANALYSIS: Senate Bill 446 would increase registration fees for electric and hybrid vehicles as follows:

Electric vehicles. For plug-in electric vehicles that operate solely on electric power, the current add on registration fee of $130 would be increased to $175 beginning on January 1, 2020. It would be increased to $225 beginning on January 1, 2021. It would be increased to $275 beginning on January 1, 2022. Beginning on January 1, 2023, and every year thereafter, it would be adjusted using the same formula currently used to adjust the motor fuel tax rate.

Karen Cochrane-Brown
Director

S446-SMSU-47 E1 -V-3

Legislative Analysis Division
919-733-2578

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

Hybrid vehicles. For hybrid vehicles, which would be defined in the bill as a vehicle that is capable of being propelled at least in part by electricity but is also capable of using motor fuel to propel the vehicle, the bill would provide for a new add on registration fee of $87.50 beginning on January 1, 2020. It would be increased to $112.50 beginning on January 1, 2021. It would be increased to $137.50 beginning on January 1, 2022. Beginning on January 1, 2023, and every year thereafter, it would be adjusted using the same formula currently used to adjust the motor fuel tax rate.

EFFECTIVE DATE: The three increases to add on electric vehicle registration fees are effective on January 1, 2020, January 1, 2021, and January 1, 2022. The initial add on registration fee for hybrid vehicles is effective January 1, 2021, with increases effective January 1, 2021, and January 1, 2022. The remainder of the bill is effective January 1, 2020.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 446

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S446-ASU-19 [v.1]

Amends Title [NO]
First Edition

Date _____,2019

Senator _____

moves to amend the bill on page 2, line 27, by deleting "**SECTION 3.**" and substituting "**SECTION 3.(a)**"; and

on page 3, line 5, by deleting "subsection (b)(1)" and substituting "subsection (b1)"; and

on page 3, lines 11-12, by inserting the following between the lines:
"**SECTION 3.(b)** This section becomes effective July 1, 2020.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 446

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S446-ASU-19 [v.1]

Amends Title [NO]
First Edition

Date _____,2019

Senator _____

moves to amend the bill on page 2, line 27, by deleting "**SECTION 3.**" and substituting "**SECTION 3.(a)**"; and

on page 3, line 5, by deleting "subsection (b)(1)" and substituting "subsection (b1)"; and

on page 3, lines 11-12, by inserting the following between the lines:

"**SECTION 3.(b)** This section becomes effective July 1, 2020.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 606

Short Title:	Prioritize Native NC Plants on Highway ROW.	(Public)
Sponsors:	Senators Rabon, J. Davis, and McInnis (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

April 4, 2019

A BILL TO BE ENTITLED

AN ACT TO PRIORITIZE THE USE OF NATIVE NORTH CAROLINA TREES, SHRUBS, VINES, GRASSES, AND LEGUMES ON HIGHWAY RIGHTS-OF-WAY.

Whereas, native plants are an important part of North Carolina's natural heritage, history, and identity; and

Whereas, North Carolina's native plants are indigenous plants that have adapted over many years to our region and evolved to flourish in the unique geography, hydrology, and microclimates of our State; and

Whereas, North Carolina contains over 3,900 native plant species, making North Carolina one of the most diverse states for flora in the Southeast; and

Whereas, 26 of those species are extremely rare and considered federally threatened or endangered; and

Whereas, native plants provide high-quality food and shelter for North Carolina's native wildlife, including butterflies, bees and other pollinators, both game and nongame species; and

Whereas, native plants support over 350 resident and migratory bird species in North Carolina, many of which are species of concern and face growing threats from climate change; and

Whereas, North Carolina's native plants and their derivatives have provided foods, medicines, and other products from the origin of North Carolina's blueberry industry to American ginseng exports; and

Whereas, gardens and landscapes composed of North Carolina's native plants require little or no fertilizers, soil amendments, or pesticides and use less water; and

Whereas, planting, cultivation, and preservation of the State's native plants provide a natural link to wild land areas present and past, while presenting beauty and benefit and instilling a greater appreciation for North Carolina's natural heritage; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18(9) reads as rewritten:

"(9) To employ appropriate means for properly selecting, planting and protecting acceptable trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways; to acquire by gift or otherwise land for and to construct, operate and maintain roadside parks, picnic areas, picnic tables, scenic overlooks and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with municipal or county authorities, federal agencies, civic bodies and individuals in the furtherance of those

objectives. For purposes of this subdivision, the term "acceptable" means plants the Department of Transportation determines will maintain a stable and aesthetic roadside, with a strong preference for using plants the U.S. Department of Agriculture has classified as native to North Carolina. None of the roadside parks, picnic areas, picnic tables, scenic overlooks or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except for any of the following:

a. Materials displayed in welcome centers in accordance with G.S. 136-89.56.

b. Vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed.

c. Activities permitted by a local government pursuant to an ordinance meeting the requirements of G.S. 136-27.4.

Every other use or attempted use of any of these areas for commercial purposes shall constitute a Class 1 misdemeanor, and each day's use shall constitute a separate offense."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 606:
Prioritize Native NC Plants on Highway ROW.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	April 10, 2019
Introduced by:	Sens. Rabon, J. Davis, McInnis	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 606 would amend the Department of Transportation's authority to plant trees and other vegetation in the highway right-of-way by directing the Department to select acceptable plants with a strong preference for those that are native to North Carolina.

CURRENT LAW: The Department of Transportation has the authority to select and plant trees, shrubs, and other vegetation in the highway right-of-way to promote erosion control and for landscaping and general protection of the highways.

BILL ANALYSIS: Senate Bill 606 would amend the Department's authority to select and plant trees and other vegetation in the highway right-of-way by directing the Department to select and plant "acceptable" trees and other vegetation. Acceptable is defined in the bill as plants the Department determines will maintain a stable and aesthetic roadside, with a strong preference for native North Carolina plants.

EFFECTIVE DATE: The act would be effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee

On

Transportation

April 10, 2019 – 12:00 PM

Room 1124/1224

Senate Sergeant at Arms:

LINDA MATTHEWS

BILLY FRITSCHER

Visitors

~~SIGN-UP~~ SHEETS

Senate Committee On Transportation

April 10, 2017 – Room 1124/1224 – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Tony Childs	Mayberry Mini Trucks
Stephanie Childs	Mayberry Mini Trucks
Greg Andeck	Audubon
Flint Benson	SELANC
Resha Foreson	SELANC
Chandler Spaulding	SA
Tim Wigmore	BRLLC
Tom Beam	EDF, NCSEA, NCWF
Sallie James	Governor's office
Lisa Martin	Cup-Ad.
Justin Delaney	NCDOT
Joe McClees	McClees Consulting
J. White	APT

SIGN-UP SHEETS

Senate Committee On Transportation

April 10, 2017 – Room 1124/1224 – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Walton Jones	Jordan Price
Hearn Jones	Jordan Price
Ed Stuelpnagel	BP
Richard Straeffling	N+O
[illegible]	[illegible]
Ty Ford	NWC
Paul Sherman	NCFB
[illegible]	BP
Catrice Barnes	Sierra Club
Henry M Lancaster IV	LCA / NCTC
Tommy Stevens	Stevens Liddy
[illegible]	CCA
[illegible]	FPA
Scott [illegible]	KCA
Zoe Schulte	—
Elizabeth A. Temple	waiting for 2:00 hearing
John Hatcher	NC Forestry Assn.
Alice Wimberley	NCCW

Senate Pages Attending

COMMITTEE: Transportation **ROOM:** 1124

DATE: 4-10 **TIME:** Noon

PLEASE PRINT LEGIBLY....*or else!!!!!*

Page Name	Hometown	Sponsoring Senator
1. Makenna Niedzwiecki	Angier	Brown
2. Kennedy Cason	Charlotte	Waddell
3.		
4.		
5.		
6.		
7.		
8.		

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

Speaker Sign-in

Senate Committee on Transportation

April 10, 2019 12:00 PM Room 1024/1224 LB

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Ed Turlington	Rep. Tesla - SB446
Henry Jones	Alliance of Automobile Manufacturers SB446
Greg Andeck	Audubon - S606
✓ Tony Childs	Mayberry Mini Trucks SB432

Principal Clerk ____
Reading Clerk ____

Updated #1: Added Bills: H82, H131, H179, AND H537

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 5, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 82	Railroad Crossings/On-Track Equipment.	Representative Pierce Representative Shepard
HB 131	Repeal Map Act.	Representative Conrad Representative Lambeth Representative Potts Representative Torbett
HB 179	Mini-Truck Classification.	Representative Stevens Representative Shepard
HB 537	Alt. Hwy Use Tax Vehicle Subscriptions.	Representative Conrad Representative Howard Representative Setzer Representative D. Hall

Chair: Senator Davis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Transportation Committee
Wed, June 5, 2019 at 12:00 PM
Room 1124/1224 of the Legislative Building

MINUTES

The Transportation Committee met at 12:00 PM on June 5, 2019 in Room 1124/1224 of the Legislative Building. 13 Senators were present and 3 House Members were present.

Senator Jim Davis, Chair, presided.

Senator Davis opened the meeting @ 9:00 a.m. Chairman Davis introduced the Co-Chairs and the Sgt. of Arms. Goals for the committee were suggested and staff introduced themselves. The chairs and staff introduced themselves.

Senator Davis introduced the four bills scheduled to be voted on the calendar. The Bills were HB 82 (Railroad Crossings/On-Track Equipment), HB 131 (Repeal Map Act), HB 179 (Mini-Truck Classification), and HB 537 (Alt Hwy Use Tax Vehicle Subscriptions) respectively.

Representative Stevens, gave a presentation on HB179. Senator Ballard will carry the Bill on the Senate floor.

Representative Pierce, gave a presentation on HB82. Senator Alexander recused himself from voting. Senator McInnis will carry the Bill on the Senate floor.

Representative Conrad, gave a presentation on HB537 and HB 82. Senator McInnis introduced two amendments on HB 537 to be considered for a vote. Senator Krawiec will carry both Bills on the Senate floor.

Questions asked by members:

1. (Senator Alexander) Pertaining to HB 131, will North Carolina receive any real estate?
2. (Senator Alexander) Follow up question, how much debt will be incurred?

Members unanimously voted for a Favorable Report of HB 82, HB 131, HB 179. Subsequently, members voted HB 537 favorable to unfavorable for a PCS change.

Chairman Davis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 12:36 p.m.

Senator Jim Davis, Chair

Johnny Bravo, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 2

HOUSE BILL 82
Committee Substitute Favorable 2/26/19

Short Title: Railroad Crossings/On-Track Equipment. (Public)

Sponsors:

Referred to:

February 14, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT VEHICLES AND PERSONS MUST OBEY RAILROAD SIGNALS AND CROSSING RULES FOR ON-TRACK EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"**§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(24b) On-track equipment. – Any railcar, rolling stock, equipment, vehicle, or other device that is operated on stationary rails.

...."

SECTION 2. G.S. 20-142.1 reads as rewritten:

"**§ 20-142.1. Obedience to railroad signal.**

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within 50 feet, but not less than 15 feet from the nearest rail of the railroad and shall not proceed until he can do so safely. These requirements apply when:

(1) A clearly visible electrical or mechanical signal device gives warning of the immediate approach of a railroad ~~train;~~train or on-track equipment;

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad ~~train;~~train or on-track equipment;

(3) A railroad train or on-track equipment approaching within approximately 1500 feet of the highway crossing emits a signal audible from that distance, and the railroad train or on-track equipment is an immediate hazard because of its speed or nearness to the crossing; or

(4) An approaching railroad train or on-track equipment is plainly visible and is in hazardous proximity to the crossing.

...."

SECTION 3. G.S. 20-142.3 reads as rewritten:

"**§ 20-142.3. Certain vehicles must stop at railroad grade crossing.**

(a) Before crossing at grade any track or tracks of a railroad, the driver of any school bus, any activity bus, any motor vehicle carrying passengers for compensation, any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad.

While stopped, the driver shall listen and look in both directions along the track for any approaching train or on-track equipment and shall not proceed until the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross the track in a gear that allows the driver to cross the track without changing gears and the driver shall not change gears while crossing the track or tracks.

(b) Except for school buses and activity buses, the provisions of this section shall not require the driver of a vehicle to stop:

...

(3) At a railroad grade crossing protected by a gate or flashing signal designed to stop traffic upon the approach of a ~~train,~~ train or on-track equipment, when the gate or flashing signal does not indicate the approach of a ~~train.~~train or on-track equipment.

...."

SECTION 4. G.S. 20-142.4 reads as rewritten:

"**§ 20-142.4. Moving heavy equipment at railroad grade crossing.**

...

(c) Before making any crossing described in subsection (a) of this section, the person operating or moving the vehicle or equipment shall:

(1) Stop the vehicle or equipment not less than 15 feet nor more than 50 feet from the nearest rail of the railroad;

(2) While stopped, shall listen and look both directions along the track for any approaching train or on-track equipment and for signals indicating the approach of a ~~train;~~ train or on-track equipment; and

(3) Shall not proceed until the crossing can be made safely.

(d) No crossing described in subsection (a) of this section shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or ~~car.~~on-track equipment.

...."

SECTION 5. G.S. 20-142.5 reads as rewritten:

"**§ 20-142.5. Stop when traffic obstructed.**

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or railroad ~~trains,~~ trains or on-track equipment, notwithstanding the indication of any traffic control signal to proceed. Any person who violates any provision of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.

An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21."

SECTION 6. This act becomes effective December 1, 2019, and applies to offenses committed on or after that date.

HOUSE BILL 82:
Railroad Crossings/On-Track Equipment.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 5, 2019
Introduced by:	Reps. Pierce, Shepard	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: House Bill 82 would clarify that statutory rail crossing requirements and restrictions that apply when a railroad train is approaching also apply when on-track equipment is approaching.

CURRENT LAW: There are currently several statutes related to safety of vehicles at railroad crossings. G.S. 20-142.1 requires vehicles to stop when there is a signal or plainly visible approaching train. G.S. 20-142.3 requires school buses and certain other vehicles to stop at all grade crossings before proceeding. G.S. 20-142.4 provides additional safety requirements for moving heavy equipment over grade crossings. G.S 20-142.5 prohibits entering a grade crossing unless there is sufficient room on the other side to accommodate the vehicle without obstructing the passage of other vehicles, pedestrians, and trains. Violation of any of these provisions is an infraction.

BILL ANALYSIS: House Bill 82 would define "on-track equipment" as any railcar, rolling stock, equipment, vehicle, or other device that is operated on stationary rails.

The bill would also amend the statutes related to safety of vehicles at railroad crossings to make clear that the requirements that apply when a train is approaching or visible also apply when on-track equipment is approaching or visible.

EFFECTIVE DATE: The act would be effective December 1, 2019, and would apply to offenses occurring on or after that date.

Karen Cochrane-Brown
Director

H82-SMSU-91 E2 -V-1

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 2

HOUSE BILL 131*
Committee Substitute Favorable 3/12/19

Short Title: Repeal Map Act. (Public)

Sponsors:

Referred to:

February 21, 2019

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE TRANSPORTATION CORRIDOR OFFICIAL MAP ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2E of Chapter 136 of the General Statutes is repealed.

SECTION 2. G.S. 47-30(*l*) reads as rewritten:

"(*l*) This section does not apply to the registration of highway right-of-way plans provided for in G.S. 136-19.4 or ~~G.S. 136-89.184, nor to the registration of roadway corridor official maps provided for in Article 2E of Chapter 136 of the General Statutes.~~G.S. 136-89.184."

SECTION 3. G.S. 160A-458.4 is repealed.

SECTION 4. Subsection (c) of G.S. 161-14 is repealed.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 131:
Repeal Map Act.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 5, 2019
Introduced by:	Reps. Conrad, Lambeth, Potts, Torbett	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Second Edition		

OVERVIEW: House Bill 131 would repeal the Transportation Corridor Official Map Act, which authorized the North Carolina Department of Transportation, local governments, and transportation authorities to adopt maps for future transportation projects and placed restrictions on properties within mapped corridors.

CURRENT LAW: The Transportation Corridor Official Map Act was enacted in 1987, and it authorized the Department of Transportation and other governing bodies to adopt and file transportation corridor maps.

In February of 2015, the North Carolina Court of Appeals, in *Kirby v. North Carolina Department of Transportation,* 239 N.C.App. 345, found that application of the Map Act restrictions with regard to property in the corridor for the Western and Eastern Loops of the Northern Beltway Project in Forsyth County amounted to a taking for which the plaintiffs were entitled to compensation. The court referenced the "perpetual applicability of the restrictions of the Map Act" and determined that, without a specified end to the restrictions on development or improvement, the Department exercised its power of eminent domain when it filed the transportation corridor maps. The North Carolina Supreme Court subsequently affirmed the Court of Appeals decision in 2016.

In 2016, the General Assembly enacted legislation (S.L. 2016-90) that rescinded all of the existing corridor maps filed under the Map Act and put a moratorium on filing maps until 2017. The moratorium was extended in 2017 (S.L. 2017-57) to 2018, and again in 2018 (S.L. 2018-5) until July 1, 2019.

BILL ANALYSIS: House Bill 131 would repeal the Transportation Corridor Official Map Act and make necessary conforming changes to other statutes.

EFFECTIVE DATE: This act would be effective when it becomes law.

Karen Cochrane-Brown
Director

H131-SMBG-110 E2 -V-1

Legislative Analysis
Division
919-733-2578

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

HOUSE BILL 179

Short Title:	Mini-Truck Classification.	(Public)
Sponsors:	Representatives Stevens and Shepard (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Transportation, if favorable, Commerce, if favorable, Rules, Calendar, and Operations of the House	

February 27, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE LAWS OF THE STATE TO REGULATE MINI-TRUCKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(27) is amended by adding a new sub-subdivision to read:

"g1. Mini-truck. – A motor vehicle designed, used, or maintained primarily for the transportation of property and having four wheels, an engine displacement of 660cc or less, an overall length of 130 inches or less, an overall height of 78 inches or less, and an overall width of 60 inches or less."

SECTION 2. G.S. 20-87(12) reads as rewritten:

"(12) Low-Speed ~~Vehicles.~~ Vehicles and Mini-Trucks. – The fee for a low-speed vehicle or mini-truck is the same as the fee for private ~~passengers~~ passenger vehicles of not more than 15 passengers. However, the fee for any low-speed vehicle or mini-truck that is offered for rent shall be the same as the fee for a U-drive-it automobile."

SECTION 3. G.S. 20-121.1 reads as rewritten:

"**§ 20-121.1. Operation of a low-speed vehicle or mini-truck on certain roadways.**

The operation of a low-speed vehicle or mini-truck is authorized with the following restrictions:

(1) A low-speed vehicle may be operated only on streets and highways where the posted speed limit is 35 miles per hour or less. A mini-truck may be operated only on streets and highways where the posted speed limit is 55 miles per hour or less. This does not prohibit a low-speed vehicle or mini-truck from crossing a road or street at an intersection where the road or street being crossed has a posted speed limit of more than 35 miles per hour.

(2) A low-speed vehicle or mini-truck shall be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number. Any such required equipment shall be maintained in proper working order.

(3) A low-speed vehicle or mini-truck shall be registered and insured in accordance with G.S. 20-50 and G.S. 20-309.

(4) The Department of Transportation may prohibit the operation of low-speed vehicles or mini-trucks on any road or highway if it determines that the prohibition is necessary in the interest of safety.

(5) Low-speed vehicles must comply with the safety standards in 49 C.F.R. § 571.500.

(6) Regardless of age, a mini-truck shall not qualify as an antique vehicle or historic vehicle as described in G.S. 20-79.4(b)."

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 179:
Mini-Truck Classification.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 5, 2019
Introduced by:	Reps. Stevens, Shepard	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	First Edition		

OVERVIEW: House Bill 179 would make various changes to the motor vehicle laws of this State to define and allow for the operation of mini-trucks on roadways with certain restrictions.

CURRENT LAW: Under current law, mini-trucks are not specifically defined as a category of motor vehicle under Chapter 20.

BILL ANALYSIS: Section 1 of the bill would define a mini-truck as a passenger vehicle, for the purposes of motor vehicle laws, as follows:

- A motor vehicle designed, used, or maintained primarily for the transportation of property; and
  - having four wheels;
  - an engine displacement of 660cc or less;
  - an overall length of 130 inches or less;
  - an overall height of 78 inches or less;
  - and an overall width of 60 inches or less.

Section 2 of the bill would make the registration fee for mini-trucks the same as a private passenger vehicle of not more than 15 passengers ($36). This section would also require that low-speed vehicles or mini-trucks that are offered for rent would pay the same registration fee of a U-drive it automobile ($66).

Section 3 of the bill would place restrictions and requirements on the operation of mini-trucks, which would include that:

- Mini-trucks would only be allowed to operate on streets and highways where the posted speed limit is 55 mph or less.
- Mini-trucks are equipped with certain equipment similar to that of a low-speed vehicle.
- Mini-trucks are registered and insured.
- Mini-trucks abide by NCDOT roadway prohibitions in the interest of safety.
- Mini-trucks would not be considered antique or historic vehicles regardless of age.

EFFECTIVE DATE: This bill would become effective when it becomes law.

Karen Cochrane-Brown
Director

H179-SMBG-109 E1 -V-1

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 3

HOUSE BILL 537*
Committee Substitute Favorable 4/9/19
Committee Substitute #2 Favorable 4/15/19

Short Title: Alt. Hwy Use Tax Vehicle Subscriptions. (Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE ALTERNATE HIGHWAY USE TAX ON VEHICLE SUBSCRIPTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-187.1 reads as rewritten:

"**§ 105-187.1. Definitions.**

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

...

(3) Long-term lease or rental. – A lease or rental made under a written agreement to lease or rent ~~property~~ a single motor vehicle to the same person for a period of at least 365 continuous days.

...

(3c) Limited possession commitment. – Long-term lease or rental, short-term lease or rental, and vehicle subscriptions.

...

(6) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, ~~or renting~~ renting, or offering vehicle subscriptions for motor vehicles.

(7) Short-term lease or rental. – A lease or rental of a motor vehicle or motor vehicles, including a vehicle sharing service, that is not a long-term lease or ~~rental.~~rental or a vehicle subscription.

(8) Vehicle sharing service. – A service for which a person pays a membership fee for the right to use a motor vehicle or motor vehicles upon payment of an additional time-based or mileage-based fee.

(9) Vehicle subscription. – A written agreement that grants a person the right to use and exchange motor vehicles owned, directly or indirectly, by the person offering the agreement upon payment of a subscription fee, but it does not include a vehicle sharing service. The subscription fee must provide a person exclusive use of an agreed-upon number of motor vehicles at any given time during the full term of the subscription."

SECTION 2. G.S. 105-187.5 reads as rewritten:

"**§ 105-187.5. Alternate tax for ~~those who rent or lease motor vehicles.~~a limited possession commitment.**

(a) Election. – A retailer may elect not to pay the tax imposed by this Article at the rate set in G.S. 105-187.3 when applying for a certificate of title for a motor vehicle purchased by the

retailer for ~~lease or rental~~ a limited possession commitment. A retailer who makes this election shall pay a tax on the gross receipts of the ~~lease or rental~~ limited possession commitment of the vehicle. The portion of a ~~lease or rental~~ limited possession commitment billing or payment that represents any amount applicable to the sales price of a service contract as defined in G.S. 105-164.3 should not be included in the gross receipts subject to the tax imposed by this Article. The charge must be separately stated on documentation given to the purchaser at the time the ~~lease or rental agreement~~ limited possession commitment goes into effect, or on the monthly billing statement or other documentation given to the purchaser. When a ~~lease or rental contract~~ limited possession commitment is sold to another retailer, the seller of the ~~lease or rental contract~~ limited possession commitment should provide to the purchaser of the ~~lease or rental contract~~ limited possession commitment the documentation showing that the service contract and applicable sales taxes were separately stated at the time the ~~lease or rental~~ limited possession commitment went into effect and the new retailer must retain the information to support an allocation for tax computed on the gross receipts subject to highway use tax. Like the tax imposed by G.S. 105-187.3, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the ~~lease or rental price~~ limited possession commitment of a motor vehicle and thereby be paid by the person who ~~leases or rents the vehicle.~~enters into a limited possession commitment with a retailer.

(b) Rate. – The applicable tax ~~rate~~ rates on the gross receipts from ~~the short-term lease or rental of a motor vehicle is eight percent (8%) and the tax rate on the gross receipts from the long-term lease or rental of a motor vehicle is three percent (3%).~~ a limited possession commitment are as listed in this subsection. Gross receipts does not include the amount of any allowance given for a motor vehicle taken in trade as a partial payment on the ~~lease or rental price.~~ limited possession commitment. The maximum tax in G.S. 105-187.3(a1) on certain motor vehicles applies to a continuous ~~lease or rental~~ limited possession commitment of such a motor vehicle to the same person. The applicable tax rates are as follows:

Type of Limited Possession Commitment	Tax Rate
Short-term lease or rental	8%
Vehicle subscription	5%
Long-term lease or rental	3%

(c) Method. – A retailer who elects to pay tax on the gross receipts of the ~~lease or rental~~ limited possession commitment of a motor vehicle shall make this election when applying for a certificate of title for the vehicle. To make the election, the retailer shall complete a form provided by the Division giving information needed to collect the alternate tax based on gross receipts. Once made, an election is irrevocable.

(d) Administration. – The Division shall notify the Secretary of Revenue of a retailer who makes the election under this section. A retailer who makes this election shall report and remit to the Secretary the tax on the gross receipts of the ~~lease or rental~~ limited possession commitment of the motor vehicle. The Secretary shall administer the tax imposed by this section on gross receipts in the same manner as the tax levied under G.S. 105-164.4(a)(2). The administrative provisions and powers of the Secretary that apply to the tax levied under G.S. 105-164.4(a)(2) apply to the tax imposed by this section. In addition, the Division may request the Secretary to audit a retailer who elects to pay tax on gross receipts under this section. When the Secretary conducts an audit at the request of the Division, the Division shall reimburse the Secretary for the cost of the audit, as determined by the Secretary. In conducting an audit of a retailer under this section, the Secretary may audit any sales of motor vehicles made by the retailer."

SECTION 3. G.S. 105-187.9 reads as rewritten:

"**§ 105-187.9. Disposition of tax proceeds.**

(a) Distribution. – Of the taxes collected under this Article at the rate of five percent (5%) and eight percent (8%), the sum of ten million dollars ($10,000,000) shall be credited annually to the Highway Fund, and the remainder shall be credited to the General Fund. Taxes collected

under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund.

...."

SECTION 4. G.S. 105-550(6) reads as rewritten:

"(6) Short-term lease or rental. – ~~A lease or rental that is not a long-term lease or rental.~~Defined in G.S. 105-187.1."

SECTION 5. G.S. 153A-156 reads as rewritten:

"§ 153A-156. Gross receipts tax on short-term leases or rentals.

...

(e) The following definitions apply in this section:

(1) Short-term lease or rental. – Defined in ~~G.S. 105-187.1(4).~~G.S. 105-187.1.

...."

SECTION 6. This act becomes effective October 1, 2019, and applies to vehicle subscription agreements entered into on or after that date.

HOUSE BILL 537:
Alt. Hwy Use Tax Vehicle Subscriptions.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 5, 2019
Introduced by:	Reps. Conrad, Howard, Setzer, D. Hall	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	Third Edition		

OVERVIEW: House Bill 537 would define "vehicle subscription" for purposes of the application of the alternate highway use tax and would set the tax rate at 5%, which would be applied to the gross receipts derived from vehicle subscriptions. These subscriptions are currently considered short-term rentals through an interpretation of the Department of Revenue, which are subject to a rate of 8%.

This act would become effective October 1, 2019, and apply to vehicle subscription agreements entered on or after that date.

CURRENT LAW:

Alternate Highway Use Tax. – The sale of a motor vehicle for which a certificate of title is issued is subject to a 3% highway use tax.[1] A retailer who purchases a motor vehicle for lease or rental has the option of paying an alternate tax, in lieu of the highway use tax, on the gross receipts derived from the lease or rental of the vehicle. The rate is 3% for long-term leases or rentals and 8% for short-term leases or rentals.

A long-term lease or rental is defined as a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days. A short-term lease or rental is a lease or rental that is not a long-term lease or rental.

Like the highway use tax, the alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on the retailer, but it is added to the lease or rental price and paid by the person who leases or rents the vehicle.

Taxes collected at the rate of 3% are credited to the Highway Trust Fund. Of the taxes collected at the rate of 8%, $10 million is credited annually to the Highway Fund and the remainder is credited to the General Fund.

Additional Taxes on Short-Term Rentals. – Short-term rentals may be subject to two additional taxes. A county may levy a tax of up to 1.5% on the gross receipts derived from short-term leases or rentals of vehicles, the proceeds of which are retained by the county. 42 counties currently levy this tax. A regional public transportation authority or a regional transportation authority[2] may also levy a tax of up to 5% on short-term leases or rentals. An authority may use the funds for any purpose for which the authority is

[1] For the retail sale of a vehicle, the tax applies to the retail sales price of the motor vehicle including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a trade-in.

[2] The two Authorities that levy a 5% tax on short-term vehicle rentals are: (1) the Research Triangle Regional Transportation Authority, known as Go Triangle, which serves Durham, Orange, and Wake Counties; and (2) the Piedmont Authority for Regional Transportation (PART), which has 10 member counties, including Forsyth and Guilford.

Karen Cochrane-Brown
Director

H537-SMSU-90-E3-V-1

Legislative Analysis Division
919-733-2578

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

authorized to use funds, including pledging funds in connection with the financing of a public transportation system.

Vehicle Subscription Services. – A vehicle subscription service is a relatively new business model that is a variation of the traditional lease or rental concept. There are a small number of companies currently operating under this model in North Carolina. Under a vehicle subscription, a customer typically pays a "joining fee" plus a monthly subscription fee to have the right to use a vehicle from the company's fleet of vehicles and to swap the vehicle for a different type of vehicle. Depending on the pricing tier, a customer may have unlimited swaps or may be limited to a certain number of swaps. A customer can initiate an exchange through the company's mobile application, and the company will deliver the new vehicle and retrieve the vehicle currently in the customer's possession. The company provides insurance coverage and access to roadside assistance and performs routine maintenance and repairs on the vehicles.

Department of Revenue Interpretation. – To the extent the current law does not address or define vehicle subscriptions, a taxpayer requested a private letter ruling from the Department on the issue of which tax rate applies to their business model, and, more specifically, whether a vehicle subscription qualifies as a long-term lease or rental. The Department's ruling focused on the use of the term "property" in the definition of a long-term lease and opined that the term referred to a single motor vehicle rather than an agreement for the use of multiple vehicles. The Department concluded that since a vehicle subscription agreement does not meet the definition of a long-term lease or rental, it is a short-term lease or rental, and, therefore, is subject to the 8% rate.

BILL ANALYSIS: House Bill 537 would do the following:

- Define "vehicle subscription" as a written agreement that grants a person the right to use and exchange motor vehicles owned, directly or indirectly, by the person offering the agreement upon payment of a subscription fee, but it does not include a vehicle sharing service. The subscription fee must provide a person exclusive use of an agreed upon number of motor vehicles at any given time during the full term of the subscription.
- Lower from 8% to 5%, the alternate highway use tax rate that applies to vehicle subscriptions. Because the term "vehicle subscription" is not currently defined, the current rate is based on an interpretation of the Department of Revenue that the subscriptions are short-term leases or rentals.
- Define "vehicle sharing service" and clarifies that a vehicle sharing service, as distinguished from a vehicle subscription, is a short-term lease or rental. The definition is "a service for which a person pays a membership fee for the right to use a motor vehicle or motor vehicles upon payment of an additional time-based or mileage-based fee." An example of a vehicle sharing service would be Zipcar. The bill would not change the tax treatment of this type of rental. Though not specifically defined, a vehicle sharing service is currently treated as a short-term rental.
- Make various conforming changes:
  - Create the term "limited possession commitment" to be a global term that includes all three types of agreements subject to the alternate highway use tax for easier reference within the statutes.
  - Provide for the disposition of the tax proceeds generated from the new 5% tax to be treated in the same manner as the proceeds from the 8% tax.
  - Make consistent the reference to "short-term lease or rental" for purposes of the optional county tax and the transportation authority tax.

EFFECTIVE DATE: This bill would become effective October 1, 2019, and would apply to vehicle subscription agreements entered into on or after that date.

Trina Griffin, counsel to House Finance, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 537*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H537-ASU-34 [v.3]

Amends Title [NO]
Third Edition

Date _____,2019

Senator McInnis

moves to amend the bill on page 1, line 7, by rewriting the line to read:

"(a) The following definitions and the definitions in G.S. 105-164.3 apply to this Article:"; and

on page 1, lines 10-11, by rewriting the lines to read:

"to lease or rent ~~property~~ one or more motor vehicles to the same person for a period of at least 365 continuous ~~days.~~days and is not a vehicle subscription"; and

on page 1, line 30, by rewriting the line to read:

"during the full term of the subscription.

(b) This section does not apply to Chapter 20 of the General Statutes, including the licensing requirements, restrictions, limitations, and prohibitions on unfair methods of competition contained in Article 12 of that Chapter.""; and

on page 2, lines 49-50, by deleting "five percent (5%) and"; and

on page 3, line 1, by rewriting the line to read:

"under this Article at the rate of three percent (3%) and five percent (5%) shall be credited to the North Carolina Highway".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee

On

Transportation

June 5, 2019 – 12:00 PM

Room 1124/1224

Senate Sergeant at Arms:

TERRY EDMONDSON

LINDA MATTHEWS

SENATE COMMITTEE ON TRANSPORTATION

June 5, 2019 – Room 1124/1224 – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Josh Lanier	CSH
CS Wallis	CSH
Kesha Fortson	SEANC
Flint Benson	SEANC
Claudia Broemaker	governors office
Kara Weishaar	SA
David Farrell	NA
Amanda Donovan	KTS
Hampton Billips	KTS
Susan Vick	Duke Energy
Nelson Freeman	Kilpatrick Townsend
W. Dardna Culpepper	PPAB
Samuel Campbell	Public
Ken Melton	KMA
Chris Jones	KTS
Irm Wiggins	ARLLC
Demetrius Deloatch	NCLM
Rhalgan Jackson	FPA

SENATE COMMITTEE ON TRANSPORTATION

June 5, 2019 – Room 1124/1224 – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Michelle Frazier	NP
Justin Giles	Sen. Waddell's Office

SENATE COMMITTEE ON TRANSPORTATION

June 5, 2019 – Room 1124/1224 – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Sam Bridges	Town of Garner
Suzanne Mullins	NCLCV
Rose James	NCLCV
Rachel Gonsenhauser	NC LCV
PAN Crawford	NCLCV
Stephen Kouba	KMA
Seth Perry	NCR
Anne Weaver	NCCN
Ami Neumann	MWC
Sarah McQuillan	KCA
Rick Zechini	Williams Mullen
Bill Sloggy	TS
Marissa Turner	TSS
Carlisle Harris	TSS
Lisa Martin	
	NCAOA
Henry Jones	Jordan Price

SENATE COMMITTEE ON TRANSPORTATION

June 5, 2019 – Room 1124/1224 – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Justin Delaney	NCDOT
	CGA
	RMC, LPA, NCMA

Principal Clerk
Reading Clerk

Updated #1: H337 - Will be voted on

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 19, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 337	Change Salvage Vehicle Transfer Requirements.	Representative Torbett Representative Lewis
HB 67	Road Barrier Prohibition.	Representative McNeill Representative Shepard Representative Goodman Representative R. Turner
HB 620	Street Database/Manual/Public Record Except.	Representative Szoka Representative Bumgardner Representative Hawkins Representative Iler
HB 917	Emergency Declaration/Clarify Rd Closure.	Representative Horn
HB 368	Bermuda Run/Speed Restrictions.	Representative Howard

Chair: Senator McInnis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, June 19, 2019, 12:00 PM
1124/1224 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 67	Road Barrier Prohibition.	Representative McNeill Representative Shepard Representative Goodman Representative R. Turner
HB 620	Street Database/Manual/Public Record Except.	Representative Szoka Representative Bumgardner Representative Hawkins Representative Iler
HB 917	Emergency Declaration/Clarify Rd Closure.	Representative Horn
HB 368	Bermuda Run/Speed Restrictions.	Representative Howard
HB 337	Change Salvage Vehicle Transfer Requirements. For discussion only.	Representative Torbett Representative Lewis

Presentations

Other Business

Adjournment

Senate Committee on Transportation

Wednesday, June 19, 2019, 12:00 PM

Room 1124/1224 of the Legislative Building

Minutes

The senate committee on Transportation met at 12:01 PM on June 19, 2019 in Room 1124/1224 of the Legislative Office Building. There were 7 senator present.

Senator Tom McInnis, Chair, presided.

Chairman McInnis opened the meeting at 12:01 p.m. Chairman McInnis introduced the pages and the Sgt. of Arms. The Sergeant of Arms for the Committee meeting were Michael Caviness, Linda Matthews and Hal Roach.

Goals for the committee were suggested and staff introduced themselves. The goals of the committee were to discuss and vote on House bill 67 Road Barrier Prohibition, House Bill 620 Street Database/Manuel/Public Record Except, House Bill 917 Emergency Declaration, House Bill 368 Bermuda Run/Speed Restrictions and House Bill 337 Change Salvage Vehicle Transfer Requirements.

Chairman McInnis introduced House Bill 917 Emergency Declaration. Senator Jackson moved to speak on the bill. Senator Brett moved to approve and the motion was approved. Senator Britt made a second motion to approve and the motion was passed by voice vote.

House Bill 620 Street Database/Manuel/Public Record Except was displaced from the calendar.

Chairman McInnis introduced Rural H67 Road Barrier Prohibition. Representative McNeil spoke on the bill. Senator DeViere made a motion for favorable report and the motion was approved by voice vote.

Chairman McInnis introduced House Bill 368 Bermuda Run/Speed Restrictions. Representative Howard rose to speak on the bill. Senator Britt made a motion to approve the bill and the motion was approved by voice vote.

House bill 67 Road Barrier Prohibition was reported favorable. House Bill 620 Street Database/Manuel/Public Record Except was displaced from the calendar. House Bill 917 Emergency Declaration was reported favorable. House Bill 368 Bermuda Run/Speed Restrictions was reported favorable. House Bill 337 Change Salvage Vehicle Transfer Requirements was reported favorable.

Chairman McInnis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 1:21 p.m.

Senator Tom McInnis, Chair

J. Hunter Blohm, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 3

HOUSE BILL 337
Committee Substitute Favorable 4/9/19
Committee Substitute #2 Favorable 4/30/19

Short Title: Change Salvage Vehicle Transfer Requirements. (Public)

Sponsors:

Referred to:

March 13, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND LAWS GOVERNING THE TRANSFER OF SALVAGE VEHICLES BY REMOVING NOTARY REQUIREMENTS, PERMITTING ELECTRONIC SIGNATURES, AND ALLOWING ACCESS TO DIVISION OF MOTOR VEHICLE SYSTEMS FOR SALVAGE VEHICLE TITLE PROCESSING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-52(c) reads as rewritten:

"(c) Unless otherwise prohibited by federal law, an application for a certificate of title, salvage certificate of title, a registration plate, a registration card, and any other document required by the Division to be submitted with the application and requiring a signature may be submitted to the Division with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes. The required notarization of any electronic signature on any application or document submitted to the Division pursuant to this subsection may be performed electronically in accordance with Article 2 of Chapter 10B of the General Statutes. The Division will not certify or approve a specific electronic process or vendor. Any entity offering an electronic signature process assumes all responsibility and liability for the accuracy of the signature. The Division shall be held harmless from any liability to a claim arising from applications submitted with an inaccurate electronic signature pursuant to this subsection."

SECTION 2. G.S. 20-63(i) and (j) read as rewritten:

"(i) Electronic Applications and Collections. – The Division shall accept electronic applications for the issuance of registration plates, registration certificates, salvage certificates of title, and certificates of title, and is authorized to electronically collect fees from online motor vehicle registration vendors under contract with the Division.

(j) The Division shall contract with at least two online motor vehicle registration vendors which may enter into contracts with motor vehicle dealers to complete and file Division required documents for the issuance of a certificate of title, registration plate, or registration card or a duplicate certificate of title, registration plate, or registration card for a motor vehicle, upon purchase or sale of a vehicle. Vendors under contract with the Division pursuant to this subsection may also enter into contracts with used motor vehicle dealers whose primary business is the sale of salvage vehicles on behalf of insurers to complete and file documents required by the Division for the issuance of a salvage certificate of title."

SECTION 3. G.S. 20-72(b) reads as rewritten:

"(b) In order to assign or transfer title or interest in any motor vehicle registered under the provisions of this Article, the owner shall execute in the presence of a person authorized to administer oaths an assignment and warranty of title on the reverse of the certificate of title in

form approved by the Division, including in such assignment the name and address of the transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee. The provisions of this section shall not apply to any foreclosure or repossession under a chattel mortgage or conditional sales contract or any judicial sale. The provisions of this subsection shall not apply to (i) any transfer to an insurer pursuant to G.S. 20-109.1(b)(2) or (ii) any transfer to a used motor vehicle dealer pursuant to G.S. 20-109.1(e1). The provisions of this subsection requiring that an assignment and warranty of title be executed in the presence of a person authorized to administer oaths shall not apply to any transfer of title to or from an insurer pursuant to G.S. 20-109.1.

When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to a vehicle currently titled in this State to another by certifying in writing in a sworn statement to the Division that is signed by the dealer principal, general manager, general sales manager, controller, or owner of the dealership that, to the best of the signatory's knowledge and information as of the date of the sworn certification, all prior perfected liens on the vehicle that are known or reasonably ascertainable by the signatory have been paid and that the motor vehicle dealer, despite having used reasonable diligence, was unable to obtain the vehicle's statement of origin or certificate of title. For purposes of this subsection, a dealer may certify that the dealer is unable to obtain the vehicle's statement of origin or certificate of title if the statement of origin or certificate of title has either (i) not been delivered to the dealer or (ii) has been lost or misplaced. The Division is authorized to request any information it deems necessary to transfer the vehicle and shall develop a form for this purpose. The knowing and intentional filing of a false sworn certification with the Division pursuant to this subsection shall constitute a Class H felony. A dealer principal, owner, or manager of a motor vehicle dealership who is not a signatory of the sworn certification required under this subsection may only be charged for a criminal violation for filing a false certification under this subsection by another dealership employee if the dealer principal, owner, or manager had actual knowledge of the falsity of the sworn certification at the time the sworn certification was submitted to the Division.

Any person transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except when a certificate of title is unavailable as provided in this subsection or in G.S. 20-72.1, and except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new title and necessary fees to the Division within 20 days. If the title to a vehicle is unavailable and the dealer transfers the vehicle on a sworn certification pursuant to this section or G.S. 20-52.1, and the title is subsequently received or found by the dealer, the dealer shall retain a copy for its records and submit the title to the Division. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor. No person shall have a cause of action against the Division or Division contractors arising from the transfer of a vehicle by a sworn certification pursuant to this section.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

SECTION 4. G.S. 20-75 reads as rewritten:

"**§ 20-75. When transferee is a charitable organization, dealer, or insurance company.**

A transferee of a vehicle registered under this Article is not required to register the vehicle or forward the certificate of title to the Division as provided in G.S. 20-73 when the transferee is any of the following:

(1) A dealer who is licensed under Article 12 of this Chapter and who holds the vehicle for resale.

(2) An insurance company taking the vehicle for sale or disposal for salvage purposes where the title is taken or requested as a part of a bona fide claim settlement transaction and only for the purpose of resale.

(3) A charitable organization operating under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) and the vehicle was donated to the charitable organization solely for purposes of resale by the charitable organization.

To assign or transfer title or interest in the vehicle, the charitable ~~organization, dealer, or insurance company~~ organization or dealer shall execute, in the presence of a person authorized to administer oaths, a reassignment and warranty of title on the reverse of the certificate of title in the form approved by the Division, which shall include the name and address of the transferee. To assign or transfer title or interest in the vehicle, the insurance company shall execute a reassignment and warranty of title on the reverse of the certificate of title in the form approved by the Division, which shall include the name and address of the transferee. The title to the vehicle shall not pass or vest until the reassignment is executed and the motor vehicle delivered to the transferee.

The dealer transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except:

(1) Where a security interest in the motor vehicle is obtained from the transferee in payment of the purchase price or otherwise, the dealer shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new certificate of title and necessary fees to the Division within 20 days; or

(2) Where the transferee has the option of cancelling the transfer of the vehicle within 10 days of delivery of the vehicle, the dealer shall deliver the certificate of title to the transferee at the end of that period. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract.

Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

SECTION 5. G.S. 20-85(a) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes:

(1) Each application for certificate of title $52.00
(2) Each application for duplicate or corrected certificate of title 20.00
(3) Each application of repossessor for certificate of title 20.00
(4) Each transfer of registration 20.00
(5) Each set of replacement registration plates 20.00
(6) Each application for duplicate registration card 20.00
(7) Each application for recording supplementary lien 20.00
(8) Each application for renewing a security interest on a certificate of title or removing a lien or security interest from a certificate of title 20.00
(9) Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale 20.00

(10) Each application for a salvage certificate of title made by an insurer pursuant to G.S. 20-109.1 or by a used motor vehicle dealer pursuant to ~~subdivision (b)(2) or subsection (e1) of G.S. 20-109.1~~ G.S. 20-109.1(e1) 20.00

(11) Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.4 .....25.00."

SECTION 6. G.S. 20-109.1(b) reads as rewritten:

"(b) Transfer to Insurer. –

(1) If a salvage vehicle owner does not want to keep the vehicle, the owner must assign the vehicle's certificate of title to the insurer when the insurer pays the claim. The insurer must send the assigned title to the Division within 10 days after receiving it from the vehicle owner. The Division must then send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. If the insurer sells the vehicle, the insurer must complete the form and give it to the buyer. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title to the vehicle.

(2) If a salvage vehicle owner fails to assign and deliver the vehicle's certificate of title to the insurer within 30 days of the payment of the claim in accordance with subdivision (b)(1) of this section, the insurer, without surrendering the certificate of title, may, at any time thereafter, request that the Division send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. The request shall be made on a form prescribed by the Division and shall be accompanied by proof of payment of the claim and proof of notice sent to the owner and any lienholder requesting the vehicle's certificate of title. If the records of the Division indicate there is an outstanding lien against the vehicle immediately before the payment of the claim and if the payment was made to a lienholder or to a lienholder and the owner jointly, the proof of payment shall include evidence that funds were paid to the first lienholder shown on the records of the Division. The notice must be sent by the insurer at least 30 days prior to requesting the Division send the insurer a form to use to transfer title and must be sent by certified mail or by another commercially available delivery service providing proof of delivery to the address on record with the Division. Upon the Division's receipt of such request, the vehicle's certificate of title is deemed to be assigned to the insurer. Notwithstanding any outstanding liens against the vehicle, the Division must send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. The Division's issuance of the form extinguishes all existing liens on the motor vehicle. If the insurer sells the vehicle, the insurer must complete the form and give it to the buyer. In such a sale by the insurer, the motor vehicle shall be transferred free and clear of any liens. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title to the vehicle.

(3) Notwithstanding any other provision of law, with respect to a vehicle described in this subsection, the following shall be exempt from the requirements of notarization, including exemption from the notarization of electronic signature requirements of G.S. 20-52(c):

a. The transfer of ownership on the certificate of title.

b. Any power of attorney required in connection with the transfer of ownership to the insurer.

c. Any required odometer disclosure affidavit.

d. The application for a salvage certificate of title.

e. The transfer of ownership on the salvage certificate of title issued.

f. Any affidavit pursuant to subdivision (2) of subsection (b) of this section.

g. Any affidavit on the salvage certificate of title issued."

SECTION 7. This act becomes effective October 1, 2019.

HOUSE BILL 337:
Change Salvage Vehicle Transfer Requirements.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 19, 2019
Introduced by:	Reps. Torbett, Lewis	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Third Edition		

OVERVIEW: House Bill 337 would make various changes to the motor vehicle titling laws of this State relating to salvage certificates of title.

[As introduced, this bill was identical to S248, as introduced by Sens. B. Jackson, Burgin, J. Davis, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Current law outlines the procedures related to assignment, surrender, or transfers of certificates of titles to motor vehicles, which includes motor vehicles damaged to the extent that it becomes a salvage vehicle.

A salvage vehicle is "any motor vehicle damaged by collision or other occurrence to the extent that the cost of repairs to the vehicle and rendering the vehicle safe for use on the public streets and highways would exceed seventy-five percent (75%) of its fair retail market value…."

Procedures vary depending on whether the owner decides to keep the vehicle, or whether an insurer or motor vehicle dealer is involved with taking possession or ownership of the salvage vehicle during or after the insurance claim process.

BILL ANALYSIS:

Section 1 would add a salvage certificate of title to the list of documents for which the North Carolina Division of Motor Vehicles (NCDMV) may receive electronically signed applications, and specifies that the Division shall be held harmless from any liability to a claim arising from applications submitted with an inaccurate electronic signatures.

Section 2 would add a salvage certificate of title application to the list of transactions which NCDMV may receive electronically. This section would also clarify language authorizing registration vendors, under contract with the North Carolina Division of Motor Vehicles, to enter into contracts with used motor vehicle dealers of salvaged vehicles to complete and file documents for salvage title transactions.

Section 3 would exempt transfers and assignments of title, to or from an insurer for salvage vehicles, from the notarization requirement.

Section 4 would exempt an insurance company from the notarization requirement for a title reassignment and title warranty to transfer to a transferee.

Section 5 would clarify that all salvage certificate of title applications by insurers pursuant to G.S. 20-109.1 would be subject to the application fee of $20.

Karen Cochrane-Brown
Director

Legislative Analysis Division
919-733-2578

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

Section 6 would exclude the following documents from the notarization requirement when the transaction involves an insurer transaction for a salvaged motor vehicle: transfers of ownership on a certificate of title; a power of attorney designation; an odometer disclosure affidavit; salvage certificate of title application; a transfer of ownership on the salvage certificate of title; or an affidavit required for a transfer of title to an insurer when an owner fails to assign the certificate of title; or an affidavit on the salvage certificate of title.

EFFECTIVE DATE: This act would become effective October 1, 2019.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 2

HOUSE BILL 67
Committee Substitute Favorable 2/26/19

Short Title: Road Barrier Prohibition. (Public)

Sponsors:

Referred to:

February 14, 2019

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE PROHIBITION ON THE REMOVAL, DESTRUCTION, OR DRIVING THROUGH OF ROADWAY CONSTRUCTION BARRIERS TO INCLUDE DANGEROUS ROADWAY CONDITION CLOSURE BARRIERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-26 reads as rewritten:

"**§ 136-26. Closing of State transportation infrastructure during ~~construction;~~ construction or for dangerous conditions; driving through, removal, injury to barriers, warning signs, etc.**

If it shall appear necessary to the Department of Transportation, its officers, or appropriate employees, to close any transportation infrastructure coming under its jurisdiction so as to permit proper completion of construction work which is being performed, or to prohibit traffic on transportation infrastructure due to damage posing a danger to public safety, the Department of Transportation, its officers or employees, may close, or cause to be closed, the whole or any portion of transportation infrastructure deemed necessary to be excluded from public travel. While any transportation infrastructure, or portion thereof, is so closed, or while any transportation infrastructure, or portion thereof, is in process of construction or maintenance, the Department of Transportation, its officers or appropriate employees, or its contractor, under authority from the Department of Transportation, may erect, or cause to be erected, suitable barriers or obstruction thereon; may post, or cause to be posted, conspicuous notices to the effect that the transportation infrastructure, or portion thereof, is closed; and may place warning signs, lights and lanterns on transportation infrastructure, or portions thereof. When infrastructure is closed to the public ~~or in process of construction or maintenance,~~ as provided herein, any person who willfully drives ~~into new construction work, breaks down,~~ onto transportation infrastructure closed pursuant to this section or removes, injures or destroys any such barrier or barriers or obstructions on the road closed or being constructed, or tears down, removes or destroys any such notices, or extinguishes, removes, injures or destroys any such warning ~~lights~~ signs, lights, or lanterns so erected, ~~posted or placed,~~ posted, or placed pursuant to this section, shall be guilty of a Class 1 misdemeanor.

This prohibition does not apply to law enforcement, first responders, personnel of emergency management agencies, or Department of Transportation personnel acting in the course of, and within the scope of, their official duties; or personnel acting in the course of, and within the scope of, installation, restoration or maintenance of utility services in coordination with the Department of Transportation."

SECTION 2. This act becomes effective December 1, 2019, and applies to offenses committed on or after that date.

HOUSE BILL 67:
Road Barrier Prohibition.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 19, 2019
Introduced by:	Reps. McNeill, Shepard, Goodman, R. Turner	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Second Edition		

OVERVIEW: ***House Bill 67 would expand a prohibition on driving upon, moving, or damaging, roadway barriers erected by the North Carolina Department of Transportation for construction work, to include roadway barriers erected for closures due to dangerous conditions.***

CURRENT LAW: G.S. 136-26 authorizes the Department of Transportation to close transportation infrastructure for construction and erect barriers accordingly. Current law prohibits removing, damaging, or driving around these barriers. A willful violation of this section is a Class 1 misdemeanor.

BILL ANALYSIS: House Bill 67 would expand the authorization to allow the Department to close transportation infrastructure due to dangerous conditions and would further prohibit removing, damaging, or driving around closure barriers erected for this reason. It would also add an exception to the prohibitions for law enforcement, first responders, personnel of emergency management agencies, or Department personnel acting in the course of their official duties. The prohibition would also not apply to utility services personnel acting in coordination with the Department. A willful violation of this section would remain a Class 1 misdemeanor.

EFFECTIVE DATE: The act would become effective December 1, 2019 and would apply to offenses committed on or after that date.

Karen Cochrane-Brown
Director

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 2

HOUSE BILL 620*
Committee Substitute Favorable 5/6/19

Short Title: Street Database/Manual/Public Record Except. (Public)

Sponsors:

Referred to:

April 8, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO COMPILE A PUBLIC STREET INFORMATION DATABASE AND TO REGULARLY UPDATE THE SUBDIVISION ROADS MANUAL AND TO TEMPORARILY EXEMPT PROPRIETARY DESIGN WORK SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION DURING A COMPETITIVE BID PROCESS FROM PUBLIC RECORDS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§136-18.06. Public Street Information Database.**

The Department shall compile a readily available "Public Street Information Database" and place it in operation on or before January 1, 2020. The information shall convey the status of roads within the State, and it shall be updated at least monthly, except as provided in subdivision (1) of this section. The data shall reside on any existing database system chosen by the Department for this purpose, including a geographic information system (GIS) mapping system. The system chosen shall convey clear and concise information regarding the status of roads to the public. The data shall be available to the public in either graphic or tabular format, or both. The status of roads to be conveyed shall be:

(1) Federally owned, updated as often and with as much information as the State is provided from the federal government.

(2) State-maintained with a State road number assigned.

(3) State-owned with a State road number assigned."

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

"**§ 136-18.07. Subdivision Roads Manual.**

The Department shall update its Subdivision Roads Minimum Construction Standards Manual and any related pavement or other policies by July 1, 2020, and regularly thereafter, to accurately reflect current federal and State law and applicable judicial decisions. The Department shall report all updates to the Manual to the Joint Legislative Transportation Oversight Committee."

SECTION 3. G.S. 132-1.2 reads as rewritten:

"**§ 132-1.2. Confidential information.**

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

...

(8) Reveals proprietary design work or work product included in a proposal that is submitted to the Department of Transportation for consideration, or any Department intra-agency communications related to the review of a proposal, during a competitive bid process. For the purposes of this subdivision, the competitive bid process is completed upon contract award. Proprietary design work, work product, or intra-agency communications that are otherwise public records pursuant to G.S. 132-1 are no longer confidential and subject to disclosure upon contract award."

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 620:
Street Database/Manual/Public Record Except.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 19, 2019
Introduced by:	Reps. Szoka, Bumgardner, Hawkins, Iler	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Second Edition		

OVERVIEW: House Bill 620 would:

- ***Require the North Carolina Department of Transportation (NCDOT) to compile a readily available Public Street Information Database.***
- ***Require NCDOT to update its Subdivision Roads Minimum Construction Standards Manual.***
- ***Amend the public records law to designate proprietary design work, work product, and certain intra-agency communications as confidential during the competitive bid process.***

[As introduced, this bill was identical to S480, as introduced by Sens. McInnis, J. Davis, D. Davis, which is currently in Senate Transportation.]

CURRENT LAW/BILL ANALYSIS:

Section 1 would require the NCDOT to compile a readily available "Public Street Information Database" by January 1, 2020, which would be updated monthly and convey information regarding the status of certain roads, which are:

- Federally owned.
- State-maintained with a State road number assigned.
- State-owned with a State road number assigned.

Section 2 would require the NCDOT to update the Subdivision Roads Minimum Construction Standards Manual by July 1, 2020, and regularly thereafter, and to report updates to the Manual to the Joint Legislative Transportation Oversight Committee.

Section 3:

Currently, Chapter 132 of the General Statues outlines what is considered a public record, and also designates certain documents and information as confidential information, which is not subject to disclosure under public records laws.

Section 3 would amend the public records law to designate proprietary design work, work product, and intra-agency communications related to review of a proposal as confidential information during the competitive bid process. These documents would only remain confidential during the competitive bid process and would be subject to disclosure upon contract award.

EFFECTIVE DATE: This act would become effective when it becomes law.

Karen Cochrane-Brown
Director

H620-SMBG-116 E2 -V-1

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 2

HOUSE BILL 917
Committee Substitute Favorable 4/30/19

Short Title: Emergency Declaration/Clarify Rd Closure. (Public)

Sponsors:

Referred to:

April 22, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A LOCAL DECLARATION OF EMERGENCY INCLUDES THE AUTHORITY TO CLOSE ROADS AND PUBLIC VEHICULAR AREAS TO THE PUBLIC DURING THE EMERGENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-19.31(b)(1) reads as rewritten:

"(1) Of movements of people in public places, including any of the following:

a. ~~imposing~~ Imposing a ~~curfew;~~curfew.

b. ~~directing~~ Directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's ~~jurisdiction;~~jurisdiction.

c. ~~prescribing~~ Prescribing routes, modes of transportation, and destinations in connection with ~~evacuation;~~evacuation.

d. ~~and controlling~~ Controlling ingress and egress of an emergency area, and the movement of persons within ~~the area.~~that area.

e. Providing for the closure, within the emergency area, of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel, except to the movement of emergency responders and other persons necessary for recovery from the emergency. In addition to any other notice or dissemination of information, notification of any closure of a road or public vehicular area under the authority of this sub-subdivision shall be given to the Department of Transportation as soon as practicable. The ordinance may designate the sheriff to exercise the authority granted by this sub-subdivision. G.S. 166A-19.70(c) and (d) shall apply to this sub-subdivision."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 917:
Emergency Declaration/Clarify Rd Closure.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 19, 2019
Introduced by:	Rep. Horn	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Second Edition		

OVERVIEW: House Bill 917 would clarify that a local declaration of emergency includes the authority to close roads and public vehicular areas to the public within the emergency area during the emergency.

CURRENT LAW: Municipalities and counties have the authority to enact ordinances with certain types of prohibitions and restrictions for an emergency area until the emergency terminates or the prohibition or restriction is terminated. Ordinances may restrict, among others:

- Movements of people in public places, including: modes of transportation, and destinations in connection with voluntary or mandatory evacuations; and controlling ingress and egress of an emergency area, and the movement of persons within the area.
- Operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.
- Activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

BILL ANALYSIS: This bill would clarify that an ordinance enacted under this authority may provide for the closure of roads and public vehicular areas within an emergency area to persons other than emergency responders and other persons necessary for emergency recovery, and would:

- Require counties and municipalities to report road closures under these ordinances to the North Carolina Department of Transportation as soon as practicable.
- Authorize a local ordinance to designate the authority to close roadways to the sheriff.
- Clarify that statutory provisions related to certified persons who transport essentials in commerce, or assists in ensuring their availability, and persons who assist in the restoring of utility services apply.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown
Director

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 2

HOUSE BILL 368*
Committee Substitute Favorable 4/10/19

Short Title: Bermuda Run/Speed Restrictions. (Local)

Sponsors:

Referred to:

March 18, 2019

A BILL TO BE ENTITLED

AN ACT TO IMPOSE A 25 MILE PER HOUR SPEED RESTRICTION ON PUBLIC VEHICULAR AREAS IN THE TOWN OF BERMUDA RUN.

The General Assembly of North Carolina enacts:

SECTION 1. It shall be unlawful to operate a vehicle in excess of 25 miles per hour on a public vehicular area in the Town of Bermuda Run.

SECTION 2. A violation of Section 1 of this act is a violation of G.S. 20-141(a).

SECTION 3. Speed restrictions under this act are not effective until signs giving notice of the speed restrictions are erected upon the public vehicular areas affected. All signs designed, manufactured, and erected as authorized in this act shall conform with the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the United States Department of Transportation, and any supplement to that Manual adopted by the North Carolina Department of Transportation.

SECTION 4. For purposes of this act, the term "public vehicular area" is as defined in G.S. 20-4.01(32).

SECTION 5. This act only applies to the Town of Bermuda Run.

SECTION 6. This act becomes effective December 1, 2019, and applies to offenses committed on or after that date.

HOUSE BILL 368:
Bermuda Run/Speed Restrictions.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 19, 2019
Introduced by:	Rep. Howard	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Second Edition		

OVERVIEW: House Bill 368 would impose a 25 mile per hour speed restriction for the public vehicular areas within the Town of Bermuda Run.

[As introduced, this bill was identical to S283, as introduced by Sen. Krawiec, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Current law outlines criminal and traffic offenses related to speeding on public streets and highways, however, many of these offenses are not enforceable on public vehicular areas. Currently, the offense of travelling at a speed greater than is reasonable and prudent is applicable to public vehicular areas under G.S. 20-141(a).

The penalty for this offense is an infraction, with a maximum fine of $100.

BILL ANALYSIS: The bill would make it unlawful to operate a vehicle in excess of 25 miles per hour on a public vehicular area in the Town of Bermuda Run, and specifies that a violation of this restriction is a violation of the offense of travelling at a speed greater than is reasonable and prudent under G.S. 20-141(a).

The bill would also condition the ability to issue citations under this prohibition on the Town first having erected conforming signs giving notice of the speed restriction on the affected public vehicular areas.

EFFECTIVE DATE: This act would become effective on December 1, 2019 and would apply to offenses committed on or after that date.

Karen Cochrane-Brown
Director

H368-SMBG-118 E2 -V-1

Legislative Analysis Division
919-733-2578

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

Public Sign-in

Senate Committee on Transportation

June 19, 2019 12:00 PM Rm LB 1124/1224

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Will Morgan	MFS
John Hartsell	MFS
Justin DeLaney	NCDOT
Tim Minton	NCHBA
Stacy Webb	NCHBA
[illegible]	RAINC. NCMA. LAAs
[illegible]	Misc
Demetrius Deloatch	NCLM
Tracy Kimbrell	Parker Poe
Flint Benson	SEANC
CS Hollis	CSH
Dan Crawford	NCLCV
Rob James	NCLCV

Public Sign-in

Senate Committee on Transportation

June 19, 2019 12:00 PM Rm LB 1124/1224

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Suzanne Mullins	NCLCV
Rachel Gonsenhauser	NCLCV

Public Sign-in

Senate Committee on Transportation

June 19, 2019 12:00 PM Rm LB 1124/1224

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Tim Wigginton	ARLC
	CAA
Cisco Mark	Cap-A
Emily Manning	FBA
Bhaegan Jackson	FPA
Tyler Ford	McG Woods
Fred Moreno	NCLEC
Cassidy Robertson	AMGA
Ed Thomas	TAG
CADY THOMAS	FPA

Jw

Public Sign-in

Senate Committee on Transportation

June 19, 2019 12:00 PM Rm LB 1124/1224

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Johanna Reese	NCACC
Justin Giles	Sen. Waddell

SPEAKER SIGN-UP SHEET

Senate Committee on Transportation

June 19, 2019 12:00 PM Rm LB 1124/1224

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Fred Moreno	NCREC #620

Principal Clerk ____
Reading Clerk ____

Updated #2: Meeting will be held in room 1027

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 25, 2019	Immedately after session.	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 206	DOT Legislative Changes.-AB For discussion only.	Representative Torbett
HB 211	Various DMV Changes.-AB For discussion only.	Representative Shepard

Chair: Senator McInnis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Tuesday, June 25, 2019, Immedately after session.
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 206	DOT Legislative Changes.-AB For discussion only.	Representative Torbett
HB 211	Various DMV Changes.-AB For discussion only.	Representative Shepard

Presentations

Other Business

Adjournment

Senate Committee on Transportation

Tuesday, June 25, 2019, immediately after session

1027/1128 Legislative Building

MINUTES

The Senate Committee on Transportation met at 4:48 PM on June 25, 2019, in Room 1027/1128 of the Legislative Building. There were 11 senators present.

Senator Tom McInnis, Chair, presided.

Senator Tom McInnis opened the meeting at 4:48 p.m. Chairman McInnis introduced the Co-Chairs and the Sergeant of Arms. The Sergeant of Arms for the Committee meeting were Jim Hamilton and Hal Roach.

The goals of the committee were to discuss House Bill 206 DOT Legislative Changes and House Bill 211 Various DMV Changes.

Chairman McInnis introduced House Bill 206 DOT Legislative Changes and House Bill 211 Various DMV Changes for discussion only.

Chairman McInnis introduced House Bill 206 DOT Legislative Changes. Senator Britt made a motion to accept proposed committee substitute. The motion was approved by voice vote. Senator Gunn made a motion to approve an amendment to the bill and the motion was approved by voice vote. Senator Britt made a motion to approve the proposed committee substitute and the proposed committee substitute as amended the motion was approved by voice vote.

Questions asked by members:

Senator Alexander asked "can you explain the Neuse river basin water buffer? Not sure if this seems like a great idea, can I get more information?"

Senator Ballard asked "how much surplus property at DOT we are talking?"

Senator Waddel asked "does disposable property include vehicles and heavy machinery?"

Senator Waddel asked a follow up "where will proceeds go?"

Senator Waddel asked "what if the person is 67?"

Senator Ballard asked a question for clarification "you have heard from the clerks as well?"

Senator Ballard asked a follow up "are those concerns being addressed?"

Senator Rabon asked "is this proprietary process or does no one else offer it?"

Senator Rabon asked a follow up "does department have a preference in hyper reflective plates or just reflective? Are you for it or against it or don't care?"

Senator Rabon asked a follow up question "will this cut down on crime?"

Senator Ford asked "does DOT have a recommendation going forward on this bill-support or no?"

Senator Alexander asked "under 206-what are the current buffers we are changing?"

Justin DeLancey from the department of transportation spoke on House Bill 206.

Chairman McInnis introduced House Bill 211 Various DMV Changes for discussion only.

House Bill 206 DOT Legislative Changes was reported unfavorable as to the original but favorable as amended and as to the proposed committee substitute.

Senator McInnis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 5:21 p.m.

Senator Tom McInnis, Chair

J. Hunter Blohm, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 206
Committee Substitute Favorable 3/18/19
PROPOSED SENATE COMMITTEE SUBSTITUTE H206-CSBGf-47 [v.17]
06/24/2019 05:04:15 PM

Short Title: Various Transportation Changes. (Public)

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO LAWS RELATED TO TRANSPORTATION.

The General Assembly of North Carolina enacts:

REENACT AUTHORIZATION FOR PARTNERSHIP WITH PRIVATE DEVELOPERS

SECTION 1. Section 2 of S.L. 2009-235, as amended by Section 7 of S.L. 2014-58 and Section 2.3 of S.L. 2016-90, reads as rewritten:

"**SECTION 2.** This act is effective when it becomes law. ~~This act shall expire on July 1, 2017.~~"

PROCEEDS FROM PROPERTY DISPOSITION TO HIGHWAY FUND CLARIFICATION

SECTION 2.(a) G.S. 136-16 reads as rewritten:

"**§ 136-16. Funds and property converted to State Highway Fund.**

Except as otherwise ~~provided,~~provided in this Chapter, all funds and property collected by the Department of Transportation~~, including the proceeds from the sale of real property originally purchased with funds from the State Highway Fund,~~ shall be paid or converted into the State Highway Fund. For the purposes of this section, funds include proceeds from the sale of real property owned by the Department."

SECTION 2.(b) G.S. 146-30 is amended by adding a new subsection to read:

"(b4) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of lands owned by the Department of Transportation. All net proceeds of those dispositions shall be shall be deposited into the State Highway Fund."

SECTION 2.(c) G.S. 146-30(c) reads as rewritten:

"(c) The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or products of land owned by or under the supervision and control of the Wildlife Resources Commission, or acquired or purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived from the sale of land or timber from land owned by or under the supervision and control of the Department of Agriculture and Consumer Services shall be deposited with the State Treasurer in a capital improvement account to the credit of the

Department of Agriculture and Consumer Services, to be used for such specific capital improvement projects or other purposes as are provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Natural and Cultural Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient. Provided further, the net proceeds derived from the sale of any portion of the land owned by the State in or around the Butner Reservation on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Health and Human Services to make capital improvements on or to property owned by the State in the Butner Reservation subject to approval by the Office of State Budget and Management, and may be used to build industrial access roads to industries located or to be located on the Butner Reservation, to construct new city streets in the Butner Reservation, extend water and sewer service on the Butner Reservation, repair storm drains on the Butner Reservation, and for other capital uses on the Reservation as determined by the Secretary. Provided further, notwithstanding any other provision of this Subchapter, the proceeds derived from the lease dispositions of land or facilities owned or under the supervision and control of East Carolina University's Division of Health Sciences for the delivery of health care services shall be deposited in clinical accounts at East Carolina University to be used to improve access to patient care. Provided further, notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of ~~land or facilities~~land, facilities, products, or timber ~~purchased with funds from the State Highway Fund~~ owned by the Department of Transportation shall be deposited into the State Highway Fund."

EXEMPT AIRPORT FACILITIES FROM CERTAIN BUFFER REQUIREMENTS

SECTION 3.(a) Definitions. – As used in this act, the following definitions apply:

(1) Airport facilities. – All properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases "air navigation facility," "airport," or "airport protection privileges" under G.S. 63-1; the definition of "aeronautical facilities" in G.S. 63-79(1); the phrase "airport facilities" as used in G.S. 159-48(b)(1); the phrase "aeronautical facilities" as defined in G.S. 159-81 and G.S. 159-97; and the phrase "airport facilities and improvements" as used in Article V, Section 13, of the North Carolina Constitution. Airport facilities shall include, without limitation, any and all of the following:

a. The airport and all of its terminals and terminal shops and support buildings.

b. Runways, taxiways, clear zones, and other paved or unpaved areas, or open or restricted landing areas on the airport.

c. Airport offices and administrative buildings.

d. Buildings, structures, equipment and facilities intended to support aircraft operations, including, without limitation, hangers and other aircraft maintenance buildings, including hangers and other storage buildings or areas, and including, without limitation, any anything shown on any airport development plan submitted to the Federal Aviation Administration.

e. Navigational and signal systems, including any structures, mechanisms, landing lighting and lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area.

f. Parking owned or operated by the airport to serve the airport's operations, whether located on the airport or as satellite parking clear zones and other airport open fields or areas.

g. Drainage ditches or pipes, stormwater structures, and related stormwater outfalls.

h. Retail and commercial development outside of the terminal area but located on the airport, including rental car facilities, hotels, industrial facilities, free-standing offices and other similar buildings constructed on the airport, whether or not owned or operated by the airport.

i. All appurtenant areas used or suitable for airport buildings or other airport facilities, including all appurtenant rights-of-way.

j. Easements through, or other interests in, air space over land or water, interests in airport hazards outside the boundaries of the airport or restricted landing area, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of the airport and restricted landing areas and the safe and efficient operation thereof.

k. Any combination of any or all of such properties, facilities, buildings, structures, activities, and easements.

(2) Neuse River Basin Riparian Buffer Rule. – Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B .0233).

SECTION 3.(b) Neuse River Basin Riparian Buffer Rule. – Until the effective date of the revised permanent rules that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Neuse River Basin Riparian Buffer Rule, as provided in subsection (c) of this section.

SECTION 3.(c) Implementation. – Notwithstanding subdivision 6 (Table of Uses) of the Neuse River Basin Riparian Buffer Rule,

(1) Airport facilities that impact equal to or less than one hundred fifty (150) linear feet or one-third of an acre of riparian buffer shall be designated as exempt.

(2) Airport facilities that impact greater than one hundred fifty (150) linear feet or one-third of an acre of riparian buffer shall not be required to comply with subdivision 8 (Determination of "No Practical Alternatives") of the Neuse River Basin Riparian Buffer Rule.

SECTION 3.(d) Additional Rule-Making Authority. – The Commission shall adopt rules to amend the Neuse River Basin Riparian Buffer Rule consistent with subsection (c) of this

section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission, pursuant to this section, shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

AIRPORT IMPROVEMENT PROGRAM

SECTION 4.(a) Article 7 of Chapter 63 of the General Statutes is amended by adding a new section to read:

"**§ 63-74. Airport Improvement Program.**

(a) Purpose. – There is established an Airport Improvement Program (AIP) that shall serve to (i) fund improvements at eligible airports and (ii) pay debt service or related financing costs and expenses on revenue bonds or notes issued by eligible airports. The Department of Transportation shall allocate funds appropriated to this program to eligible airports based on the findings in the biennial economic impact study, as described in this section. The Department shall adopt rules governing the distribution and use of these funds.

(b) Eligible Airport. – Any publicly owned, commercial service airport with more than 10,000 passenger boardings during the two calendar years preceding the fiscal year in which funds are allocated is eligible for Airport Improvement Program funds.

(c) Economic Impact Study and Distribution Formula. – The Department of Transportation shall conduct a biennial economic impact study that examines the annual economic impact of each commercial service airport in North Carolina. The Department shall disburse AIP funds appropriated in a year to each eligible airport in proportion to the total economic impact of the airport, adjusted as provided in this subsection.

(1) For an eligible airport with one of the three largest economic impacts, the airport's distribution amount shall be reduced by a percentage equal to the lesser of twenty percent (20%) or five percent (5%) multiplied by each full ten percent (10%) of economic impact calculated for that airport. The aggregate amount of the reduction to the eligible airports with the three largest economic impacts is the amount to be redistributed to the remaining eligible airports as provided in subdivision (2) of this subsection.

(2) For an eligible airport that does not have one of the three largest economic impacts, the airport's distribution amount shall be increased based upon the following formula:

a. Twenty-five percent (25%) of the redistribution amount shall be distributed equally.

b. Seventy-five percent (75%) of the redistribution amount shall be based upon the airport's share of passenger boardings compared to the total number of passenger boardings used for all airports receiving a distribution pursuant to this subdivision.

(d) Permissible Uses, Reporting, and Return of Funds. – The Department of Transportation shall not allocate funds to an airport under this section until that airport has provided a report outlining how the airport will use the funds in conformance with the purposes of the program. No later than 45 days from the date the Department receives the report required under this subsection, the Department shall make a determination whether the intended use of the funds matches the purposes of the program and, if so, allocate funds under this section to the compliant airport. An airport that receives funds under this section shall return the funds to the Department if the funds are in the possession or control of the airport and not expended or

encumbered by August 31 of the year following the fiscal year in which the Department makes the allocation. All funds returned to the Department under this section, or retained by the Department for failure of an eligible airport to submit a report under this subsection, shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly.

(e) Limitation. – Notwithstanding any provision of law to the contrary, the allocation of funds under this section to eligible airports, the enactment of this section, and the issuance of bonds or notes by the airports in reliance thereon shall not in any manner constitute a pledge of the full faith and credit and taxing power of the State. Additionally, allocations under this section are subject to the availability of funds appropriated to the Airport Improvement Program. A security interest shall not be granted in funds allocated under this section."

SECTION 4.(b) Section 34.19(b) of S.L. 2017-57 is repealed.

SECTION 4.(c) This section becomes effective July 1, 2019.

DEPARTMENT AUTHORIZATION FOR PUBLIC-PRIVATE PARTNERSHIPS FOR DEPARTMENT OWNED COMMUNICATIONS INFRASTRUCTURE WITHIN HIGHWAY RIGHT-OF-WAY

SECTION 5.(a) G.S. 136-18 is amended by adding a new subdivision to read:

"(46) To enter into partnership agreements with private entities to finance, by contracts, revenues of facilities, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating communications infrastructure supporting transportation infrastructure in this State, and to plan, design, develop, acquire, construct, equip, maintain, and operate communications infrastructure supporting transportation infrastructure within in this State. For the purposes of this subdivision, communications infrastructure supporting transportation infrastructure means fiber optic trunk lines, micro cell towers or other broadband or data transmission facilities located within the right-of-way of the interstate or primary highway system that is owned, and utilized completely or partly, by the Department for traffic management, highway safety, vehicle technology integration, and other functions of the Department. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. No contract for communications infrastructure supporting transportation infrastructure subject to such an agreement that commits the Department to make nonretainage payments for undisputed capital costs for communications infrastructure supporting transportation infrastructure to be made later than 18 months after final acceptance by the Department shall be executed without approval of the Local Government Commission. Any contracts for communications infrastructure supporting transportation infrastructure which are awarded pursuant to an agreement entered into under this subdivision shall comply with the competitive bidding requirements of this Article. The Department may enter into agreements with one or more private entities under this subdivision as follows:

a. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the

Department. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department.

b. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to such agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this subdivision. The foregoing shall not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this subdivision.

c. An agreement entered into under this subdivision for communications infrastructure supporting transportation infrastructure may provide that private entities may commercialize the capacity of such communications infrastructure in excess of the Department's need through lease or other arrangements, with the Department having first right of refusal for future anticipated capacity needs.

d. No agreement entered into under this subdivision for use of Department right-of-way or communications infrastructure and its facilities shall abrogate the Department's ownership and control of the right-of-way or communications infrastructure and its facilities within the right-of-way.

e. Agreements entered into under this subdivision shall comply with the following additional provisions:

1. The Department shall solicit proposals for an agreement.
2. An agreement shall be limited to no more than 50 years from the date the communications infrastructure becomes operational and utilized by the Department.
3. Financial advisors and attorneys retained by the Department on contract to work on projects pursuant to this subdivision shall be subject to State law governing conflicts of interest.
4. 60 days prior to the signing of a concession agreement subject to this subdivision, the Department shall report to the Joint Legislative Transportation Oversight Committee on the following for the presumptive concessionaire:
   I. Project description.
   II. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements.
   III. Analysis of firm selection criteria.
   IV. Name of any firm or individual under contract to provide counsel or financial analysis to the Department. The Department shall disclose payments to these contractors related to completing the agreement under this subdivision.

V. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects.

VI. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments, service payments or similar remuneration and terms of debt payments.

VII. Information on assignment of risk shared or assigned to the Department, the State, and private entity partner.

VIII. Information on the feasibility of finance."

SECTION 5.(b) G.S. 136-18(43) reads as rewritten:

"(43) For the purposes of financing an agreement under subdivision (39a) or (46) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions shall be governed by The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of subdivision (39a) or (46) of this section."

SECTION 5.(c) The Department shall develop standards for entering into comprehensive agreements with private entities under the Department's authority pursuant to G.S. 136-18(46), as enacted by subsection (a) of this section, and report those standards with legislative recommendations to the Joint Legislative Transportation Oversight Committee on or before March 1, 2020.

DEPARTMENT SURPLUS PROPERTY AUCTION PILOT

SECTION 6.(a) Pilot Program to Streamline North Carolina Department of Transportation (NCDOT) Surplus Property Auctions. – No later than October 1, 2019, the State agency for State surplus property shall establish a pilot program for disposing of NCDOT surplus property, including motor vehicles and equipment, by live public auction and via live simulcast or electronic means in accordance with subsection (b) of this section without requiring the movement of NCDOT surplus property. The NCDOT shall cooperate with the State agency for State surplus property and the auctioneer selected pursuant to this pilot program. In implementing this pilot program, the State agency for State surplus property shall prepare a request for proposal pursuant to subsection (b) of this section for three public auctions conducted by a private licensed auctioneer during this pilot program. No auctions pursuant to this program shall be held after December 31, 2021, and the pilot program shall terminate upon submission of its report as required by subsection (d) of this section.

SECTION 6.(b) By December 1, 2019, the State agency for State surplus property shall issue a request for proposal (RFP) for the sale of North Carolina Department of Transportation (NCDOT) surplus property, including titled and non-titled equipment and motor vehicles owned by the NCDOT, at live public auction and via live simulcast or other electronic means without requiring surplus property movement to a centralized auction location. The State agency for State surplus property shall consult with the NCDOT and group the various Department Highway Divisions into three regions for the purposes of determining the live public auction locations based on surplus property distribution and storage locations. The NCDOT shall provide copies of the maintenance file, maintenance related invoices or documents, and the preventative maintenance schedule for each item of equipment or motor vehicle being auctioned

for inspection prior to auction. The State agency for State surplus property shall consult with the NCDOT to further determine (i) adequate staffing requirements to work with the auctioneer in conducting an auction, including staff who are knowledgeable about the surplus property; (ii) adequate arrangements to allow for the auctioneer to document by photograph or video, as appropriate, surplus property for auction; and (iii) adequate arrangements to allow members of the public access to NCDOT storage locations to inspect and view the surplus property to be auctioned. Net proceeds shall be credited to the State Highway Fund in accordance with G.S. 136-16. The RFP shall contain the following auctioneer requirements:

(1) Must accept payment by any commercially reasonable manner. The auction company may charge credit card and platform fees of up to three percent (3%) of the highest and final bid.

(2) Must have capability to conduct auctions via live simulcast or other electronic means in conjunction with conducting live auctions.

(3) Must have capability to electronically document, via photographs and video as appropriate, surplus property, equipment, and motor vehicles and make information electronically available for inspection prior to an auction.

(4) Must remit the net proceeds from the auction to the NCDOT within 14 business days after the auction is completed. The auction company may offset up to one-quarter of one percent (0.25%) of the gross sale for advertisement cost reimbursement.

(5) Must post a cash bond or equivalent guarantee in the amount of two hundred fifty thousand dollars ($250,000), made payable to the State of North Carolina.

(6) Must have a minimum coverage of two million dollars ($2,000,000) in commercial general liability insurance.

(7) Must agree to charge no commission to the State. The auction company may charge a buyer premium, not to exceed ten percent (10%) to the final and highest bid.

(8) Must be a licensed auction company with a current and valid North Carolina Auctioneer license issued pursuant to Chapter 85B of the General Statutes. Preference shall be given to an auction company based in this State.

(9) Must require that successful bidders provide and complete proper transfer documents for titled equipment or motor vehicles.

(10) Must be capable of conducting live simulcast public auctions in regions as agreed upon by the NCDOT.

SECTION 6.(c) By June 1, 2020, the State agency for State surplus property shall review the proposals submitted and shall enter into a contract with the lowest responsible bidder who provides evidence satisfactory to the State agency for State surplus property that it meets the requirements of the RFP.

SECTION 6.(d) No later than March 1, 2022, the State agency for State surplus property shall report to the Joint Legislative Transportation Oversight Committee the results, findings, and legislative recommendations based on the results, from the auctions during the pilot program. At a minimum, its report shall include information on the following:

(1) The quantity and type of surplus property offered as part of each auction.

(2) The details of each request for proposal and award of contract.

(3) The results of the state surplus property public auctions, including details of each public auction, and the average ratio of sale price to estimated state surplus property value.

(4) Other information the State agency for State surplus property deems necessary.

LICENSE RESTORATION FEE WAIVER AUTHORITY

SECTION 7.(a) G.S. 20-7(i1) reads as rewritten:

"(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20 17(a)(2) shall pay a restoration fee of sixty five dollars ($65.00). A person whose drivers license has been revoked under G.S. 20 17(a)(2) shall pay a restoration fee of one hundred thirty dollars ($130.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The sixty five dollar ($65.00) fee, and the first one hundred five dollars ($105.00) of the one hundred thirty dollar ($130.00) fee, shall be deposited in the Highway Fund. Twenty five dollars ($25.00) of the one hundred thirty dollar ($130.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services. Notwithstanding any other provision of law, a restoration fee assessed pursuant to this subsection may be waived by the Division when (i) the restoration fee remains unpaid for more than ten years from the date of assessment and (ii) the person responsible for payment of the restoration fee has been issued a drivers license by the Division after the effective date of the revocation for which the restoration fee is owed. The Office of State Budget and Management shall annually report to the General Assembly the amount of fees deposited in the General Fund and transferred to the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services under this subsection."

SECTION 7.(b) This section becomes effective October 1, 2019.

HANDICAPPED PERSONS PARKING AND ACCESS AISLE DESIGNATION CLARIFICATION

SECTION 8. G.S. 20-37.6(d) reads as rewritten:

"(d) Designation of Parking Spaces. – Designation of parking spaces for handicapped persons on streets and public vehicular areas shall comply with G.S. 136-30. A sign designating a parking space for handicapped persons shall state the maximum penalty for parking in the space in violation of the law. For purposes of this section, a parking space designated for handicapped persons includes clearly marked access aisles, and all provisions, restrictions, and penalties applicable to parking in spaces designated for handicapped persons also apply to clearly marked access aisles."

PEER-TO-PEER VEHICLE SHARING

SECTION 9.(a) Chapter 20 of the General Statutes is amended by adding a new Article to read:

"Article 10B.

"Peer-to-Peer Vehicle Sharing.

"**§ 20-280.15. Definitions.**

The following definitions apply in this Article:

(1) Airport operator. – As defined in G.S. 20-280.1.

(2) Peer-to-peer vehicle sharing. – The authorized use of a shared vehicle by an individual other than the shared vehicle owner through a peer-to-peer vehicle sharing program.

(3) Peer-to-peer vehicle sharing program. – A business platform that connects shared vehicle owners with drivers to enable the sharing of vehicles for financial consideration.

(4) Shared vehicle. – A vehicle that is available for sharing through a peer-to-peer vehicle sharing program.

(5) Shared vehicle owner. – The registered owner of a shared vehicle that is made available for sharing through a peer-to-peer vehicle sharing program.

(6) Vehicle sharing provider. – The person or entity that operates, facilitates, or administers the provision of private motor vehicle rentals through a peer-to-peer vehicle sharing program.

"**§ 20-280.17 Airport operators.**

An airport operator may (i) charge vehicle sharing providers a reasonable fee for the use of the airport's facility, (ii) require an identifying decal be displayed on all shared vehicles that operate on airport property, (iii) require the purchase and use of equipment or establish other appropriate mechanisms for monitoring and auditing compliance, including having a vehicle sharing provider provide data for purposes of monitoring and auditing compliance, and (iv) designate a location where shared vehicles may stage on the airport operator's facility."

SECTION 9.(b) This section becomes effective October 1, 2019.

EFFECTIVE DATE

SECTION 10. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 206:
Various Transportation Changes.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 26, 2019
Introduced by:	Rep. Torbett	**Prepared by:**	Howard Marsilio Staff Attorney
Analysis of:	PCS to Second Edition H206-CSBGf-47		

OVERVIEW: The Proposed Committee Substitute (PCS) to House Bill 206 would amend various transportation laws of this State as follows:

- ***Reenact, and remove an expiration date for, a provision first enacted in 2009 to authorize the Department to participate in private developer contracts for engineering, design, or construction of improvements in limited circumstances.***
- ***Clarify various provisions within current law that proceeds from the disposition of real property, facilities, and products owned by the NCDOT would be credited to the State Highway Fund.***
- ***Exempt airport facilities from having to comply with certain parts of the Neuse River Basin Riparian Buffer Rule.***
- ***Enact a new Airport Improvement Program to provide for allocation of funds to airports.***
- ***Authorize the NCDOT to enter into Public Private Partnership (P3) agreements with private entities related to DOT owned communications infrastructure within the interstate and primary highway systems right-of-way.***
- ***Require the State agency for State surplus property to develop and put out an RFP to conduct public auctions for DOT surplus property without requiring the DOT to move surplus property to those centralized auction locations.***
- ***Authorize the NCDMV to waive license restoration fees under certain circumstances when a licensee has been issued a subsequent license by the Division.***
- ***Clarify that parking spaces for handicapped persons include clearly marked access aisles and all statutory provisions, restrictions, and penalties applicable to spaces also apply to those aisles.***
- ***Authorize airport operators to charge fees/regulate peer-to-peer vehicle sharing providers.***

CURRENT LAW/BILL ANALYSIS:

Section 1 - Reenact authorization for partnership with private developers. This provision was first enacted in 2009 and expired in 2011. It was subsequently reenacted in 2014, with an expiration of 2016, and then was extended in 2016. It expired last on July 1, 2017. This section of the PCS would reenact the provision, which authorizes the Department to participate, in limited circumstances, in private developer contracts for State highway system engineering, design, or construction of improvements. The Department's participation under this law would be limited to the lesser of 10% of the contract or $250,000. The Department would be required to report annually on all agreements entered into.

Section 2 – Proceeds from property disposition to highway fund. Generally, current law provides that all funds and property collected by the NCDOT go to the State Highway Fund, and this specifically includes real property originally purchased with funds from the State Highway Fund. This section of the PCS would clarify, that the disposition of proceeds for real property, owned by the NCDOT, would go to the State Highway Fund, regardless of the original source of funds. This section would also clarify that no State Land Fund deductions would apply to the lease, rentals, or easements of lands, and timber, owned by the NCDOT, and these proceeds would go to the State Highway Fund.

Section 3 – Exempt airport facilities from certain buffer requirements. Currently, 15A NCAC 02B .0233 ("Rule") outlines a management strategy for maintaining and protecting existing riparian buffers in the Neuse River Basin, and this Rule designates certain airport facility uses and their designation under this Rule as "exempt", "allowable", "allowable with mitigation", or "prohibited". This section would exempt airport facilities that impact equal to or less than one hundred fifty (150) linear feet or one-third of an acre of riparian buffer; and would exempt airport facilities that impact greater than one hundred fifty (150) linear feet or one-third of an acre of riparian buffer from having to comply with subdivision 8 of this Rule (Determination of "No Practical Alternatives").

Section 4 - Airport improvement program. The 2017 budget appropriated funds for infrastructure improvements at the State's commercial service airports and further directed the Division of Aviation to assess airport funding needs and to develop a formula for allocating future funds to airports based on their needs and economic output. This section of the PCS would implement recommendations resulting from that assessment and enact a new Airport Improvement Program to provide for allocation of funding to eligible airports based on a biennial economic impact study conducted by the Department.

Section 5 – NCDOT authorization for public-private partnerships for Department owned communications infrastructure within highway ROW. Currently, the NCDOT has authority to utilize public-private partnerships under the procedures set out in G.S. 136-18(39) and (39a) for transportation infrastructure projects. This section would create a specific authority for the NCDOT to enter into Public-Private Partnership (P3) agreements with private entities only related to communications infrastructure supporting transportation infrastructure, which includes the fiber optic trunk lines (and related facilities), owed by the NCDOT and located within the right-of-way of the primary or interstate highway system. More specifically, this would allow NCDOT to utilize P3 agreements, as a way to finance communications infrastructure supporting transportation infrastructure with the additional potential to lease out excess capacity (if available). This section would also make conforming changes to existing law to the extent there is overlap with current procedures.

Section 6 – DOT surplus property auction pilot. Currently, the North Carolina Department of Administration is designated as the State agency for State surplus property, which includes being the agency which manages the NCDOT's state surplus property. This section would require the State agency for State surplus property to conduct a three auction pilot program specifically for NCDOT surplus property, which includes their surplus equipment and motor vehicles. This pilot program requires the State agency for State surplus property to issue a Request for Proposal (RFP) to solicit a private, licensed, auction company to hold 3 separate live auctions, located in 3 locations distributed across the State, and via live simulcast or other electronic means. Information and documents (e.g. pictures and videos) would be available for inspection prior to auctions so that motor vehicles and equipment will not be required to be moved to the centralized live auction locations, among other RFP requirements.

Section 7 – License restoration fee waiver authority. Currently, licensees whose had their licenses revoked, as outlined in statute, are required to pay a $65 or $130 depending on circumstances. The Division of Motor Vehicles does not have any authority to waive this restoration fee. This section would give the Division the authority to waive only the restoration fee when the fee remains unpaid for 10 years,

and the person owing the fee has been issued a drivers license by the Division since the effective date of the revocation, and is otherwise eligible to hold the license.

Section 8 – Handicapped parking spaces and access aisle designation clarification. Current law requires parking spaces for handicapped persons to be designated with appropriate signage/markings and provides penalties for parking in designated spaces without authorization. This section clarifies that all provisions, restrictions, and penalties applicable to parking in spaces designated for handicapped persons would also apply to clearly marked access aisles.

Section 9 – Peer-to-peer vehicle sharing. Currently, there are no statutes that relate to peer-to-peer vehicle sharing. This section would create a new article within the motor vehicle laws relating to peer-to-peer vehicle sharing, which is the authorized use of a shared vehicle by an individual other than the owner through a peer-to-peer vehicle sharing program for compensation. This section would codify applicable definitions and authorize airport operators to charge airport facility usage fees, require identifying decals for shared vehicles on their property, require purchase of vehicle monitoring equipment, create auditing requirements, and designate shared vehicle staging lots.

EFFECTIVE DATE: Section 4 would become effective July 1, 2019. Sections 7 and 9 would become effective October 1, 2019. The remainder of the act would be effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 206

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H206-ABG-21 [v.6]

Amends Title [NO]
H206-CSBGf-47v17

Date June 25, 2019 ,2019

Senator McInnis

moves to amend the bill on page 5, lines 13-14, by inserting between those lines the following:
"**MURPHY BRANCH RAIL LINE LEASE AND CONVEYANCE AUTHORIZATION REPEAL**

SECTION 4.5 Section 35.18 of S.L. 2016-94 is repealed.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 211

Committee Substitute Favorable 3/12/19
Committee Substitute #2 Favorable 3/18/19
Fourth Edition Engrossed 4/3/19

Short Title: Various DMV Changes.-AB (Public)

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO MOTOR VEHICLE LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

ELECTRIC VEHICLE DEFINITION CLARIFICATIONS

SECTION 1.(a) G.S. 20-4.01(12a) reads as rewritten:

"(12a) Fuel cell electric vehicle. – A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the following requirements:

a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
c. Uses hydrogen and a fuel cell to produce electricity on board to power an electric motor to propel the vehicle.
d. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
e. Has a maximum speed capability of at least 65 miles per hour."

SECTION 1.(b) G.S. 20-4.01(28a) reads as rewritten:

"(28a) Plug-in electric vehicle. – A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the following requirements:

a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
c. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
d. Has a maximum speed capability of at least 65 miles per hour.
e. Draws electricity from a battery that has all of the following characteristics:
    1. A capacity of not less than four kilowatt hours.
    2. Capable of being recharged from an external source of electricity."

c. Duration of remote ~~renewal.~~ renewal or conversion. – A ~~renewed~~ drivers license issued to a person by remote renewal or conversion under this subdivision expires according to the following schedule:
1. For a person at least 18 years old but less than 66 years old, on the birthday of the licensee in the eighth year after issuance.
2. For a person at least 66 years old, on the birthday of the licensee in the fifth year after issuance.

d. Rules. – The Division shall adopt rules to implement this subdivision.

e. Federal law. – Nothing in this subdivision shall be construed to supersede any more restrictive provisions for renewal or conversion of drivers licenses prescribed by federal law or regulation.

f. Definition. – For purposes of this subdivision, "remote ~~renewal"~~ renewal or conversion" means renewal of a drivers license or conversion of a full provisional license by mail, telephone, electronic device, or other secure means approved by the Commissioner."

LIABILITY INSURANCE LAPSE PENALTY WAIVER FOR VEHICLES SUBSEQUENTLY REGISTERED OUT-OF-STATE

SECTION 4. G.S. 20-311 is amended by adding a new subsection to read:

"(g1) Out-of-State Waiver. – Notwithstanding the penalty and restoration fee provisions of this section, any monetary penalty or restoration fee shall be waived for any person who meets all of the following requirements:

(1) The owner has become a resident of another state and has registered the owner's vehicle in that state within 30 days of the cancellation or expiration of the owner's North Carolina motor vehicle liability policy.

(2) The owner has submitted a copy of their current out-of-state registration card to the Division.

(3) The owner has returned the North Carolina registration plate or has submitted an affidavit indicating that the North Carolina registration plate has been lost, stolen, or destroyed."

LICENSE PLATE REFLECTIVITY STANDARDS

SECTION 5.(a) G.S. 20-63.1 reads as rewritten:

"**§ 20-63.1. Division ~~may~~ shall cause plates to be reflectorized.**

(a) Registration Plate Standards. – ~~The Division of Motor Vehicles is hereby authorized to cause vehicle license plates for 1968 and future years to be completely treated with reflectorized materials designed to increase visibility and legibility of license plates at night.~~Registration plates shall meet all of the following requirements:

(1) Fully retroreflective and conform to all of the following values based on 0.2/-4 degree observation and entrance angles and ISO 7591 weathering methods:
a. An initial coefficient reflectivity value of greater than 150 $cd.lx^{-1}.m^{-2}$.
b. A retained coefficient reflectivity value of greater than 54 $cd.lx^{-1}.m^{-2}$.
c. An initial white luminance factor of greater than 0.55.
d. A retained white luminance factor of greater than 0.45.

(2) Constructed with all of the following:
a. Prismatic sheeting.
b. Aluminum plates tempered to a hardness and thickness of .027 inches (+/- .002 inches).
c. Security features embedded into the sheeting.

(b) Registration Plate Mandatory Replacement. – All registration plates shall be replaced every seven years."

HOUSE BILL 211:
Various DMV Changes.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 25, 2019
Introduced by:	Rep. Shepard	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	Fourth Edition		

OVERVIEW: House Bill 211 would make the following changes to laws relating to motor vehicles:

- ***Amend the definitions of fuel cell and plug-in electric vehicles to clarify that they cannot have the ability to be propelled by a gasoline engine.***
- ***Eliminate the requirement for a signature space on a registration card.***
- ***Authorize remote conversion of a provisional license to a regular drivers license.***
- ***Require the Division of Motor Vehicles to waive lapse in financial responsibility penalties under certain circumstances when a person has moved to another state.***
- ***Provide reflectivity standards for registration plates and require replacement of plates every seven years.***
- ***Delete the requirement that passengers and operators wear helmets on autocycles.***
- ***Allows a person to apply for a limited driving privilege when his or her license has been revoked for failing to pay fines or court costs.***

CURRENT LAW/BILL ANALYSIS: House Bill 211 would make changes to motor vehicle-related laws as follows:

Section 1 would amend current definitions within G.S. 20-4.01, applicable to fuel cell electric and plug-in electric vehicles, to clarify that those vehicles cannot have the ability to be propelled by a gasoline engine. Fuel cell electric vehicles and plug-in electric vehicles are not required to undergo emissions inspections pursuant to G.S. 20-183.2, nor are they subject to the HOV lane restrictions pursuant to G.S. 20-146.2, under certain circumstances.

Section 2. S.L. 2016-90, Section 12.(a), repealed the requirement for an owner to sign a motor vehicle registration card issued by the Division of Motor Vehicles. This section would make a technical correction to repeal the requirement that there be a space for the owner's signature on the registration card.

Section 3 would authorize remote conversion of a full provisional license to a regular drivers license. It would also provide that a full provisional license expires 60 days after the holder's 21st birthday, rather than on the 21st birthday. It would also authorize a person remotely renewing or converting a license to update his or her address.

Section 4. Current law requires the owner of a motor vehicle that is registered or is required to be registered to have a motor vehicle liability policy. If the liability policy lapses during that motor vehicle's registration period, the Division is authorized to take action as outlined in G.S. 20-311. Under current law,

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

if a vehicle owner cancels a North Carolina liability policy in the process of moving out-of-state and prior to registering that same vehicle out-of-state, the owner may be assessed a penalty.

This section would require the Division to waive the monetary penalty and restoration fee for a lapse in liability insurance coverage if the owner of the vehicle meets all of the following requirements:

- The owner has become a resident of another state and has registered the owner's vehicle in that state within 30 days of the cancellation or expiration of the owner's North Carolina motor vehicle liability policy.
- The owner has submitted a copy of their current out of state registration card to the Division.
- The owner has returned the North Carolina registration plate or has submitted an affidavit indicating that the North Carolina registration plate has been lost, stolen, or destroyed.

Section 5 would provide detailed standards for construction and reflectivity of all registration plates issued by the Division. It would also require the Division to replace registration plates every seven years (an existing plate would have to be replaced if, at the time of renewal, it is seven or more years old or will become that old during the registration period). The Division would be required to coordinate with the Department of Information Technology to implement a plate production platform that would integrate the registration system with on-demand plate production and provide for direct shipping of the plates. This section would be effective July 1, 2020, and would apply to plates issued on or after that date.

Section 5.1 would exempt all operators and passengers on autocycles from the requirement to wear a helmet. Currently, autocycles fall within the definition of motorcycle for purposes of the helmet requirement, with the specific exception that helmets are not required on autocycles with completely enclosed seating.

Section 5.5 would allow a person whose license has been revoked solely for failing to pay fines or court costs ordered by a court to apply for a limited driving privilege. The privilege would be valid up to one year, and a person would only be eligible if he or she had not had a limited privilege granted for the same reason within the previous three years.

EFFECTIVE DATE: This act would be effective when it becomes law.

Howard Marsilio, counsel to House Transportation, contributed to this summary.

SENATE COMMITTEE

ON

TRANSPORTATION

June 25, 2019

15 Minutes after Session

<u>Senate Sergeant-at-Arms</u>

Jim Hamilton

Hal Roach

Speaker

~~VISITOR~~ SIGN-UP SHEET

SENATE COMMITTEE

ON

TRANSPORTATION

June 25, 2019

15 Minutes after Session

PLEASE SIGN IN BELOW

NAME	COMPANY OR AGENCY
Justin Delaney	NC DOT
Johanna Reese	NCDOT
Jamie Lassiter	NC CCSC
Douglas Holbrook	NC DPS

VISITOR SIGN-UP SHEET

SENATE COMMITTEE
ON
TRANSPORTATION
June 25, 2019
15 Minutes after Session

PLEASE SIGN IN BELOW

NAME	COMPANY OR AGENCY
Susanna Davis	NCDPS
Douglas Holbrook	VC DPS
David Ferrell	NP
Lexi Arthur	CRMCA
Sallie James	Gov's office
Ty Ford	MWC

VISITOR SIGN-UP SHEET

SENATE COMMITTEE
ON
TRANSPORTATION
June 25, 2019
15 Minutes after Session

PLEASE SIGN IN BELOW

NAME	COMPANY OR AGENCY
Johanna Reese	NCDOT
Justin Delancey	NCDOT
APRIL BYRD	CAMPAIGN
Jamie Lassiter	NCCCSC
Ross Burkhardt	NVP
Sandy Sands	NVP
TJ Brabee	NCOAA
Paul Meier	CSH
Alicia Parr	NCDPS
[illegible]	NCDOT
Lisa Martin	Capitol

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 26, 2019	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 206	Various Transportation Changes.	Representative Torbett
HB 211	Various DMV Changes.	Representative Shepard
HB 620	Street Database/Manual/Public Record Except.	Representative Szoka Representative Bumgardner Representative Hawkins Representative Iler
HB 645	Revisions to Outdoor Advertising Laws.	Representative Saine Representative Dixon Representative B. Jones Representative Wray

Chair: Senator Davis.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, June 26, 2019, 12:00 PM
1124/1224 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 206	DOT Legislative Changes.-AB	Representative Torbett
HB 211	Various DMV Changes.-AB	Representative Shepard
HB 620	Street Database/Manual/Public Record Except.	Representative Szoka Representative Bumgardner Representative Hawkins Representative Iler
HB 645	Revisions to Outdoor Advertising Laws.	Representative Saine Representative Dixon Representative Jones Representative Wray

Presentations

Other Business

Adjournment

Transportation Committee
Wed, June 26, 2019 at 12:00 PM
Room 1124/1224 of the Legislative Building

MINUTES

The Transportation Committee met at 12:00 PM on June 26, 2019 in Room 1124/1224 of the Legislative Building. 10 Senators were present and 2 House Members were present.

Senator Thom McInnis, Chair, presided.

Senator Davis opened the meeting @ 12:00 a.m. Chairman McInnis introduced the Co-Chairs, Senate Pages, and the Sgt. of Arms.

Chairman McInnis introduced the four bills scheduled to be voted on the calendar. The Bills were HB 206 (DOT Legislative Changes.-AB), HB 211 (Various DMV Changes.-AB), HB 620 (Street Database/Manual/Public Record Exception), and HB 645 (Revisions to Outdoor Advertising Laws).

Chairman McInnis temporarily hands over committee chairmanship to Senator Jim Davis to present an amendment to HB 206. Senator Alexander expressed major concern and reservation about the deregulation of the buffering zone, and the proposal to proposal to fix all issues after the fact when the bill is enacted as law. Senator Britt made a motion to adopt amendment, the motion subsequently passing with Senator Alexander voting no. (Temporary) Chairman Davis reads the bill HB 206, asking for any questions or public comments. Senator Britt makes a motion to move the bill to Favorable to Unfavorable for a PCS change, motion carries with Senator Alexander voting no. Senator McInnis will manage the bill on the Senate floor.

(Temporary) Chairman Davis keeps chairmanship while Senator McInnis presents an amendment for HB 211. Senator Harrington makes a motion to adopt the amendment, the motion unanimously carries. Senator reads the bill, asking if there are any questions from the committee or public comments. Senator Harrington makes a motion to roll the bill Favorable to Unfavorable for a PCS change. Motion carries unanimously. Senator McInnis will manage the bill on the Senate floor.

Senator McInnis presents an amendment for HB 620. Senator Britt makes a motion to adopt amendment. Motion unanimously carries. Senator McInnis reads the bill, asking the committee and public if they have any questions or comments. Senator Britt makes a motion for a Favorable to Unfavorable for a PCS change. Senator Davis hands over the chairmanship back to Senator McInnis. Senator McInnis will manage bill on the Senate floor.

Representative Saine presents an amendment for HB 645. Senator Britt makes a motion to adopt amendment, motion carries unanimously. Chairman McInnis reads the bill, asking the committee and public for questions or comments. Senator Harrington makes a motion move the bill Favorable to Unfavorable for a PCS change. Senator Perry will manage the bill on the Senate floor.

Questions asked by members:

1. (Senator Harrington) Pertaining to HB 206, will this project consist of building a bridge to another bridge?

Member's unanimously voted HB 211, HB 620, and HB 645 favorable to unfavorable for a PCS change. Members voted HB 206 favorable to unfavorable for a PCS change, with Senator Alexander voting no.

Chairman McInnis closed the meeting by thanking staff for their work and members of the public for showing up.

The meeting adjourned at 12:38 p.m.

Senator Thom McInnis, Chair
Presiding

Johnny Bravo, Committee Clerk

HOUSE BILL 206
Committee Substitute Favorable 3/18/19

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

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO LAWS RELATED TO TRANSPORTATION, AS RECOMMENDED BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

NONPUBLIC SCHOOL RIGHT-OF-WAY CONDEMNATION AUTHORITY

SECTION 1. G.S. 40A-3(a) reads as rewritten:

"(a) Private Condemnors. – For the public use or benefit, the persons or organizations listed below shall have the power of eminent domain and may acquire by purchase or condemnation property for the stated purposes and other works which are authorized by law.

...

(2) School committees or boards of trustees or of directors of any corporation holding title to real estate upon which any private educational institution is situated, have the power of eminent domain in order to obtain a pure and adequate water supply for such ~~institution.~~institution or to accommodate transportation improvements required by the Department of Transportation.

...."

AIRPORT IMPROVEMENT PROGRAM

SECTION 2.(a) Article 7 of Chapter 63 of the General Statutes is amended by adding a new section to read:

"**§ 63-74. Airport Improvement Program.**

(a) Purpose. – There is established an Airport Improvement Program that shall serve to (i) fund improvements at eligible airports and (ii) pay debt service or related financing costs and expenses on revenue bonds or notes issued by eligible airports. The Department of Transportation shall allocate funds appropriated to this program to eligible airports based on the findings in the biennial economic impact study, as described in this section. The Department shall adopt rules governing the distribution and use of these funds.

(b) Eligible Airport. – Any publicly owned, commercial service airport with more than 10,000 passenger boardings during the two calendar years preceding the fiscal year in which funds are allocated is eligible to apply for airport improvement program funds.

(c) Economic Impact Study and Distribution Formula. – The Department of Transportation shall conduct a biennial economic impact study that examines the annual economic impact of each commercial service airport in North Carolina. Funds appropriated to the Airport Improvement Program shall be disbursed by the Department based on the percentage of the total economic impact of each eligible airport as determined by the economic impact study.

The three largest airports, as defined by economic impact, would take a five percent (5%) cut per decile of the pro rata share of funds distributed herein, with a maximum cut of twenty percent (20%), and redistributed to the remaining eligible airports as follows. Of the funds redistributed to the remaining eligible airports, twenty-five percent (25%) shall be allocated equally among the remaining eligible airports and seventy-five percent (75%) shall be allocated proportionally to the remaining eligible airports based on the total number of passenger boardings used to establish eligibility for the program.

(d) Permissible Uses, Reporting, and Return of Funds. – The Department of Transportation shall not allocate funds to an airport under this section until that airport has provided a report outlining how the airport will use the funds in conformance with the purposes of the program. No later than 45 days from the date the Department receives the report required under this subsection, the Department shall make a determination whether the intended use of the funds matches the purposes of the program and, if so, allocate funds under this section to the compliant airport. An airport that receives funds under this section shall return the funds to the Department if the funds are in the possession or control of the airport and not expended or made subject to an encumbrance by August 31 of the year following the fiscal year in which the Department makes the allocation. All funds returned to the Department under this section, or retained by the Department for failure of an eligible airport to submit a report under this subsection, shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly.

(e) Limitation. – Notwithstanding any provision of law to the contrary, the allocation of funds under this section to eligible airports, the enactment of this section, and the issuance of bonds or notes by the airports in reliance thereon, shall not in any manner constitute a pledge of the full faith and credit and taxing power of the State. Additionally, allocations under this section are subject to the availability of funds appropriated to the Airport Improvement Program. A security interest shall not be granted in funds allocated under this section."

SECTION 2.(b) Section 34.19(b) of S.L. 2017-57 is repealed.

SMALL PROFESSIONAL SERVICES FIRMS

SECTION 3. G.S. 136-28.4 reads as rewritten:

"**§ 136-28.4. State policy concerning participation by disadvantaged minority-owned and women-owned businesses in transportation contracts.**

...

(c) The following definitions apply in this section:

(1) "Contract" includes, but is not limited to, contracts let under the procedures set forth in G.S. 136-28.1(a) and (b).

(1a) "Disadvantaged Business" has the same meaning as "disadvantaged business enterprise" in 49 C.F.R. § 26.5 Subpart A or any subsequently promulgated replacement regulation.

(2) "Minority"' includes only those racial or ethnicity classifications identified by a study conducted in accordance with this section that have been subjected to discrimination in the relevant marketplace and that have been adversely affected in their ability to obtain contracts with the Department.

(3) "Small Professional Services Firm" is an independent, for-profit firm that meets size standards as defined by the Small Business Administration (SBA) regulations, 13 C.F.R. Part 121, and Sector 54 of the North American Industrial Classifications System (NAICS).

~~(3)~~(4) "Women" means nonminority persons born of the female sex.

(d) The Department shall report annually to the Joint Legislative Transportation Oversight Committee on the utilization of disadvantaged minority-owned businesses and women-owned businesses and any program adopted to promote contracting opportunities for

those businesses. Following each study of availability and utilization, the Department shall report to the Joint Legislative Transportation Oversight Committee on the results of the study for the purpose of determining whether the provisions of this section should continue in force and effect.

(e) The Department of Transportation's Office of Civil Rights is directed to increase outreach efforts to small professional service firms. The Office of Civil Rights shall set a goal that the utilization of small professional service firms increases by five percent (5%) by January 1, 2021.

~~(e)~~(f) This section expires August 31, 2022."

REENACT AUTHORIZATION FOR PARTNERSHIP WITH PRIVATE DEVELOPERS

SECTION 4. Section 2 of S.L. 2009-235, as amended by Section 7 of S.L. 2014-58 and Section 2.3 of S.L. 2016-90, reads as rewritten:

"**SECTION 2.** This act is effective when it becomes law. ~~This act shall expire on July 1, 2017.~~"

EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 206: Various Transportation Changes.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 26, 2019
Introduced by:	Rep. Torbett	**Prepared by:**	Howard Marsilio Staff Attorney
Analysis of:	PCS to Second Edition H206-CSBGf-47		

OVERVIEW: The Proposed Committee Substitute (PCS) to House Bill 206 would amend various transportation laws of this State as follows:

- ***Reenact, and remove an expiration date for, a provision first enacted in 2009 to authorize the Department to participate in private developer contracts for engineering, design, or construction of improvements in limited circumstances.***
- ***Clarify various provisions within current law that proceeds from the disposition of real property, facilities, and products owned by the NCDOT would be credited to the State Highway Fund.***
- ***Exempt airport facilities from having to comply with certain parts of the Neuse River Basin Riparian Buffer Rule.***
- ***Enact a new Airport Improvement Program to provide for allocation of funds to airports.***
- ***Authorize the NCDOT to enter into Public Private Partnership (P3) agreements with private entities related to DOT owned communications infrastructure within the interstate and primary highway systems right-of-way.***
- ***Require the State agency for State surplus property to develop and put out an RFP to conduct public auctions for DOT surplus property without requiring the DOT to move surplus property to those centralized auction locations.***
- ***Authorize the NCDMV to waive license restoration fees under certain circumstances when a licensee has been issued a subsequent license by the Division.***
- ***Clarify that parking spaces for handicapped persons include clearly marked access aisles and all statutory provisions, restrictions, and penalties applicable to spaces also apply to those aisles.***
- ***Authorize airport operators to charge fees/regulate peer-to-peer vehicle sharing providers.***

CURRENT LAW/BILL ANALYSIS:

Section 1 - Reenact authorization for partnership with private developers. This provision was first enacted in 2009 and expired in 2011. It was subsequently reenacted in 2014, with an expiration of 2016, and then was extended in 2016. It expired last on July 1, 2017. This section of the PCS would reenact the provision, which authorizes the Department to participate, in limited circumstances, in private developer contracts for State highway system engineering, design, or construction of improvements. The Department's participation under this law would be limited to the lesser of 10% of the contract or $250,000. The Department would be required to report annually on all agreements entered into.

Section 2 – Proceeds from property disposition to highway fund. Generally, current law provides that all funds and property collected by the NCDOT go to the State Highway Fund, and this specifically includes real property originally purchased with funds from the State Highway Fund. This section of the PCS would clarify, that the disposition of proceeds for real property, owned by the NCDOT, would go to the State Highway Fund, regardless of the original source of funds. This section would also clarify that no State Land Fund deductions would apply to the lease, rentals, or easements of lands, and timber, owned by the NCDOT, and these proceeds would go to the State Highway Fund.

Section 3 – Exempt airport facilities from certain buffer requirements. Currently, 15A NCAC 02B .0233 ("Rule") outlines a management strategy for maintaining and protecting existing riparian buffers in the Neuse River Basin, and this Rule designates certain airport facility uses and their designation under this Rule as "exempt", "allowable", "allowable with mitigation", or "prohibited". This section would exempt airport facilities that impact equal to or less than one hundred fifty (150) linear feet or one-third of an acre of riparian buffer; and would exempt airport facilities that impact greater than one hundred fifty (150) linear feet or one-third of an acre of riparian buffer from having to comply with subdivision 8 of this Rule (Determination of "No Practical Alternatives").

Section 4 - Airport improvement program. The 2017 budget appropriated funds for infrastructure improvements at the State's commercial service airports and further directed the Division of Aviation to assess airport funding needs and to develop a formula for allocating future funds to airports based on their needs and economic output. This section of the PCS would implement recommendations resulting from that assessment and enact a new Airport Improvement Program to provide for allocation of funding to eligible airports based on a biennial economic impact study conducted by the Department.

Section 5 – NCDOT authorization for public-private partnerships for Department owned communications infrastructure within highway ROW. Currently, the NCDOT has authority to utilize public-private partnerships under the procedures set out in G.S. 136-18(39) and (39a) for transportation infrastructure projects. This section would create a specific authority for the NCDOT to enter into Public-Private Partnership (P3) agreements with private entities only related to communications infrastructure supporting transportation infrastructure, which includes the fiber optic trunk lines (and related facilities), owed by the NCDOT and located within the right-of-way of the primary or interstate highway system. More specifically, this would allow NCDOT to utilize P3 agreements, as a way to finance communications infrastructure supporting transportation infrastructure with the additional potential to lease out excess capacity (if available). This section would also make conforming changes to existing law to the extent there is overlap with current procedures.

Section 6 – DOT surplus property auction pilot. Currently, the North Carolina Department of Administration is designated as the State agency for State surplus property, which includes being the agency which manages the NCDOT's state surplus property. This section would require the State agency for State surplus property to conduct a three auction pilot program specifically for NCDOT surplus property, which includes their surplus equipment and motor vehicles. This pilot program requires the State agency for State surplus property to issue a Request for Proposal (RFP) to solicit a private, licensed, auction company to hold 3 separate live auctions, located in 3 locations distributed across the State, and via live simulcast or other electronic means. Information and documents (e.g. pictures and videos) would be available for inspection prior to auctions so that motor vehicles and equipment will not be required to be moved to the centralized live auction locations, among other RFP requirements.

Section 7 – License restoration fee waiver authority. Currently, licensees who have had their licenses revoked, as outlined in statute, are required to pay a $65 or $130 restoration fee depending on circumstances. The Division of Motor Vehicles does not have any authority to waive this restoration fee. This section would give the Division the authority to waive only the restoration fee when the fee remains

unpaid for 10 years, and the person owing the fee has been issued a drivers license by the Division since the effective date of the revocation, and is otherwise eligible to hold the license.

Section 8 – Handicapped parking spaces and access aisle designation clarification. Current law requires parking spaces for handicapped persons to be designated with appropriate signage/markings and provides penalties for parking in designated spaces without authorization. This section clarifies that all provisions, restrictions, and penalties applicable to parking in spaces designated for handicapped persons would also apply to clearly marked access aisles.

Section 9 – Peer-to-peer vehicle sharing. Currently, there are no statutes that relate to peer-to-peer vehicle sharing. This section would create a new article within the motor vehicle laws relating to peer-to-peer vehicle sharing, which is the authorized use of a shared vehicle by an individual other than the owner through a peer-to-peer vehicle sharing program for compensation. This section would codify applicable definitions and authorize airport operators to charge airport facility usage fees, require identifying decals for shared vehicles on their property, require purchase of vehicle monitoring equipment, create auditing requirements, and designate shared vehicle staging lots.

EFFECTIVE DATE: Section 4 would become effective July 1, 2019. Sections 7 and 9 would become effective October 1, 2019. The remainder of the act would be effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 206

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H206-ABG-31 [v.2]

Amends Title [NO]
H206-CSBGf-47v17

Date June 26, 2019 ,2019

Senator McInnis

moves to amend the bill on page 4, lines 8-9, by inserting the following between the lines:

"**DEPARTMENT OF TRANSPORTATION AUTHORIZATION TO PERMIT AIRSPACE ENCROACHMENT FOR MOORE REGIONAL HOSPITAL**

SECTION 3.5.(a) The Department of Transportation is hereby authorized to permit private use and encroachment upon the airspace above State Road 1208, Page Road, in Pinehurst, for the purpose of construction of a parking facility structure for Moore Regional Hospital, provided, in the opinion of the Department of Transportation, such parking facility structure will not unreasonably interfere with or obstruct the public use of the right of way of State Road 1208, Page Road. Any agreement for an encroachment authorized by this section shall be approved by the Board of Transportation, upon a finding that the encroachment is necessary and appropriate, in the sole discretion of the Board. Any encroachment agreement authorized by this section shall be subject to all state and federal rules, regulations, and include any conditions deemed necessary by the Department of Transportation including, but not limited to future inspection, maintenance and repair responsibilities.

SECTION 3.5.(b) Ingress and Egress movements (access) for the parking facility structure shall be approved by the Department under a separate Driveway Permit.

SECTION 3.5.(c) Moore Regional Hospital shall be responsible for all costs associated with requirements by the Department issued in the approved encroachment agreement and driveway permit.

SECTION 3.5.(d) Moore Regional Hospital nor any other organization or event shall not require a fee to utilize the parking facility structure within the airspace of State Road 1208, Page Road.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 206

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H206-ABG-31 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 206

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H206-ABG-21 [v.6]

Amends Title [NO]
H206-CSBGf-47v17

Date _____ ,2019

Senator _____

moves to amend the bill on page 5, lines 13-14, by inserting between those lines the following:
"**MURPHY BRANCH RAIL LINE LEASE AND CONVEYANCE AUTHORIZATION REPEAL**

SECTION 4.5 Section 35.18 of S.L. 2016-94 is repealed.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 4

HOUSE BILL 211
Committee Substitute Favorable 3/12/19
Committee Substitute #2 Favorable 3/18/19
Fourth Edition Engrossed 4/3/19

Short Title: Various DMV Changes.-AB (Public)

Sponsors:

Referred to:

February 28, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO MOTOR VEHICLE LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

ELECTRIC VEHICLE DEFINITION CLARIFICATIONS

SECTION 1.(a) G.S. 20-4.01(12a) reads as rewritten:

"(12a) Fuel cell electric vehicle. – A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the following requirements:

a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.

b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.

c. Uses hydrogen and a fuel cell to produce electricity on board to power an electric motor to propel the vehicle.

d. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.

e. Has a maximum speed capability of at least 65 miles per hour."

SECTION 1.(b) G.S. 20-4.01(28a) reads as rewritten:

"(28a) Plug-in electric vehicle. – A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the following requirements:

a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.

b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.

c. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.

d. Has a maximum speed capability of at least 65 miles per hour.

e. Draws electricity from a battery that has all of the following characteristics:

1. A capacity of not less than four kilowatt hours.

2. Capable of being recharged from an external source of electricity."

MOTOR VEHICLE REGISTRATION CARD SIGNATURE LINE REMOVAL

SECTION 2. G.S. 20-57(b) reads as rewritten:

"(b) The registration card shall be delivered to the owner and shall contain upon the face thereof the name and address of the owner, ~~space for the owner's signature,~~ the registration number assigned to the vehicle, and a description of the vehicle as determined by the Commissioner, provided that if there are more than two owners the Division may show only two owners on the registration card and indicate that additional owners exist by placing after the names listed "et al." An owner may obtain a copy of a registration card issued in the owner's name by applying to the Division for a copy and paying the fee set in G.S. 20-85."

REMOTE CONVERSION OF FULL PROVISIONAL LICENSES

SECTION 3.(a) G.S. 20-7(f)(1) reads as rewritten:

"(1) Duration of license for persons under age 18. – A full provisional license issued to a person under the age of 18 expires ~~on the~~ 60 days following the person's twenty-first birthday."

SECTION 3.(b) G.S. 20-7(f)(6) reads as rewritten:

"(6) Remote ~~renewal.~~ renewal or conversion. – Subject to the following requirements and limitations, the Division may offer remote renewal of a drivers license or remote conversion of a full provisional license issued by the Division:

a. Requirements. – To be eligible for remote renewal or conversion under this subdivision, a person must meet all of the following requirements:

1. The license holder possesses either (i) a ~~valid, unexpired~~ valid Class C drivers ~~license that was issued when the person was at least 18 years old.~~license, or (ii) a valid full provisional license and is at least 18 years old at the time of the remote conversion.
2. The license holder's current license includes no restrictions other than a restriction for corrective lenses.
3. The license holder attests, in a manner designated by the Division, that (i) the license holder is a resident of the State and currently resides at the address on the license to be ~~renewed,~~ renewed or converted, (ii) the license holder's name as it appears on the license to be renewed or converted has not changed, and (iii) all other information required by the Division for an in-person renewal under this Article has been provided completely and truthfully. If the license holder does not currently reside at the address on the license to be renewed or converted, the license holder may comply with the address requirement of this sub-sub-subdivision by providing the address at which the license holder resides at the time of the remote renewal or conversion request.
4. ~~The~~ For a remote renewal, the most recent renewal was an in-person renewal and not a remote renewal under this subdivision.
5. The license holder is otherwise eligible for renewal or conversion under this subsection.

b. Waiver of requirements. – When renewing or converting a drivers license pursuant to this subdivision, the Division may waive the examination and photograph that would otherwise be required for the ~~renewal.~~renewal or conversion.

c. Duration of remote ~~renewal.~~ renewal or conversion. – A ~~renewed~~ drivers license issued to a person by remote renewal or conversion under this subdivision expires according to the following schedule:
1. For a person at least 18 years old but less than 66 years old, on the birthday of the licensee in the eighth year after issuance.
2. For a person at least 66 years old, on the birthday of the licensee in the fifth year after issuance.

d. Rules. – The Division shall adopt rules to implement this subdivision.

e. Federal law. – Nothing in this subdivision shall be construed to supersede any more restrictive provisions for renewal or conversion of drivers licenses prescribed by federal law or regulation.

f. Definition. – For purposes of this subdivision, "remote ~~renewal"~~ renewal or conversion" means renewal of a drivers license or conversion of a full provisional license by mail, telephone, electronic device, or other secure means approved by the Commissioner."

LIABILITY INSURANCE LAPSE PENALTY WAIVER FOR VEHICLES SUBSEQUENTLY REGISTERED OUT-OF-STATE

SECTION 4. G.S. 20-311 is amended by adding a new subsection to read:

"(g1) Out-of-State Waiver. – Notwithstanding the penalty and restoration fee provisions of this section, any monetary penalty or restoration fee shall be waived for any person who meets all of the following requirements:

(1) The owner has become a resident of another state and has registered the owner's vehicle in that state within 30 days of the cancellation or expiration of the owner's North Carolina motor vehicle liability policy.

(2) The owner has submitted a copy of their current out-of-state registration card to the Division.

(3) The owner has returned the North Carolina registration plate or has submitted an affidavit indicating that the North Carolina registration plate has been lost, stolen, or destroyed."

LICENSE PLATE REFLECTIVITY STANDARDS

SECTION 5.(a) G.S. 20-63.1 reads as rewritten:

"**§ 20-63.1. Division ~~may~~ shall cause plates to be reflectorized.**

(a) Registration Plate Standards. – ~~The Division of Motor Vehicles is hereby authorized to cause vehicle license plates for 1968 and future years to be completely treated with reflectorized materials designed to increase visibility and legibility of license plates at night.~~Registration plates shall meet all of the following requirements:

(1) Fully retroreflective and conform to all of the following values based on 0.2/-4 degree observation and entrance angles and ISO 7591 weathering methods:
a. An initial coefficient reflectivity value of greater than 150 $cd.lx^{-1}.m^{-2}$.
b. A retained coefficient reflectivity value of greater than 54 $cd.lx^{-1}.m^{-2}$.
c. An initial white luminance factor of greater than 0.55.
d. A retained white luminance factor of greater than 0.45.

(2) Constructed with all of the following:
a. Prismatic sheeting.
b. Aluminum plates tempered to a hardness and thickness of .027 inches (+/- .002 inches).
c. Security features embedded into the sheeting.

(b) Registration Plate Mandatory Replacement. – All registration plates shall be replaced every seven years."

SECTION 5.(b) The Division, in coordination with the Department of Information Technology, shall implement a registration plate production platform that: (i) integrates the State registration and titling system with the on-demand production of the registration plates, and (ii) provides for the direct shipping of the registration plate to the owner of the vehicle, or to the license plate agency.

SECTION 5.(c) This section becomes effective July 1, 2020, and applies to registration plates issued or renewed on or after that date. Existing plates must be replaced with new registration plates if, upon the date of renewal, the plate is seven or more years old or will become seven or more years old during the registration period.

SECTION 5.1.(a) G.S. 20-140.4(a)(2) reads as rewritten:

"(a) No person shall operate a motorcycle or moped upon a highway or public vehicular area:

...

(2) Unless the operator and all passengers thereon wear on their heads, with a retention strap properly secured, safety helmets of a type that complies with Federal Motor Vehicle Safety Standard (FMVSS) 218. This subdivision shall not apply to an operator of, or any passengers within, an ~~autocycle that has completely enclosed seating.~~autocycle."

SECTION 5.1.(b) This section is effective July 1, 2019. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

LIMITED DRIVING PRIVILEGE/REVOCATION FOR FAILURE TO PAY FINES

SECTION 5.5.(a) G.S. 20-24.1 is amended by adding a new subsection to read:

"(f) If a license is revoked under subdivision (2) of subsection (a) of this section, and for no other reason, the person subject to the order may apply to the court for a limited driving privilege valid for up to one year or until any fine, penalty, or court costs ordered by the court are paid. The court may grant the limited driving privilege in the same manner and under the terms and conditions prescribed in G.S. 20-16.1. A person is eligible to apply for a limited driving privilege under this subsection only if the person has not had a limited driving privilege granted under this subsection within the three years prior to application."

SECTION 5.5.(b) This section becomes effective October 1, 2019, and applies to revocation orders entered on or after that date.

EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 211

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H211-ASU-51 [v.1]

Amends Title [NO]
Fourth Edition

Date _____ ,2019

Senator _____

moves to amend the bill on page 3, lines 35-49, by rewriting the lines to read:

"(a) Registration Plate Standards. – The Division of Motor Vehicles is hereby authorized to cause vehicle license plates for 1968 and future years to be completely treated with reflectorized materials designed to increase visibility and legibility of license plates at night. The Division of Motor Vehicles shall develop standards for reflectivity that use the most current technology available while maintaining a competitive bid process."; and

on page 4, line 6, by deleting "July 1, 2020," and substituting "July 1, 2021,"; and

on page 4, lines 10-33, by deleting the lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 211:
Various DMV Changes.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 25, 2019
Introduced by:	Rep. Shepard	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	Fourth Edition		

OVERVIEW: House Bill 211 would make the following changes to laws relating to motor vehicles:

- ***Amend the definitions of fuel cell and plug-in electric vehicles to clarify that they cannot have the ability to be propelled by a gasoline engine.***
- ***Eliminate the requirement for a signature space on a registration card.***
- ***Authorize remote conversion of a provisional license to a regular drivers license.***
- ***Require the Division of Motor Vehicles to waive lapse in financial responsibility penalties under certain circumstances when a person has moved to another state.***
- ***Provide reflectivity standards for registration plates and require replacement of plates every seven years.***
- ***Delete the requirement that passengers and operators wear helmets on autocycles.***
- ***Allows a person to apply for a limited driving privilege when his or her license has been revoked for failing to pay fines or court costs.***

CURRENT LAW/BILL ANALYSIS: House Bill 211 would make changes to motor vehicle-related laws as follows:

Section 1 would amend current definitions within G.S. 20-4.01, applicable to fuel cell electric and plug-in electric vehicles, to clarify that those vehicles cannot have the ability to be propelled by a gasoline engine. Fuel cell electric vehicles and plug-in electric vehicles are not required to undergo emissions inspections pursuant to G.S. 20-183.2, nor are they subject to the HOV lane restrictions pursuant to G.S. 20-146.2, under certain circumstances.

Section 2. S.L. 2016-90, Section 12.(a), repealed the requirement for an owner to sign a motor vehicle registration card issued by the Division of Motor Vehicles. This section would make a technical correction to repeal the requirement that there be a space for the owner's signature on the registration card.

Section 3 would authorize remote conversion of a full provisional license to a regular drivers license. It would also provide that a full provisional license expires 60 days after the holder's 21st birthday, rather than on the 21st birthday. It would also authorize a person remotely renewing or converting a license to update his or her address.

Section 4. Current law requires the owner of a motor vehicle that is registered or is required to be registered to have a motor vehicle liability policy. If the liability policy lapses during that motor vehicle's registration period, the Division is authorized to take action as outlined in G.S. 20-311. Under current law,

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

if a vehicle owner cancels a North Carolina liability policy in the process of moving out-of-state and prior to registering that same vehicle out-of-state, the owner may be assessed a penalty.

This section would require the Division to waive the monetary penalty and restoration fee for a lapse in liability insurance coverage if the owner of the vehicle meets all of the following requirements:

- The owner has become a resident of another state and has registered the owner's vehicle in that state within 30 days of the cancellation or expiration of the owner's North Carolina motor vehicle liability policy.
- The owner has submitted a copy of their current out of state registration card to the Division.
- The owner has returned the North Carolina registration plate or has submitted an affidavit indicating that the North Carolina registration plate has been lost, stolen, or destroyed.

Section 5 would provide detailed standards for construction and reflectivity of all registration plates issued by the Division. It would also require the Division to replace registration plates every seven years (an existing plate would have to be replaced if, at the time of renewal, it is seven or more years old or will become that old during the registration period). The Division would be required to coordinate with the Department of Information Technology to implement a plate production platform that would integrate the registration system with on-demand plate production and provide for direct shipping of the plates. This section would be effective July 1, 2020, and would apply to plates issued on or after that date.

Section 5.1 would exempt all operators and passengers on autocycles from the requirement to wear a helmet. Currently, autocycles fall within the definition of motorcycle for purposes of the helmet requirement, with the specific exception that helmets are not required on autocycles with completely enclosed seating.

Section 5.5 would allow a person whose license has been revoked solely for failing to pay fines or court costs ordered by a court to apply for a limited driving privilege. The privilege would be valid up to one year, and a person would only be eligible if he or she had not had a limited privilege granted for the same reason within the previous three years.

EFFECTIVE DATE: This act would be effective when it becomes law.

Howard Marsilio, counsel to House Transportation, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 211

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H211-ASU-51 [v.1]

Amends Title [NO]
Fourth Edition

Date June 26 ,2019

Senator McInnis

moves to amend the bill on page 3, lines 35-49, by rewriting the lines to read:

"(a) Registration Plate Standards. – The Division of Motor Vehicles is hereby authorized to cause vehicle license plates for 1968 and future years to be completely treated with reflectorized materials designed to increase visibility and legibility of license plates at night. The Division of Motor Vehicles shall develop standards for reflectivity that use the most current technology available while maintaining a competitive bid process."; and

on page 4, line 6, by deleting "July 1, 2020," and substituting "July 1, 2021,"; and

on page 4, lines 10-33, by deleting the lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 620*
Committee Substitute Favorable 5/6/19

Short Title: Street Database/Manual/Public Record Except. (Public)

Sponsors:

Referred to:

April 8, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO COMPILE A PUBLIC STREET INFORMATION DATABASE AND TO REGULARLY UPDATE THE SUBDIVISION ROADS MANUAL AND TO TEMPORARILY EXEMPT PROPRIETARY DESIGN WORK SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION DURING A COMPETITIVE BID PROCESS FROM PUBLIC RECORDS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§136-18.06. Public Street Information Database.**

The Department shall compile a readily available "Public Street Information Database" and place it in operation on or before January 1, 2020. The information shall convey the status of roads within the State, and it shall be updated at least monthly, except as provided in subdivision (1) of this section. The data shall reside on any existing database system chosen by the Department for this purpose, including a geographic information system (GIS) mapping system. The system chosen shall convey clear and concise information regarding the status of roads to the public. The data shall be available to the public in either graphic or tabular format, or both. The status of roads to be conveyed shall be:

(1) Federally owned, updated as often and with as much information as the State is provided from the federal government.

(2) State-maintained with a State road number assigned.

(3) State-owned with a State road number assigned."

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

"**§ 136-18.07. Subdivision Roads Manual.**

The Department shall update its Subdivision Roads Minimum Construction Standards Manual and any related pavement or other policies by July 1, 2020, and regularly thereafter, to accurately reflect current federal and State law and applicable judicial decisions. The Department shall report all updates to the Manual to the Joint Legislative Transportation Oversight Committee."

SECTION 3. G.S. 132-1.2 reads as rewritten:

"**§ 132-1.2. Confidential information.**

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

...

(8) Reveals proprietary design work or work product included in a proposal that is submitted to the Department of Transportation for consideration, or any Department intra-agency communications related to the review of a proposal, during a competitive bid process. For the purposes of this subdivision, the competitive bid process is completed upon contract award. Proprietary design work, work product, or intra-agency communications that are otherwise public records pursuant to G.S. 132-1 are no longer confidential and subject to disclosure upon contract award."

SECTION 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 620*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H620-ABG-26 [v.6]

Amends Title [YES]
Second Edition

Date _____,2019

Senator _____

moves to amend the bill on page 1, line 4, by deleting the phrase "MANUAL AND" and substituting the phrase "MANUAL;";

and on page 1, line 7, by rewriting that line to read:
"RECORDS; AND TO MODIFY STREET DESIGNATION REQUIREMENTS ON RECORDED PLATS.";

and on page 2, line 9, by rewriting that line to read:

"**SECTION 4.(a)** G.S. 136-102.6 reads as rewritten:

"**§ 136-102.6. Compliance of subdivision streets with minimum standards of the Board of Transportation required of developers.**

...

(b) The right-of-way of any new street or change in an existing street shall be delineated upon the map or plat with particularity and such streets shall be designated to be either public or private. Any plat with streets designated as public pursuant to this subsection, shall also contain a written notice of conspicuous size, in a conspicuous location, and shall state: "ANY STREET DESIGNATED ON THIS PLAT OR MAP AS PUBLIC, PURSUANT TO G.S. 136-102.6, SHALL BE CONCLUSIVELY PRESUMED TO BE AN OFFER OF DEDICATION TO THE PUBLIC OF SUCH STREET. THIS DESIGNATION DOES NOT ENSURE THAT A STREET HAS BEEN OR WILL BE ACCEPTED, ADOPTED OR MAINTAINED AS PUBLIC." Any street designated on the plat or map as public shall be conclusively presumed to be an offer of dedication to the public of such street.

...."

SECTION 4.(b) This section becomes effective January 1, 2021, and applies to maps or plats recorded on or after that date.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 620*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H620-ABG-26 [v.6]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 620:
Street Database/Manual/Public Record Except.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 26, 2019
Introduced by:	Reps. Szoka, Bumgardner, Hawkins, Iler	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Second Edition		

OVERVIEW: House Bill 620 would:

- ***Require the North Carolina Department of Transportation (NCDOT) to compile a readily available Public Street Information Database.***
- ***Require NCDOT to update its Subdivision Roads Minimum Construction Standards Manual.***
- ***Amend the public records law to designate proprietary design work, work product, and certain intra-agency communications as confidential during the competitive bid process.***

[As introduced, this bill was identical to S480, as introduced by Sens. McInnis, J. Davis, D. Davis, which is currently in Senate Transportation.]

CURRENT LAW/BILL ANALYSIS:

Section 1 would require the NCDOT to compile a readily available "Public Street Information Database" by January 1, 2020, which would be updated monthly and convey information regarding the status of certain roads, which are:

- Federally owned.
- State-maintained with a State road number assigned.
- State-owned with a State road number assigned.

Section 2 would require the NCDOT to update the Subdivision Roads Minimum Construction Standards Manual by July 1, 2020, and regularly thereafter, and to report updates to the Manual to the Joint Legislative Transportation Oversight Committee.

Section 3:

Currently, Chapter 132 of the General Statues outlines what is considered a public record, and also designates certain documents and information as confidential information, which is not subject to disclosure under public records laws.

Section 3 would amend the public records law to designate proprietary design work, work product, and intra-agency communications related to review of a proposal as confidential information during the competitive bid process. These documents would only remain confidential during the competitive bid process and would be subject to disclosure upon contract award.

EFFECTIVE DATE: This act would become effective when it becomes law.

Karen Cochrane-Brown
Director

H620-SMBG-130 E2 -V-1

Legislative Analysis Division
919-733-2578

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 620*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H620-ABG-26 [v.6]

Amends Title [YES]
Second Edition

Date June 26 ,2019

Senator McInnis

moves to amend the bill on page 1, line 4, by deleting the phrase "MANUAL AND" and substituting the phrase "MANUAL;";

and on page 1, line 7, by rewriting that line to read:
"RECORDS; AND TO MODIFY STREET DESIGNATION REQUIREMENTS ON RECORDED PLATS.";

and on page 2, line 9, by rewriting that line to read:

"**SECTION 4.(a)** G.S. 136-102.6 reads as rewritten:

"§ 136-102.6. Compliance of subdivision streets with minimum standards of the Board of Transportation required of developers.

...

(b) The right-of-way of any new street or change in an existing street shall be delineated upon the map or plat with particularity and such streets shall be designated to be either public or private. Any plat with streets designated as public pursuant to this subsection, shall also contain a written notice of conspicuous size, in a conspicuous location, and shall state: "ANY STREET DESIGNATED ON THIS PLAT OR MAP AS PUBLIC, PURSUANT TO G.S. 136-102.6, SHALL BE CONCLUSIVELY PRESUMED TO BE AN OFFER OF DEDICATION TO THE PUBLIC OF SUCH STREET. THIS DESIGNATION DOES NOT ENSURE THAT A STREET HAS BEEN OR WILL BE ACCEPTED, ADOPTED OR MAINTAINED AS PUBLIC." Any street designated on the plat or map as public shall be conclusively presumed to be an offer of dedication to the public of such street.

...."

SECTION 4.(b) This section becomes effective January 1, 2021, and applies to maps or plats recorded on or after that date.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 620*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H620-ABG-26 [v.6]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H 4

HOUSE BILL 645*
Committee Substitute Favorable 4/30/19
Committee Substitute #2 Favorable 5/6/19
Fourth Edition Engrossed 5/7/19

Short Title: Revisions to Outdoor Advertising Laws. (Public)

Sponsors:

Referred to:

April 10, 2019

A BILL TO BE ENTITLED

AN ACT TO REVISE THE OUTDOOR ADVERTISING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-127 reads as rewritten:

"**§ 136-127. Declaration of policy.**

The General Assembly hereby finds and declares that outdoor advertising is a legitimate commercial use of private property adjacent to roads and ~~highways but~~ highways. The General Assembly also finds and declares that outdoor advertising is an important and distinct medium of communication for effectively displaying commercial and noncommercial messages and is an established segment of the national economy that serves to promote and protect investments in commerce and industry. The General Assembly further finds that the erection and maintenance of outdoor advertising signs and devices in areas in the vicinity of the right-of-way of the interstate and primary highway systems within the State should be controlled and ~~regulated~~ regulated, as provided in this Article, in order to promote the safety, health, welfare and convenience and enjoyment of travel on and protection of the public investment in highways within the State, to prevent unreasonable distraction of operators of motor vehicles and to prevent interference with the effectiveness of traffic regulations and to promote safety on the highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the State, and to preserve and enhance the natural scenic beauty of the highways and areas in the vicinity of the State highways and to promote the reasonable, orderly and effective display of such signs, displays and devices, and to secure the right of validly permitted outdoor advertising to be clearly viewed by the traveling public. The General Assembly declares it to be in the public interest that outdoor advertising signs be erected, maintained, and clearly visible along the highways in this State in order to provide important public service announcements and information regarding places offering lodging, food, motor vehicle fuels and lubricants, motor service and repairs, and other services or products available to the general public. The General Assembly also recognizes that the needs of the outdoor advertisers must be balanced against the beautification of the State. It is the intention of the General Assembly to provide and declare herein a public policy and statutory basis for the regulation and control of outdoor advertising."

SECTION 2. G.S. 136-128 reads as rewritten:

"**§ 136-128. Definitions.**

As used in this Article:

(1) Area zoned commercial or industrial. – An area which is zoned for business, industry, commerce, or trade pursuant to a State law or local zoning ordinance

or regulation, regardless of how labeled, where uses associated with business, industry, commerce, or trade are permitted. This term does not include "zoning designed primarily for the purpose of permitting outdoor advertising signs," as that term is defined in G.S. 136-133.5(e).

(1a) Customary use. – Compliance with the specific outdoor advertising standards for size, lighting, and spacing in areas zoned commercial or industrial under authority of State law or in unzoned commercial or industrial areas, as the standards and areas are described and defined in the agreement dated January 7, 1972, as amended, and entered into between the State and the United States Department of Transportation under G.S. 136-138 to implement the provisions of the federal Highway Beautification Act of 1965.

~~(1)~~(1b) ~~"Erect" means to~~ Erect or erection. – To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. This term does not include the repair or reconstruction of outdoor advertising, as authorized under G.S. 136-131.2, or the relocation of an outdoor advertising sign as authorized under applicable State law.

~~(1a)~~(1c) ~~"Illegal sign" means one~~ Illegal sign. – A sign which was erected and/or maintained in violation of State law.

~~(1b)~~(1d) ~~"Information center" means an~~ Information center. – An area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as the Department of Transportation may consider desirable.

(2) ~~"Interstate system" means that~~ Interstate system. – The portion of the National System of Interstate and Defense Highways located within the State, as officially designated, or as may hereafter be so designated, by the Department of Transportation, or other appropriate authorities and are also so designated by interstate numbers. As to highways under construction so designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities.

(2a) Main-traveled way or traveled way. – Part of a highway on which through traffic is carried, exclusive of paved shoulders. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a traveled way. It does not include frontage roads, turning roadways, or parking areas.

~~(2a)~~(2b) ~~"Nonconforming sign" shall mean a~~ Nonconforming sign. – A sign which was lawfully erected but which does not comply with the provisions of ~~State law~~ customary use or ~~State~~ rules adopted and regulations passed by the Department of Transportation at a later date ~~or which~~ in accordance with this Article, or which, due to changed conditions, later fails to comply with ~~State law~~ customary use or ~~State~~ rules adopted or regulations ~~due to changed conditions. Illegally erected or maintained~~ passed by the Department of Transportation in accordance with this Article. Illegal signs are not nonconforming signs.

(2c) On-premise or on-property sign. – A sign which advertises the sale or lease of property upon which it is located or which advertises an activity conducted or product for sale on the property upon which it is located. An on-premise sign may not be converted to a permitted outdoor advertising sign unless it meets all rules in effect at the time of the conversion request. An on-premise sign

must be located on property contiguous to the property on which the activity is located. Tracts not considered to be contiguous include:

a. Tracts of land separated by a federal, State, city, or public access maintained road.

b. Tracts of land not under common ownership.

c. Tracts of land held in different estates or interests.

(3) ~~"Outdoor advertising" means any~~ Outdoor advertising. – Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation.

(4) Primary system. – The federal-aid primary system in existence on June 1, 1991, and any highway which is not on that system but which is on the National Highway System. As to highways under construction so designated as primary highways pursuant to the above procedures, the highway shall be a part of the primary system for purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal or State authorities.

(5) ~~"Safety rest area" means an~~ Safety rest area. – An area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.

(5a) Sign location or site. – The location or site of an outdoor advertising sign measured to the closest 1/100 of a mile, in conformance with the Department of Transportation methods of measurement for all State roads.

(6) ~~"State law" means a~~ State law. – A State constitutional provision or statute, or ~~an ordinance,~~ rule or regulation enacted or adopted by a State ~~agency or political subdivision of a State pursuant to a State Constitution or statute.~~agency.

(7) ~~"Unzoned area" shall mean an~~ Unzoned commercial or industrial area. – An area where there is no zoning in ~~effect.~~effect that is within 660 feet of the nearest edge of the right-of-way of the interstate or primary system, in which there is at least one commercial or industrial activity that meets the criteria set forth in G.S. 136-130.1.

(8) ~~"Urban area" shall mean an~~ Urban area. – An area within the boundaries or limits of any incorporated municipality having a population of five thousand or more as determined by the latest available federal census.

(9) ~~"Visible" means capable~~ Visible. – Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

SECTION 3. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-130.1. Unzoned commercial or industrial area criteria for outdoor advertising signs.**

(a) Criteria. – To qualify as an unzoned commercial or industrial area for purposes of this Article, one or more commercial or industrial activities shall meet all of the following criteria prior to submitting an outdoor advertising permit application to the Department of Transportation:

(1) The activity shall maintain all necessary business licenses as may be required by applicable State law.

(2) The property used for the activity shall be listed for ad valorem taxes with the county and municipal taxing authorities as required by law.

(3) The activity shall have all basic utilities, including electricity, telephone, water, and sewer or septic service.

(4) The activity shall have direct or indirect vehicular access and be a generator of vehicular traffic.

(5) The activity shall have a building designed with a permanent foundation, built or modified for its current commercial or industrial use, and the building must be located within 660 feet from the nearest edge of the right-of-way of the controlled route. Where a mobile home unit or recreational vehicle is used as a business or office, the following conditions and requirements also apply:

a. The unit or vehicle shall meet the State Building Code criteria for commercial or business use.

b. All wheels, axles, and springs on the unit or vehicle shall be removed.

c. The unit or vehicle shall be permanently secured on piers, pad, or foundation.

d. The unit or vehicle shall be tied down in accordance with State or local requirements.

e. A self-propelled vehicle shall not qualify for use as a business or office under this subdivision.

(6) The activity must be in active operation a minimum of six months prior to the date of submission of an application for an outdoor advertising permit.

(7) The activity shall be open to the public during hours that are normal and customary for that type of activity in the same or similar communities but for not less than 20 hours per week.

(8) One or more employees shall be available to serve customers during the hours the activity is open to the public.

(9) The activity shall be visible and recognizable as commercial or industrial from the main-traveled way. An activity is visible when that portion on which the permanent building designed, built, or modified for its current commercial use can be clearly seen 12 months a year by a person of normal visual acuity while traveling at the posted speed on the main-traveled way adjacent to the activity. An activity is recognizable as commercial or industrial when its visibility from the main-traveled way is sufficient for the activity to be identified as commercial or industrial.

(b) Guidelines. – When making a determination as to whether an activity meets the criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:

(1) Each side of the highway shall be considered separately.

(2) All measurements shall begin from the outer edges of regularly used buildings, parking lots, storage, or processing areas of the commercial or industrial activity, not from the property line of the activity, and shall be along the nearest edge of the main-traveled way.

(c) Nonqualifying Activities. – The following are not considered activities for the purpose of qualifying an unzoned commercial or industrial area under this Article:

(1) Outdoor advertising structures.

(2) On-premise or on-property outdoor advertising signs, if the on-premise or on-property sign is the only part of the commercial or industrial activity that is visible from the main-traveled way.

(3) Agricultural, forestry, ranching, grazing, farming, and related activities, including temporary wayside fresh produce stands.

(4) Transient or temporary activities.

(5) Activities not visible and recognizable as commercial or industrial from the traffic lanes of the main-traveled way.

(6) Activities more than 660 feet from the nearest edge of the right-of-way.
(7) Activities conducted in a building principally used as a residence.
(8) Railroad tracks and minor sidings.
(9) Any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity.
(10) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards, as described in G.S. 136-147."

SECTION 4. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-131.3. Relocation of lawfully existing outdoor advertising sign.**

(a) In order to minimize the amount of just compensation due, whenever property on which an outdoor advertising sign is located is acquired by a public or private condemnor, as defined in G.S. 40A-3, or the Department of Transportation, and the acquiring party requires removal of the sign, any legally erected outdoor advertising sign is permitted to be relocated and reconstructed within a two-mile radius from the existing sign location subject to all of the following requirements:

(1) The new site for relocation is permitted to be any area within 660 feet of the nearest edge of the right-of-way of a highway on the National System of Interstate and Defense Highways or the federal aid primary highway system within the following, as applicable:
a. An area zoned commercial or industrial located within the same zoning jurisdiction, provided it is not located adjacent to any highway as provided in G.S. 136-129.2.
b. The same unzoned city territorial limits or the same unzoned county territorial limits if the initial outdoor advertising sign was located in an unzoned area prior to the relocation.

(2) Except as provided in subsection (c) of this section, the outdoor advertising sign at the relocated site shall conform with customary use in areas zoned commercial or industrial under authority of State law or if the relocated site is unzoned, in unzoned commercial or industrial areas. The new site for relocation shall not be within an historic district lawfully established by a city or county pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes, unless consented to by a resolution adopted by the applicable local governing board.

(3) The construction work related to the relocation of the outdoor advertising sign shall commence within one year after the date of removal.

(4) Subject to subsection (c) of this section, any outdoor advertising that is required to be removed may be reconstructed as provided in G.S. 136-131.2 so long as the square footage of its advertising surface area is not increased. In addition to other sign characteristic changes or alterations resulting from the relocation, the height of the sign may be increased not to exceed 50 feet measured from the adjoining road grade or base of the sign, whichever allows for the greatest visibility.

(5) The express allowances of relocation and reconstruction in this section shall apply to any legally erected outdoor advertising sign anywhere within this State that is required to be removed as a result of action taken by a public or private condemnor, as defined in G.S. 40A-3, or the Department of Transportation, including such signs that are not subject to the jurisdiction of the Department of Transportation.

(6) The express allowances of relocation and reconstruction in this section shall apply whenever a lawfully erected outdoor advertising sign is affected by the

construction of a sound wall. In lieu of relocation, a lawfully erected outdoor advertising sign that is affected by the construction of a sound wall may raise the height of the sign not to exceed 50 feet above the top of the wall.

(b) Any outdoor advertising sign that does not otherwise qualify for relocation as provided in subsection (a) of this section and for which there is in effect a valid permit issued by the Department of Transportation pursuant to this Article is permitted to be relocated and reconstructed subject to all of the requirements listed in subdivisions (1) through (6) of subsection (a) of this section, except that the sign shall not be relocated a distance greater than 250 feet from the lot boundaries on which the sign was previously located. No sign shall be relocated pursuant to this subsection within 10 years from the date of the last relocation pursuant to this subsection, however, this temporal limitation does not apply to relocations on the same sign location or site.

(c) Any outdoor advertising sign that is legally existing but would not be conforming to customary use if relocated on the same sign location or site is permitted to be relocated on the same sign location or site, subject to the following requirements:

(1) The structural members of the sign at the relocated site are of like material.

(2) The size of the sign face or faces is not increased.

(3) The height of the sign at the relocated site does not exceed 50 feet measured from the adjoining road grade or base of the sign, whichever allows for the greatest visibility, except that a sign may be 50 feet above the top of a sound wall or noise barrier constructed between the sign and the main-traveled way.

(4) The relocation on the same sign location or site is not denied by the Federal Highway Administrator or such other federal official delegated the responsibility for enforcing the federal State agreement referenced in the definition of customary use in G.S. 136-128.

(5) The outdoor advertising is not converted to an automatic changeable facing sign.

(d) A new site for relocation shall not be denied by the Department of Transportation due to the presence of vegetation obstructing the visibility of the outdoor advertising sign from the viewing zone. The owner or operator of the outdoor advertising sign shall be permitted to improve the visibility of the sign by removing any vegetation on private property upon receiving written consent of the landowner and on the right-of-way of the interstate and primary systems of the State pursuant to a selective vegetation removal permit issued under this Article. A city or county shall not enforce any ordinance or regulation in conflict with the rights set forth in this subsection or to otherwise cause the withholding of consent by the landowner.

(e) In determining just compensation as provided by law, a fact finder in awarding damages to the outdoor advertising property owner may consider the actual relocation of the outdoor advertising in accordance with this section."

SECTION 4.5. G.S. 136-131.2 reads as rewritten:

"**§ 136-131.2. Modernization of outdoor advertising devices.**

(a) No municipality, county, local or regional zoning authority, or other political subdivision shall, without the payment of just compensation as provided for in G.S. 136-131.1, regulate or prohibit the repair or reconstruction of any outdoor advertising for which there is in effect a valid permit issued by the Department of Transportation so long as the reconstruction complies with all of the following:

(1) ~~the~~ The square footage of its advertising surface area is not increased.

(2) The outdoor advertising is not converted to an automatic changeable facing sign.

(b) As used in this section, reconstruction includes the changing of an existing multipole outdoor advertising structure to a new monopole structure."

SECTION 4.7. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-131.5. Relocation within five miles of a military base.**

(a) Notwithstanding G.S. 136-131.3, if any outdoor advertising sign is to be relocated to a site located five miles or less from the perimeter boundary of a military base, the owner of the outdoor advertising sign shall notify and consult the commander of the military base or the commander's designee, the Department, the county board of commissioners of the county in which the military base lies, and the city council of the city in which the military base lies, if any, of the proposed relocation of the outdoor advertising sign. Such notification shall include a detailed map and explanation of the proposed relocation and reconstruction.

(b) The commander of the military base or the commander's designee, the board of county commissioners, and the city council, if applicable, shall have 30 days from receipt of the notice to submit comments or analysis regarding the compatibility of the proposed relocation and reconstruction with military operations at the base to the Department. If the Department does not receive a response within 30 days of the notice, the military, board of commissioners, and city council, if applicable, are deemed to waive the comment period.

(c) The Department shall have 30 days to take the comments and analysis into consideration before making a final determination on the relocation and reconstruction."

SECTION 6. G.S. 136-133.2 reads as rewritten:

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

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

(b) Notwithstanding the one-year period required in subsection (a) of this section, permits to remove vegetation may be granted for outdoor advertising locations, if the outdoor advertising has been relocated, as allowed by law, and the outdoor advertising otherwise complies with the requirements of this section and rules adopted by the Department in accordance with this section."

SECTION 7. G.S. 136-133.5(d) reads as rewritten:

"(d) ~~The~~ Except for relocations authorized under G.S. 136-131.3, the Department shall not issue permits for new outdoor advertising signs at a sign location where existing trees, if they were to reach the average mature size for that species, would make the proposed sign faces, when erected, not completely visible from the viewing zone. "Existing trees" are those trees that at the time of the permit application are four inches or greater in diameter as measured six inches from the ground. "Viewing zone" means the area which is 500 feet as measured along the edge of the main travel way of the controlled route on each side of the proposed sign structure which will have a sign face."

SECTION 8. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and, to this end, the provisions of this act are severable.

SECTION 9. This act is effective when it becomes law. Section 4 of this act applies to outdoor advertising signs removed on or after the effective date of this act. Section 7 of this act applies to outdoor advertising signs relocated on or after the effective date.

HOUSE BILL 645:
Revisions to Outdoor Advertising Laws.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 26, 2019
Introduced by:	Reps. Saine, Dixon, Jones, Wray	**Prepared by:**	Nicholas Giddings, Billy Godwin, and Erika Churchill, Staff Attorneys
Analysis of:	Fourth Edition		

OVERVIEW: House Bill 645 would amend the laws pertaining to outdoor advertising, to do all of the following:

- ***Allow for relocation and reconstruction of certain outdoor advertising signs, with specified criteria to be met.***
- ***Increase the maximum amount of vegetation that may be cut under a selective vegetation removal permit.***
- ***Require the North Carolina Department of Transportation to approve vegetation removal subject to certain conditions.***
- ***Reduce the waiting period for a permitted outdoor advertising location to receive a selective vegetation removal permit from two years to one year, and exempt certain outdoor advertising locations from that waiting period.***

CURRENT LAW: The Outdoor Advertising Control Act is set out in Article 11 of Chapter 136 of the General Statutes. The Act is intended to control the erection and maintenance of outdoor advertising devices and was enacted in 1967 to ensure that North Carolina met federal standards for controlling billboards along its Interstate and Federal-aid Primary Highways Systems so that the State continued to receive a full allocation of federal highway funds. The Act delegates authority to the North Carolina Department of Transportation (DOT) to adopt rules enforcing federal standards along these federal highway corridors. The Act requires a permit to erect or maintain any outdoor advertising within 660 feet of the nearest edge of the right of way of the interstate or primary highway system, with some limited exceptions. Once issued, the permit is valid until revoked for nonconformance under Article 11 or under rules adopted by DOT. G.S. 136-133.

Beginning in 2004, monetary compensation is required to be paid by a local government to the outdoor advertising owner when the local government requires the removal of nonconforming, off-premises outdoor advertising, unless the outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace or when the local government allows the removal or relocation of the advertising to an equally visible location for purposes of road widening or another governmental development project. In lieu of monetary compensation, a local government can enter into a relocation, reconstruction, or removal agreement, so long as the terms of the agreement are agreeable to the outdoor advertising owner. G.S. 153A-143 and G.S. 160A-199.

G.S. 136-133.5 prohibits DOT from issuing permits for new outdoor advertising signs at a location where existing trees, if they were to reach mature height, would make the proposed sign faces not completely visible from the viewing zone. G.S. 136-18(9) grants DOT the authority to "employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right of way in the promotion of erosion control, landscaping and general protection of said highways." The removal of vegetation in or on any right of way of a State road or State highway requires a written selective vegetation removal permit issued by DOT. The owner of an outdoor advertising sign, or the owner of a business facility, may apply to DOT for a selective vegetation removal permit. If DOT approves the application, the permit is valid for one year upon issuance.

The statutes generally set out a maximum cut or removal zone for each sign face, with that maximum zone varying depending upon whether the site is within the corporate limits and territorial jurisdiction of a municipality and whether the highway is an interstate or other route with fully controlled access. Vegetation cutting and removal is allowed along acceleration and deceleration ramps so long as the view of the outdoor advertising sign is improved and total aggregate amount of cut area is not increased. G.S. 136-133.1. Complete removal of the vegetation in the cut zone, other than dogwoods or redbuds, may be allowed if the applicant submits a plan for replanting the cut zone area. Trees existing at the time the outdoor advertising sign was erected may only be removed if the applicant reimburses DOT for the established value of the trees or if the applicant agrees to remove two nonconforming signs for each sign at which the removal of trees is requested. G.S. 136-133.1.

BILL ANALYSIS:

Section 1 would add to the stated policy declaration within the Outdoor Advertising Control Act a statement declaring that outdoor advertising is an important and distinct medium of communication for commercial and noncommercial messages, and that it is in the public interest that outdoor advertising signs are erected, maintained, and clearly visible.

Section 2 would make various changes and additions to the definitions applicable to the Outdoor Advertising Control Act, including:

- Creating a definition of "customary use" with regard to size, lighting, and spacing for outdoor advertising signs in areas zoned commercial or industrial and unzoned commercial or industrial areas.
- Removing local regulation from the definition of "state law."

Section 3 would add a new section to Article 11 of Chapter 136 of the General Statutes related to unzoned commercial or industrial areas, which would be an area that is not currently zoned and within 660 feet of the right-of-way of the interstate or primary system, having at least one commercial or industrial activity meeting the following criteria:

- Have a business license.
- Be listed for taxes.
- Have utilities.
- Have vehicular access.
- Have a building with a permanent foundation within 660 feet from the right-of-way of a controlled route or, if a mobile home or RV is being used as an office, it must meet State Building Code and be tied down with wheels and axles removed.
- Be in active operation a minimum of 6 months prior to applying for an outdoor advertising permit.

- Be open to the public a minimum of 20 hours per week.
- Be staffed by one or more employees while open.
- Be visible and recognizable as a commercial or industrial area from the main-traveled road.

Section 4, *effective for outdoor advertising signs removed on or after the effective date of the act*, would add a new section to Article 11 of Chapter 136 of the General Statutes regarding the relocation of existing outdoor advertising signs that would do the following:

- Authorize any legally erected outdoor advertising sign to relocate within a two mile radius of the existing sign location when the property on which an outdoor advertising sign is located is acquired by DOT, or any public or private condemnor, and the acquiring party requires removal of the sign.
- Create criteria that must be followed when an outdoor advertising sign is relocated, including the following:
    - The relocation site is within 660 feet of a highway on the National System of Interstate and Defense Highways or the federal-aid primary highway system.
    - The relocation site is within an area zoned commercial or industrial located within the same zoning jurisdiction provided it is not located within a view corridor, or, if the sign was originally located in an unzoned area, within the same unzoned city territorial limits or the same unzoned county territorial limits.
    - The off premises outdoor advertising sign at the relocated site conforms with customary use in areas zoned commercial or industrial or in unzoned commercial or industrial areas, as applicable.
    - The relocation site is not within a lawfully established historic district, unless the governing board consents by resolution.
    - Construction on the relocation begins within 1 year of the date of removal or the effective date of this Act, whichever is later.
    - The square footage of the advertising surface area is not increased. However, in addition to other sign characteristic changes or alterations resulting from the relocation, the height of the sign may be increased, not to exceed 50 feet.
    - In lieu of relocation due to the presence of a sound wall, the height of the outdoor advertising sign may be increased, not to exceed 50 feet above the top of the wall.
- Provide that any outdoor advertising sign not required to be removed by DOT or a public or private condemnor that acquires the property wherein the sign is located may still be relocated and reconstructed, provided the relocated distance is not more than 250 feet from the lot boundaries on which the sign was previously located and the above listed criteria are followed. If a sign is relocated under this provision, it cannot be relocated again under this provision for 10 years from the date of the previous relocation, however, the sign may still be relocated on the same sign location or site without regard to this time limitation.
- Create a customary use exception for any sign that is legally existing, but would not be conforming to customary use if relocated on the same site, allowing the sign to be relocated on the same site, subject to the following requirements:
    - The structural members of the sign at the relocated site are of like material.
    - The size of the sign face or faces is not increased.

- The height of the sign at the relocated site does not exceed 50 feet, except that the sign height may be 50 feet above the top of a sound wall.
- The relocation is not denied by the Federal Highway Administrator or certain other federal officials.

- Provide that vegetation removal permits cannot be denied by DOT for new sites when the outdoor advertising is relocating to that site.
- Provide that when determining just compensation, a fact finder may consider the actual relocation of the sign.

Section 4.5 would specify that a county, city, or other local zoning authority cannot regulate or prohibit the repair or reconstruction, without just compensation, any outdoor advertising that meets all of the following criteria:

- Has valid permit issued by DOT
- The square footage of the advertising surface area is not increased by the reconstruction.
- The outdoor advertising is not converted to an automatic changeable facing sign by the reconstruction.

Section 4.7 would require the owner an outdoor advertising sign to be relocated within 5 miles of a military base to notify and consult the commander of the military base or the commander's designee, the DOT, the county board of commissioners of the county in which the military base lies, and the city council of the city in which the military base lies, if any. Those notified and consulted would have up to 30 days to provide comments and analysis regarding the compatibility of the proposed relocation with the military operations of the base. DOT would make a final determination on the relocation of the outdoor advertising.

Section 6 would reduce, by one year, the wait time required before an applicant can submit an application for a selective vegetation removal permit, and provides that this waiting period does not apply to permit applications related to outdoor advertising which has been relocated.

Section 7, *effective for outdoor advertising signs removed on or after the date this act becomes law*, would provide that the prohibition on DOT issuing permits for new outdoor advertising in locations where existing trees would obscure the visibility of the outdoor advertising would not apply to outdoor advertising that is being relocated as a result of condemnation.

Section 8 is a severability clause that provides that if any provision of this act is found to be invalid, it would not affect other provisions of this act that can be given effect without the invalid provision.

EFFECTIVE DATE: Except as otherwise provided above, this act would become effective when it becomes law.

Howard Marsilio substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 645*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H645-AST-45 [v.4]

Amends Title [NO]
Fourth Edition

Date _____,2019

Senator Ford

moves to amend the bill on page 1, lines 4-29, by deleting those lines;

and on page 3, lines 26-29, by removing the redlining on those lines;

and on page 6, lines 25-26, by deleting those lines;

and on page 6, lines 37-38, by inserting the following between those lines:

"(f) For purposes of this subsection, a 'view corridor' shall mean any overlay district established prior to April 1, 2019, by a municipality which designates on a zoning map, specific thoroughfares or segments of thoroughfares within the territorial limits of a municipality, in which the construction of newly permitted outdoor advertising signs are explicitly prohibited. Notwithstanding subsection (a) of this section, all of the following shall apply to a relocation of an outdoor advertising sign:

(1) A sign not located within a view corridor prior to relocation shall not be relocated into a view corridor without the approval of the municipality.

(2) Signs previously located within a view corridor are permitted to be relocated within the same view corridor.

(3) If a municipality has an established view corridor, a sign relocated under subsection (a) of this section is permitted to be relocated within a five-mile radius from the existing sign location, subject to all of the requirements listed in subdivisions (1) through (6) of subsection (a) of this section.";

and on page 6, lines 38-49, by deleting those lines;

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 645*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H645-AST-45 [v.4]

and on page 7, lines 15-16, by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Committee on Transportation

DATE: 06-26-2019 **TIME**: 12:00 PM **ROOM**: 1124/1224 LB

SENATE SERGEANT-AT-ARMS

LINDA MATTHEWS

MICHAEL CAVINESS

HAL ROACH

BILLY FRITSCHER

Senate Pages Attending

COMMITTEE: Transportation **ROOM:** 1124

DATE: 6-26 **TIME:** Noon

PLEASE PRINT LEGIBLY....*or else!!!!!*

	Page Name	Hometown	Sponsoring Senator
1.	Blake Walls	Raleigh	Alexander
2.	Sara Lennon	Efland	McKissick
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4.			JLS
5.	Anika Hall	Durham	McKissik
6.			
7.			
8.			

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

Public Sign-in

Senate Committee on Transportation

June 26, 2019 12:00 PM Rm LB 1124/1224

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Johanna Reese	NCACC
Justin Delaney	NCDOT
George Smith	NP
[illegible]	[illegible]
David Crawford	AIA NC
Joel Lezar	CJH
Alisa Wimberly	NCCH
Rhaegan Jackson	FPA
Emily Manning	FPA
Cady Thomas	FPA
Susanne Davis	NCDPS
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Senate Committee on Transportation

June 26, 2019 12:00 PM Rm LB 1124/1224

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Emma Wellbaum	SELC
A.B Swindell	Comade Supply
Amber Harris	NCHCA
Jamie Lassiter	CCSC
Shelena Smith	CSC
Tonya Burnett	CSC - Martin
Susan A. Flicks	CSC Moore County
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Senate Committee on Transportation

June 26, 2019 12:00 PM Rm LB 1124/1224

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Public Sign-in

Senate Committee on Transportation

June 26, 2019 12:00 PM Rm LB 1124/1224

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Grace Innin	Walk West
Josh Yip	Sierra Club
Cassie Gavin	Sierra Club
Amanda Doraver	KTS
Randolph & Plant	Ralph Whitehead & Associates
HD	
Fred Moreno	NCREC
John Lucey	DEQ
Joy Hilton	DEQ
Rose Williams	NCLM
Erin Wynia	NCLM
Seth Palmer	NCR

Public Sign-in

Senate Committee on Transportation

June 26, 2019 12:00 PM Rm LB 1124/1224

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
Ken Bunco	WWDC
Tim Mia	VCHBA
	CCA
Tim Wigginton	HPLLC
Jack Cozort	NSS
	FSP
	NCBA

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	July 10, 2019	10:30 AM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 620	Electric Standup Scooters.	Senator McKissick Senator Newton
HB 391	Passenger Protection Act.	Representative Bell

Chair: Senator McInnis

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, July 10, 2019, 10:30 AM
1124/1224 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 620	Electric Standup Scooters.	Senator McKissick Senator Newton
HB 391	Passenger Protection Act.	Representative Bell

Presentations

Re. John Bell

Other Business

Adjournment

Senate Committee on Transportation

Tuesday, July 10, 2019, at 12:00 PM

Legislative Office Building

MINUTES

The Senate Committee on Transportation met at 10:30 AM on June 25, 2019, in Room 1027/1128 of the Legislative Building. There were 9 senators present.

Senator Tom McInnis, Chair, presided.

Chairman Tom McInnis opened the meeting at 10:31 a.m. Chairman McInnis introduced the Co-Chairs and the Sergeant of Arms. The Sergeant of Arms for the Committee meeting were Frances Patterson and Chris Moore.

The goals of the committee were to discuss and vote on House Bill 391 the Passenger Protection Act and Senate Bill 620 Electric Standup Scooters.

Chairman McInnis introduced House Bill 391 the Passenger Protection Act. Majority leader John Bell rose to speak on the bill. Senator J. Davis introduced an amendment. Senator Alexander made a motion to approve. The motion was approved by voice vote. Senator Alexander made a motion to approve the bill and the motion was approved by voice vote. House Bill 391 the Passenger Protection Act was reported favorable as amended.

Questions asked by members:

Senator Smith asked "is there a provision preventing or protecting drivers from being assaulted?"

Senator Waddell asked "is there anything related to robbery?"

Senator Waddell asked a follow up "I think this needs to be considered"

Senator Alexander asked "is there any way to increase the font size to larger than two inches?"

Senator Smith asked "will there be a link or announcement regarding 3 steps for protection for the public?"

Public speakers:

Nick a representative of Uber spoke in support of House Bill 391.

Chairman McInnis introduced Senate Bill 620 Electric Standup Scooters. Senator McKissick rose to speak on the bill. Senator Ford made a motion to amend. The motion was approved by voice vote. Senator Waddell made a

motion to approve the bill as amended. The motion was approved by voice vote. Senate Bill 620 Electric Standup Scooters was reported favorable as amended.

Questions asked by members:

Senator Gunn asked "why was there a change to the bill study part?"

Senator Smith – motion to approve as amended

Senator Harrington asked "are you willing to have discussion regarding font size?"

Chairman McInnis closed the meeting by thanking staff for their work and members of the public for showing up.

Meeting ended at 10:48 am.

Senator Tom McInnis, Chair

J. Hunter Blohm, Committee Clerk



SENATE BILL 620
Transportation Committee Substitute Adopted 7/10/19

Short Title: Electric Standup Scooters. (Public)

Sponsors:

Referred to:

April 4, 2019

A BILL TO BE ENTITLED

AN ACT TO DEFINE AND AUTHORIZE THE USE OF ELECTRIC STANDUP SCOOTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"**§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(7c) Electric Standup Scooter. – A device with no more than three 12-inch or smaller diameter wheels that has handlebars, is designed to be stood upon by the user while riding, and is powered by an electric motor that is capable of propelling the device with or without human propulsion at a speed no greater than 20 miles per hour on a paved level surface.

~~(7c)~~(7d) Employer. – Any person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle and would be subject to the alcohol and controlled substance testing provisions of 49 C.F.R. § 382 and also includes any consortium or third-party administrator administering the alcohol and controlled substance testing program on behalf of owner-operators subject to the provisions of 49 C.F.R. § 382.

...

(23) Motor Vehicle. – Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. Except as specifically provided otherwise, this term shall not include ~~mopeds or~~ mopeds, electric assisted ~~bicycles.~~bicycles, or electric standup scooters.

...

(27) Passenger Vehicles. –

...

j. Moped. – A vehicle, other than a motor-driven ~~bicycle or~~ bicycle, electric assisted bicycle, or electric standup scooter, that has two or three wheels, no external shifting device, a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. The motor may be powered by electricity, alternative fuel, motor fuel, or a combination of each.

...

(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter ~~bicycles and~~ bicycles, electric assisted ~~bicycles~~ bicycles, and electric standup scooters shall be deemed vehicles and every rider of a ~~bicycle or~~ bicycle, an electric assisted ~~bicycle~~ bicycle, or electric standup scooter upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device as defined in subdivision (7b) of this section. Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

...."

SECTION 2. G.S. 20-51 is amended by adding a new subdivision to read:

"(18) Electric standup scooters, as defined in G.S. 20-4.01(7c)."

SECTION 3. G.S. 58-37-1(6) reads as rewritten:

"(6) "Motor vehicle" means every self-propelled vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers). "Motor vehicle" also means a motorcycle, as defined in G.S. 20-4.01(27)h., and a moped, as defined in G.S. 20-4.01(27)j. "Motor vehicle" does not mean an electric assisted bicycle, as defined in ~~G.S. 20-4.01(7a).~~G.S. 20-4.01(7a), or an electric standup scooter, as defined in G.S. 20-4.01(7c)."

SECTION 4.(a) The Legislative Research Commission (LRC) shall study the regulation of electric standup scooters in the State. As part of its study, the LRC shall do all of the following:

(1) Examine current State and local laws and regulations that affect the operation of electric standup scooters on highways, sidewalks, and other public ways.

(2) Examine current State and local laws and regulations that affect the operation of businesses that offer shared scooters for hire to the public.

(3) Examine the challenges facing local governments with respect to regulating the operation of scooters and the operation of scooter share businesses, including issues of law enforcement authority, the extent of local regulatory authority, and data sharing.

(4) Consider any proposed legislative changes needed to more effectively regulate the operation of scooters and the operation of scooter share businesses in the State.

(5) Consider any other matters the LRC deems relevant.

SECTION 4.(b) The LRC shall report its findings, together with any proposed legislation, to the 2020 Regular Session of the 2019 General Assembly upon its convening.

SECTION 5. This act is effective when it becomes law and applies to offenses committed on or after that date.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 620: Electric Standup Scooters.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Commerce and Insurance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	July 10, 2019
Introduced by:	Sens. McKissick, Newton	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 620 would provide a statutory definition for electric standup scooters and exempt them from registration requirements. It would also provide for additional requirements related to operation of scooters and the offering of scooters for hire and would limit local regulation.

CURRENT LAW: Current law does not provide a definition for scooters or specifically authorize their use. It is unclear whether a scooter may fall under the definition of moped and be regulated as such.

BILL ANALYSIS: ***Section 1*** of Senate Bill 620 would provide a statutory definition for "electric standup scooter". Electric standup scooter would further be specifically excluded from the definitions of "moped" and "motor vehicle". The definition of "vehicle" would be amended to include electric standup scooters in the same manner as bicycles, in that the provisions of Chapter 20 would apply to them when they are operated upon a highway to the extent that it makes sense to do so.

Sections 2 of the bill would make clear that electric standup scooters would be exempt from registration requirements.

Section 3 would make a conforming change in the insurance statutes.

Section 4 would provide additional requirements and regulations pertaining to operation of scooters and operation of scooter share programs that offer scooters to the public for hire. It would also limit the ability of local authorities to regulate the operation of scooters and the operation of scooter share programs.

EFFECTIVE DATE: The act would be effective when it becomes law and would apply to offenses committed on or after that date.

aren Cochrane-Brown
Director

S620-SMSU-114 E1 -V-3

Legislative Analysis
Division
919-733-2578

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 620

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S620-ASU-53 [v.2]

Amends Title [NO]
First Edition

Date _____,2019

Senator Ford

moves to amend the bill on page 2, line 31, through page 4, line 23, by rewriting the lines to read:

"**SECTION 4.(a)** The Legislative Research Commission (LRC) shall study the regulation of electric stand up scooters in the State. As part of its study, the LRC shall do all of the following:

(1) Examine current State and local laws and regulations that affect the operation of electric stand up scooters on highways, sidewalks, and other public ways.

(2) Examine current State and local laws and regulations that affect the operation of businesses that offer shared scooters for hire to the public.

(3) Examine the challenges facing local governments with respect to regulating the operation of scooters and the operation of scooter share businesses, including issues of law enforcement authority, the extent of local regulatory authority, and data sharing.

(4) Consider any proposed legislative changes needed to more effectively regulate the operation of scooters and the operation of scooter share businesses in the State.

(5) Consider any other matters the LRC deems relevant.

SECTION 4.(b) The LRC shall report its findings, together with any proposed legislation, to the 2020 Regular Session of the 2019 General Assembly upon its convening.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 391
Committee Substitute Favorable 6/4/19
Committee Substitute #2 Favorable 6/26/19
Senate Judiciary Committee Substitute Adopted 7/8/19
PROPOSED SENATE COMMITTEE SUBSTITUTE H391-PCS30500-BG-57

Short Title: Passenger Protection Act. (Public)

Sponsors:

Referred to:

March 20, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS TRANSPORTATION NETWORK COMPANY LAWS AND TO CREATE NEW CRIMINAL OFFENSES RELATING TO TRANSPORTATION NETWORK COMPANY DRIVERS.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as the "Passenger Protection Act" and may be cited by that name.

SECTION 2.(a) G.S. 20-280.5 reads as rewritten:

"**§ 20-280.5. Safety requirements.**

(a) The transportation network company must require TNC drivers have their vehicles inspected annually to meet State safety requirements. The Division may, by regulation, specify alternative inspections that are acceptable as equivalent inspections, such as an inspection performed in another state. This subsection does not apply to brokering transportation network companies.

(b) The transportation network company's online-enabled application or platform must provide the following information to customers after a ride request is accepted by a TNC driver:

(1) Photograph of the TNC driver.
(2) License plate number of the TNC driver's vehicle.
(3) Description of the TNC driver's vehicle.
(4) Approximate location of the TNC driver's vehicle displayed on a map.

(c) The transportation network company must maintain the following records:

(1) The record of each TNC service provided in this State for one year from the date the TNC service occurred.
(2) The record of each TNC ~~driver~~ driver, which includes a driver's name and current address, in this State for one year from the date the TNC driver terminated their relationship with the transportation network company.

(d) The transportation network company must require a TNC driver to display the license plate number of the TNC driver's vehicle in a location that is visible from the front of the vehicle at the time a TNC service begins and at all times during a TNC service. The vehicle's license plate number displayed pursuant to this subsection must be printed in a legible font no smaller than two inches in height but is not required to be permanently mounted on the vehicle. A TNC driver is not required to obtain approval from the transportation network company or the Division for a license plate number display required by this subsection.

(e) The transportation network company must require a TNC driver to display consistent and distinctive signage or emblems, known as a trade dress, trademark, branding, or logo of the TNC, on the TNC driver's vehicle at all times when the TNC driver is active on the TNC digital platform or when providing any TNC service. The TNC signage or emblems required by this subsection may be magnetic or removable in nature, must be approved by the Division before use, and must meet all of the following requirements:

(1) Be readable during daylight hours at a distance of 50 feet.

(2) Include an illuminated TNC-provided sign displaying the TNC's proprietary trademark or logo that is clearly visible so as to be seen in darkness."

SECTION 2.(b) G.S. 20-280.5(e), as enacted by this section, becomes effective July 1, 2020. The remainder of this section becomes effective October 1, 2019.

SECTION 3.(a) Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-401.26. TNC driver failure to display license plate information.**

It shall be unlawful for a transportation network company (TNC) driver, as defined in G.S. 20-280.1, to fail to display the license plate number of the TNC driver's vehicle as required by G.S. 20-280.5(d). A violation of this section shall be an infraction and shall be punishable by a fine of two hundred fifty dollars ($250.00)."

SECTION 3.(b) This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

SECTION 3.3.(a) Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-401.27. Impersonation of a transportation network company driver.**

It shall be unlawful for any person to impersonate a transportation network company (TNC) driver, as defined in G.S. 20-280.1, by a false statement, false display of distinctive signage or emblems known as a trade dress, trademark, branding, or logo of the TNC, or any other act which falsely represents that the person has a current connection with a transportation network company or falsely represents that the person is responding to a passenger ride request for a transportation network company. A violation of this section is a Class H felony if the person impersonates a TNC driver during the commission of a separate felony offense. Any other violation of this section is a Class 2 misdemeanor."

SECTION 3.3.(b) This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

SECTION 3.5.(a) G.S. 14-33(c) is amended by adding a new subdivision to read:

"(9) Assaults a transportation network company (TNC) driver providing a transportation network company (TNC) service. For the purposes of this subdivision, the definitions for "TNC driver" and "TNC service" as defined in G.S. 20-280.1 shall apply."

SECTION 3.5.(b) This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 391:
Passenger Protection Act.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	July 10, 2019
Introduced by:	Rep. Bell	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	PCS to Fourth Edition H391-CSBG-57		

OVERVIEW: House Bill 391 would:

- ***Amend Transportation Network Company (TNC) safety requirements.***
- ***Create an infraction for a TNC driver's failure to display their license plate number as required.***
- ***Create a criminal offense for impersonating a TNC driver.***
- ***Raise the punishment for assaulting a TNC driver while providing a TNC service from a Class 2 misdemeanor to a Class A1 misdemeanor.***

CURRENT LAW/BILL ANALYSIS:

Section 1 would name the act the "Passenger Protection Act".

Section 2: Transportation Network Companies are currently required to have TNC drivers inspect their vehicles annually to meet State safety requirements, to provide certain information to customers after a ride request is accepted by a driver, and maintain records of each TNC service provided and TNC drivers for specified periods of time. This section would amend TNC safety requirements by:

- Requiring a TNC to require a TNC driver to display the vehicle's license plate number in a location that is visible from the front of the vehicle.
- Requiring a TNC to require a TNC driver to display consistent and distinctive signage or emblems while a TNC driver is active on the TNC digital platform or when providing a TNC service.

Section 3 would create a new infraction for a TNC driver's failure to display the license plate number of the vehicle as required by the new safety requirements within Section 2 of this act.

Section 3.3 would create a new criminal offense for impersonating a TNC driver. Impersonating a TNC driver during the commission of a separate felony offense would be a Class H felony, any other violation would be a Class 2 misdemeanor.

Section 3.5: Current law makes simple assault, simple assault and battery, or simply affray a Class 2 misdemeanor. Violations of these offenses involving certain victims, or under certain circumstances, are punished as a Class A1 misdemeanor, such as assaulting a public transit operator. This section would amend current law to specify the assaulting a TNC driver providing a TNC service would be a Class A1 misdemeanor.

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

EFFECTIVE DATE: Section 2 would become effective July 1, 2020 in part, and October 1, 2019 in part. Sections 3, 3.3, and 3.5 would become effective December 1, 2019. Except as otherwise provided, this act would become effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 391

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H391-ABG-38 [v.1]

Amends Title [NO]
Fourth Edition

Date 7/10 ,2019

Senator J. Davis

moves to amend the bill on page 2, lines 12-17, by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Transportation, Senate Committee

July 10, 2019

Room 1124 / 1224

10:30 PM

Senate Sergeant at Arms:

FRANCES PATTERSON

CHRIS MOORE

SIGN-IN SHEET

Transportation Senate Committee

July 10, 2019 – Room 1124 / 1224

Legislative Building – 10:30 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Justin Delaney	NCDOT
Emily Manning	FPA
Marissa Turner	TSS
Nick Zahriskie	Uber
JEFF BARNHART	MWC
Joe McClees	McClees Consulting
	Nexsen Pruet
Jonathan Barbadoro	Barbadoro Assoc
	NCLM
Rhiagan Jackson	TPA

SIGN-IN SHEET

Transportation Senate Committee

July 10, 2019 – Room 1124 / 1224

Legislative Building – 10:30 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
[illegible]	NWRS
[illegible]	NCHFEC
* [illegible]	CCH
Lindsey Dowling	TSS
[illegible]	CSH
Tom West	NCJCh
Rose James	NCLCV
Corey Sugerik	Sierra Club
Rachel Gottsenhauser	NCLCV
Suzanne Mullens	NCLCV
[illegible]	CSH
[illegible]	MFS
[illegible]	NCCW
[illegible]	NCAOA

SPEAKER SIGN-IN SHEET

Transportation, Senate Committee

July 10, 2019 – Room 1124 / 1224

Legislative Building – 10:30 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Nick Zabriskie	Uber

H 391

SIGN-IN SHEET

Transportation Senate Committee

July 10, 2019 – Room 1124 / 1224

Legislative Building – 10:30 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Joe Stewart	NANC
Susanna Davis	NC DPS

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Lynn Taylor, Committee Clerk
Wendy Ray, Financial Analyst Committee Counsel
Howard Marsilio, Financial Analyst
Kellette Wade, Financial Analyst
Joshua Freeman, Bill Drafting
Erica Shrader, President Pro Tem's Office

North Carolina General Assembly
Through Senate Committee on
Transportation

2019-2020 Biennium
eg. Day: H-195/S-194

Date: 07/07/2020
Time: 1:43:41 PM

Bill	Introducer	Short Title		Latest Action	Date In	Date Out
S 863	Rabon	Confirm Secretary of DOT.	*S	Adopted	06/18/2020	06/19/2020
$ H 77	**Torbett**	**DOT 2020-2021 FY Budget/Governance.**	***R**	**Ch. SL 2020-91**	**06/17/2020**	**06/17/2020**
H 694	Conrad	Designate Legacy Airports.	*R	Ch. SL 2020-62	06/17/2020	07/04/1776
H1168	Corbin	Murphy Branch Corridor Reduction.	*R	Ch. SL 2020-59	06/01/2020	06/17/2020
H 307	Dixon	Mod. Utility Vehicle Classification.	*R	Ch. SL 2020-40	05/28/2020	06/10/2020
S 739	Perry	Personal Delivery Device/PDD/Delivery Robots.	*R	Ch. SL 2020-73	05/27/2020	06/10/2020
$ S 833	**Ford**	**DMV/Mdfy Req for Driving Perm/Prov License.**	**S**	**Re-ref to Transportation. If fav, re-ref to Appropriations/Base Budget. If fav, re-ref to Rules and Operations of the Senate**	**05/27/2020**	
$ S 843	**Brown**	**Waive Road Test/DMV Expand Office Hours.**	**S**	**Re-ref to Transportation. If fav, re-ref to Appropriations/Base Budget. If fav, re-ref to Rules and Operations of the Senate**	**05/27/2020**	
S 707	Ford	PED/State Ports Efficiency & Effectiveness.	S	Re-ref to Transportation. If fav, re-ref to Rules and Operations of the Senate	05/20/2020	

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 20, 2020	12:00 PM	1124/1224 LB

Review of recently enacted DOT legislation and a presentation by the State Auditor on the performance audit of the Department of Transportation,

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday May 20, 2020, 12:00PM
1124/1224 Legislative Building

AGENDA

Call to Order - Senator Jim Davis, Chair

Welcome and Opening Remarks

Introduction of Sergeant-At-Arms

Presentations

1. Review of recently enacted DOT legislation
   Howard Marsilio, Staff Attorney, Legislative Analysis Division

2. Report on performance audit of the Department of Transportation
   Beth A. Wood, CPA, State Auditor

Committee discussion

Adjournment

Senate Committee on Transportation
Wednesday, May 20, 2020, at 12:00pm
Room 1124

MINUTES

The Senate Committee on Transportation met at 12:00pm on May 20, 2020 in Room 1124. 17 members were present.

Senator Jim Davis presided as Chair.

Senator Jim Davis welcomed everyone and introduced the Sergeant At Arms. Senator Jim Davis stated the committee would hear recent Legislations from Howard Marsilio, Staff Attorney, Legislative Analysis Division and a report on Performance Audit of the Department of Transportation, Beth A. Wood State Auditor.

Senator Tom McInnis offered comments.

Mr. Howard Marsilio was recognized and presented a summary on Senate Transportation NCDOT Legislation Overview Session Laws 2019-15, 2019-251, 2020-3, and 2020-4.
Mr. Marsilio's presentation included the following Acts:

- To transfer funds to the Department of Transportation to be used as a loan for cash flow needs as a result of disaster recovery.
- To make revenue adjustments, implement budget stabilization measures, and enhance transparency and accountability at the Department of Transportation.
- To provide aid to North Carolinians in response to the Coronavirus Disease 2019 (Covid 19) crisis. Mr. Howard opened the floor to questions and there were no questions from the body.

Auditor Beth A. Wood was recognized and presented a PowerPoint on the State of North Carolina Department of Transportation Cash Spending Plan Performance Audit May 2020, (see attachment one). Ms. Wood also offered another Power Point presentation on Department of Transportation Performance Audit Cash Spending Plan April 2020 (see attachment two).

Senator Jim Davis opened the floor for questions on Auditor Beth A. Wood's Power Point presentations.

Senator Jim Davis asked Auditor Beth A. Wood, "What would be the most meaningful recommendations to assist in a form of legislation to get a handle on this situation." Ms. Wood responded by saying, "There needs to be a starting point with checks and balances, ensure a spending plan is being followed, Financial Planning to better forecast on projects, expenditures and disaster relief and to provide detailed reports and oversight on advanced construction. Better forecasting needs to be ongoing."

Senator Tom McInnis offered a series of questions concerning the upcoming DOT rolling furloughs to offset cash management and asked, "Was this decision used as an excuse based on

more than Covid-19 and if this was being used as a contributing factor to cover up a pre-existing conditions." Auditor Beth A. Wood stated, "Yes to the furlough question based on their audit report and the spending plan could have been managed better." Ms. Wood stated, "An answer to the cover up question could not be answered." "Is DOT taking proper responsibility of this situation while the blame falls on the Chief Engineer; who has the ultimate responsibility," asked Senator McInnis. Ms. Wood replied, "The Chief Operating Officer. It appears DOT is making a move to correct issues and they have a new Secretary. DOT was aware of some cash flow issues as early as November 2018." Senator McInnis asked, "Did the COO offer to slow down or correct spending?" Ms. Wood replied, "Based on her audit, no."

Senator Danny Britt sited section 143 on page 12 of the Cash Spending Slide Show and then asked the question, "Did the DOT have the ability to slow down the spending process?" Ms. Wood replied, "Yes, however, if a bridge had been started, it needed to be finished so they could not just stop building it." Senator Britt asked, "If there were other projects not stopped or slowed down?" Ms. Wood answered, "That could be true. Senator Britt asked at any point did DOT attempt to slow down any contracts to which Ms. Wood replied she was not aware of any in her audit although due to time restrictions they did not go that for in depth." Another question asked by Senator Britt was, "If Ms. Wood believed that upper management were told to keep spending because the NCGA would possibly bail them out to which she replied, "Not to her knowledge and it did not come up in her audit." Senator Britt asked, "At any point did she notice any email traffic between the COO to the CE concerning the cash balance?" Ms. Wood said, "No, but they did not dig that deep into emails without dollar amounts due to time restrictions." Senator Britt questioned, "What things were looked into?" Ms. Wood responded, "Preliminary engineering." Senator Britt continued with, "At what point did the DOT realize they had a spending problem?" Ms. Wood responded by saying, "Since November of 2018 and not due to Covid-19." Senator Britt's final question was, "At any point was Governor Roy Cooper made aware of the spending problem?" Ms. Wood said, "I have no idea."

Senator Kathy Harrington requested clarification on the question of OSBM having authority but not capacity to oversee the Budget. Auditor Beth A. Wood replied, "OSBM has the job to oversee all Budgets but with DOT they have a Spend Plan. Spend Plan does not include the Budget so it is not designed to monitor cash." Senator Harrington inquired if Ms. Wood had the knowledge that OSBM had the capacity or desire to oversee the DOT Budget. Ms. Wood responded, "The Audit Team would have needed a list of things in order to have caught this overspending.

Senator Warren Daniel asked Auditor Beth A. Wood, "Did the Auditor's Office receive feedback from Governor Roy Cooper's office about the audit?" Ms. Wood replied, "No." Senator Daniel inquired if the current Secretary recognizes the lack of control and spending problem at hand?" Ms. Wood said. "Yes." Senator Daniel asked, "Did the Secretary acknowledge how unstable the current DOT program is now?" Ms. Wood said, "There has been no pushback or arguments to findings." Senator Daniel ended his questions by asking, "Does the DOT set aside a reasonable and realistic amount of money each year to Disaster Response?" Ms. Wood explained, "It is anybody's guess as to the amount of money needed." Then added, "It could be averaged out and if there was extra money that it could be put back in the general construction fund."

Senator John M. Alexander asked Auditor Beth A. Wood "Is the COO an appointed position?" Ms. Wood replied, "I do not think so, but not sure, but can look into that." Senator Alexander asked, "How involved is Financial Planning day to day and is this an appointed position?" Ms. Wood replied, "The COO, CFO, CE and other executives are. They meet monthly as stated in the Audit Report to look at projects and keep on schedule."

Senator Bill Rabon raised his questions to Auditor Beth A. Wood by asking, "Is a five-year average of Emergency Disaster Relief funds a reasonable place to start?" Ms. Wood said, "Yes, an average makes good sense." Senator Rabon then asked, "Would it be reasonable to set a nominal amount of money in that fund rather than put DOT in jeopardy if it is exceeded and request additional funds from rainy day fund?" Ms. Wood said, "That would work."

Senator Jim Davis shared another idea is to set up a fund with a five to 10 year average and once the fund reaches the limit of their maximum the money stays there for relief funds but no additional funds are put in so the other allotted money goes to the general construction fund. Senator Davis welcomed Senator Mike Woodard to the Senate Transportation Committee.

Senator Mike Woodard raised a question asking, "Did the Audit team hold oversight on the Board of Transportation?" Auditor Beth A. Wood replied, "This cannot be stressed enough how complex these projects are. It includes 14 divisions across the state. Financial Planning, if manned correctly and doing their job correctly probably would have caught this."

Senator Erica Smith asked Auditor Beth A. Wood, "Can you explain the $1.94million overspend from the presentation and share what percentage exceeded from Hurricanes Florence and Matthew?" Ms. Wood clarified these figures. Senator Smith asked, "What is the best assessment in percentages of overspend that corresponds to situations no one could have predicted from before Covid-19 to the Hurricanes?" Ms. Wood explained, "It comes back to oversight and accountability." Mrs. Smith asked, "Can you pinpoint the oversight occurrence?" The Auditor responded, "As long as she has been the State Auditor." Then Ms. Wood made the following comment, "None of us is any better than the secretary we trust and depend on." Senator Smith stated she looks forward to ongoing conversation to address the issue rather than finger pointing.

Senator Kirk deViere asked Auditor Beth A. Wood, "What was the dollar amount listed in the Map Act and expenses around it?" Ms. Wood replied, "The Map Act money is wrapped up in the right-of-way money. In total $13million was overspent." Senator deViere asked, "Were there dollars outside of the right-of-way that may be an expense to include property acquisition?" Ms. Woods said, "The Audit Team did not look that deep." Senator deViere asked, "Could other expenses potentially be related to the Map Act?" Ms. Wood replied, "They did not have the opportunity to audit all figures on the books." Then Senator deViere asked, "In any research since 2015 did they notice a difference in requested and budgeted amounts?" Ms. Wood responded, "No."

Senator Joyce Waddell referenced page 13 of the presentation concerning matters for future consideration of oversight that should be reviewed. Senator Waddell asked Auditor Beth A. Wood, "How long has this been going on and what plans are in place? Ms. Wood replied, "DOT

has been spending and monitoring their own Budget as long as she has been State Auditor." Senator Waddell asked, "What future plans for making improvements should be considered?" Ms. Wood returned a response stating, "That would be up to DOT. One comment in response to that statement from the report says they are audited a lot. DOT receives and presents their own report. None of these audits would have caught what State Auditors caught." Senator Jim Davis asked, "To Senator Waddell's question, there are 24 FDE's who are signified as Auditors in DOT and none of them could find this performance audit deficiency?" Ms. Wood responded by saying, "They could have and should have. Internal Auditors are used to find these kinds of things." Senator Waddell was going to ask a follow up question but felt it was answered in that discussion. Senator Davis apologized for preempting her question but just wanted to add clarity to that question.

Senator John M. Alexander Jr. asked, "It seems this Audit mostly reflects roadway discussion, was any attention given to rail, ports or aviation? Auditor Beth A. Wood replied, "No, the Audit was focused on five things due to spending and cash management." Senator Alexander asked," Was he correct to say that $670million was an overspend in the Audit and then on top of that in the Budget $742million for a total of $1.4billion?" Ms. Wood responded. "Yes, the direction from this committee was under the intention to spend some cash and the spend down was $670million."

Senator Erica Smith asked, "Will there be an opportunity to hear from DOT and for them to make a response?" Senator Davis responded, "Yes, the goal is to present the facts and hold people accountable. We need to have them come to a meeting to address the issue and create ways to solve the problem. We will allow this committee to come to some form of legislation." Auditor Beth A. Wood added, "This is not just a DOT issue. When Audit performance sits down with the findings and the department, we will ask them to prove us wrong. We discuss in detail the findings. DOT agreed. Their corrective actions are in the report."

Senator Garrett focused on advanced construction practices. Senator Garrett asked, "Do you know how long the Department has utilized those practices?" Auditor Beth A, Wood responded, "No." Senator Garrett followed by asking, "Has this question been raised before?" Ms. Wood responded, "No. DHHS spends half of the budget. A 14 person performance audit division concentrated on issues at DHHS." Senator Garrett asked, "Since DOT is not here, the report shows they have been using these advanced practices for over 25 years. The soul searching needs to be shared as money has already been awarded twice." Ms. Wood responded, "I would like to reemphasize that the Audit is not advocating for or going against moving forward with construction. It is intended to point out that no detailed plan or description is in place. Just need details in advance construction so can move forward."

Senator Jim Davis stated, "North Carolina is only one of 20 states that uses advanced construction. There has to be a reason why 30 states do not use advanced construction. We need to ask DOT to explain that."

Senator Carl Ford stated, "DOT knew the Map Act was coming. No one can predict a storm. We have bailed DOT out time and time again. DOT continues to ask for more money. They need to manage their money better."

Senator Deanna Ballard made the following statement, "I have spoken with the State Controller. Do you have thoughts on the position and can you recommend management of best practices? What system is in place? How old are the computers?" Ms. Wood responded, "DOT's system and accounting is sophisticated and further ahead of the state's accounting system."

Senator Jim Davis recognized Senator Tom McInnis for comments. Senator McInnis stated, "There is a lot of work ahead with challenges. We will work out a bipartisan legislation with strong leadership. Let us move the great state of North Carolina forward. Let's make it happen." Senator Jim Davis expressed he would like to echo those comments.

Senator Jim Davis thanked everyone for attending. He stated, "A remedy would be found in this dynamic process and it would be solved in a bipartisan way."

There being no further business, Senator Jim Davis adjourned the meeting at 1:24 PM.

Senator Jim Davis, Presiding

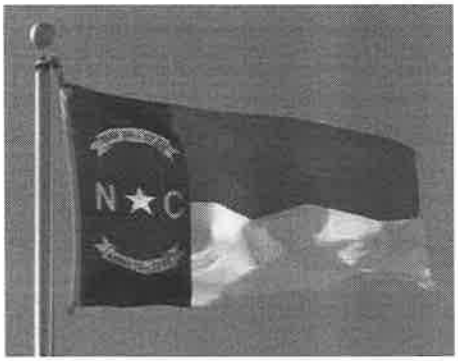
Penny J. Jordan, Committee Clerk

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA

ATTACHMENT 1







DEPARTMENT OF TRANSPORTATION

CASH SPENDING PLAN

PERFORMANCE AUDIT
MAY 2020

NC OSA
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

PURPOSE

The purpose of this audit was to confirm how much the Department of Transportation (Department) exceeded its Spending Plan for state fiscal year (SFY) 2019 and identify causes of the overspending.

As directed by Session Law 2019-251 (Senate Bill 356), the audit scope included budget adherence by department, division, and highway division; timeliness of federal reimbursement requests and response to federal inquiries; controls and oversight of divisions and highway divisions related to cash management, project coordination and delivery, and budget adherence; efficacy of communication and coordination; and efficacy of cash management for SFY 2019.

BACKGROUND

North Carolina General Statute 143B-345 created the Department to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system.

KEY FINDINGS

The Department planned to spend approximately $5.94 billion[1] in SFY 2019, but exceeded that amount by $742 million (12.5%) and was in danger of falling below the statutory cash floor.[2] The Department exceeded its Spending Plan because the:

- Spending Plan was not based on cost estimates of the specific projects and operations the Department scheduled for the fiscal year
- Chief Engineer's Office[3] did not monitor highway division compliance with the Spending Plan
- Chief Engineer's Office did not enforce highway division compliance with the Spending Plan

KEY RECOMMENDATIONS

- The Department should base its Spending Plan on specific projects and operations scheduled for the fiscal year.
- The Chief Engineer's Office should formally monitor each highway division's spending on a regular basis throughout the fiscal year to ensure that highway divisions don't overspend, particularly for Operations & Maintenance, Preliminary Engineering, and Disasters.

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1 Comprised of the Department's certified budget ($5.1 billion), amounts planned from GARVEE and Build NC bond proceeds ($126 million), and an intentional spend down of cash ($670 million).

2 § 143C-6-11 requires the Department to maintain a cash balance equal to at least 7.5% of total appropriations for the current fiscal year.

3 The Chief Engineer oversees and directs the engineering and program activities of the Department's 14 highway divisions. The Chief Engineer's Office consists of the Chief Engineer, the Director of Highway Operations, and two Deputy Chief Engineers.

EXECUTIVE SUMMARY (CONCLUDED)

- The Chief Engineer's Office should delay contract approvals, implement mid-year budget reductions, or take other corrective actions whenever highway divisions are overspending budgeted allocations. The Chief Engineer should consider requiring any necessary corrections on a quarterly basis.

MATTERS FOR FURTHER CONSIDERATION

- The Legislature should consider requiring a level of oversight for the Highway Fund and Highway Trust Fund similar to the level of oversight provided for the state's General Fund.
- The Legislature should consider requiring the Department to periodically report on advance construction[4] for oversight purposes. The outstanding advance construction balance was $4.8 billion[5] as of January 21, 2020.

[4] Advance Construction is a project authorization technique that allows the Federal Highway Administration (FHWA) to authorize a project without obligating (promise to pay) federal funds.

[5] $4,760,287,878.

STATE OF NORTH CAROLINA

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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
J. Eric Boyette, Secretary, Department of Transportation
Michael S. Fox, Chairman, Board of Transportation

Ladies and Gentlemen:

We are pleased to submit this performance audit report titled *Department of Transportation, Cash Spending Plan*. The audit objective was to confirm how much the Department of Transportation (Department) exceeded its Spending Plan for state fiscal year 2019 and identify causes of the overspending.

As directed by Session Law 2019-251 (Senate Bill 356), the audit scope included budget adherence by department, division, and highway division; timeliness of federal reimbursement requests and response to federal inquiries; controls and oversight of divisions and highway divisions related to cash management, project coordination and delivery, and budget adherence; efficacy of communication and coordination; and efficacy of cash management for state fiscal year 2019.

The Department of Transportation Secretary, Eric Boyette, reviewed a draft copy of this report. His written comments are included starting on page 27.

This audit was conducted in accordance with Chapter 147, Article 5A of the *North Carolina General Statutes*.

We appreciate the courtesy and cooperation received from management and the employees of the Department of Transportation during our audit.

Respectfully submitted,

Beth A. Wood

Beth A. Wood, CPA
State Auditor



Beth A. Wood, CPA
State Auditor

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Chapter 147, Article 5A of the *North Carolina General Statutes*, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.


THE GREAT SEAL OF THE STATE OF NORTH CAROLINA
MAY 28, 1729
APRIL 12, 1776
ESSE QUAM VIDERI

BACKGROUND

BACKGROUND

North Carolina General Statute 143B-345 created the Department of Transportation (Department) to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system.

The Department is overseen by a 19-member Board of Transportation. Department operations are led by the Secretary of Transportation, a member of the Governor's cabinet.

The Department consists of seven divisions. They are the Division of Motor Vehicles, Division of Aviation, Division of Bicycle & Pedestrian Transportation, Ferry Division, Public Transportation Division, Rail Division, and Division of Highways.

Construction and maintenance of the State's primary and secondary road systems are managed by the Division of Highways and accounted for in the Department's Highway Fund and Highway Trust Fund. The primary revenue sources are motor fuel taxes,[6] federal funds,[7] highway use taxes,[8] and various fees (including driver license, vehicle title, and vehicle registration fees, etc.)[9]

In August 2014, the North Carolina General Assembly passed Session Law 2014-100 requiring the Department to reduce the combined cash balance of the Highway Fund and the Highway Trust Fund.

However, the cash balance continued to climb each year from $1.2 billion on June 30, 2014 to $2.2 billion on June 30, 2017.

To reduce the cash balance, the Department accelerated transportation projects. The Department reported spending $1.8 billion of the Highway Fund and the Highway Trust Fund balances from July 2017 through March 2019 to accelerate State Transportation Improvement Program (STIP) construction, accelerate highway operations and maintenance projects, and fund disaster relief efforts including snow and ice removal.

Responsible parties discussed in this report include:

Chief Operating Officer (COO) – in addition to other oversight responsibilities, oversees Fiscal and the high-level operations of the Division of Highways.

Chief Financial Officer (CFO) - oversees the Department's financial operations, including accounting operations, cash management, purchasing and support services. Reports to the COO.

Funds Administration Manager - responsible for the oversight of the Department's $5.94 billion total spend. Oversight includes executive budget analysis & spending reviews, fiscally constrained business work plans, program fund optimization, cash management and innovative financial fiscal guidance. Responsible for funding strategic initiatives, fiscal analysis, and spending control.

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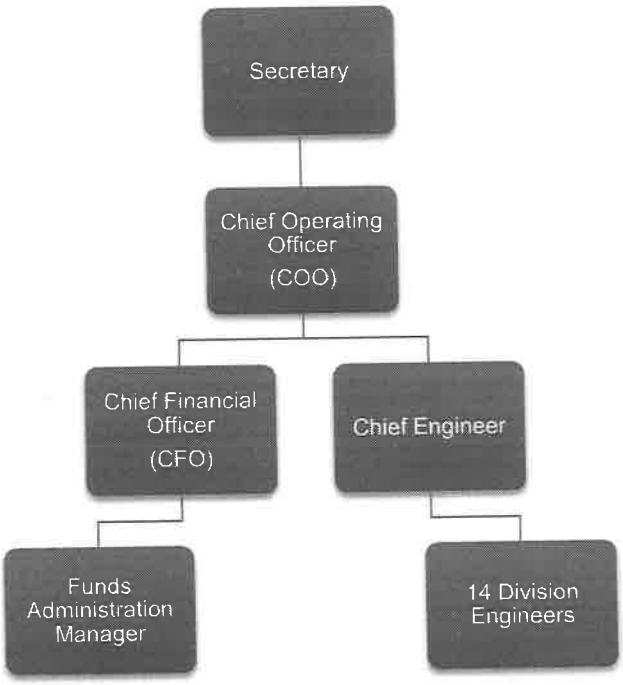
6 $2.09 billion in state fiscal year (SFY) 2019.
7 $1.53 billion in SFY 2019.
8 $849 million in SFY 2019.
9 $978 million in SFY 2019.

Chief Engineer - oversees and directs the engineering and program activities of the Department's 14 highway divisions, Transportation Safety & Mobility Division, the Central Units and the Technical Services Division. Reports to the COO.

Division of Highways - responsible for building and maintaining over 80,159 miles of highways and 18,540 bridges. Headed by the Chief Engineer's Office.[10]

14 Highway Divisions – part of the Division of Highways. Responsible for building and maintaining state roads and bridges in a defined geographic region. Each of the 14 divisions is led by its own division engineer who is responsible for the management and oversight of the division.

Financial Planning Committee - a cross-functional team for the purpose of communicating and coordinating so that projects can be delivered and cash balances can be kept within targets. The committee consists of the CFO (Chair), COO, Chief Engineer, and other executives to discuss financial updates, cash model, construction commitments, preliminary engineering, maintenance, construction letting, etc.



Key terms discussed in this report include:

Certified Budget – the budget as enacted by the General Assembly including adjustments made for (i) distributions to state agencies from statewide reserves appropriated by the General Assembly, (ii) distributions of reserves appropriated to a specific agency by the General Assembly, and (iii) organizational or budget changes mandated by the General Assembly.

[10] The Chief Engineer's Office consists of the Chief Engineer, the Director of Highway Operations, and two Deputy Chief Engineers.

Department's Spending Plan - This is the total dollars "intended" to be spent by the Department. The "Spending Plan" is comprised of: current year appropriations certified in the Department's budget, cash not spent in prior years, and bond proceeds from planned sales of NC Build Bonds or GARVEE bonds.



OBJECTIVE, SCOPE, AND METHODOLOGY

The audit objective was to confirm how much the Department of Transportation (Department) exceeded its Spending Plan for state fiscal year 2019 and identify causes of the overspending.

As directed by Session Law 2019-251 (Senate Bill 356), the audit scope included budget adherence[1] by department, division, and highway division; timeliness of federal reimbursement requests and response to federal inquiries;[2] controls and oversight of divisions and highway divisions related to cash management, project coordination and delivery, and budget adherence; efficacy of communication and coordination; and efficacy of cash management for state fiscal year 2019.

To achieve the audit objective, auditors interviewed Department personnel as well as personnel at the Office of State Budget and Management and the Office of the State Controller. Auditors reviewed Department policies and procedures, financial information, project construction schedules, and Department communications including reports, memos, and emails. Auditors also reviewed state and federal transportation laws relevant to highway construction and cash management.

Because of the test nature and other inherent limitations of an audit, together with limitations of any system of internal and management controls, this audit would not necessarily disclose all performance weaknesses or lack of compliance.

As a basis for evaluating internal control, auditors applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion. See Appendix on page 23 for internal control components and underlying principles that were significant to our audit objective.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to support the findings and conclusions in relation to our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[1]When evaluating budget adherence, auditors determined that **there is no legally adopted budget that accounts for the Department's total spending.** The Highway Fund and Highway Trust Fund certified budgets only reflect current year revenue estimates and appropriations and do not reflect the Department's Spending Plan. The Department spends significantly more than its certified budget because its Spending Plan includes **current year appropriations, unexpended appropriations accumulated in prior years, and bond proceeds**. (See "Matters for Further Consideration" on page 13)

[2]When evaluating timeliness of federal reimbursement requests and response to federal inquiries, auditors determined that the Department was submitting weekly reimbursement requests and had requested the maximum allowable reimbursement each year. Consequently, no additional work was performed for this issue. However, auditors determined that the **Department does not report to the Legislature about a $4.8 billion outstanding balance** that is "potentially" reimbursable to the State. (See "Matters for Further Consideration" on page 16.)



RESULTS AND CONCLUSIONS

The Department of Transportation (Department) planned to spend approximately $5.94 billion[11] in state fiscal year 2019, but exceeded that amount by $742 million (12.5%) and was in danger of falling below the statutory cash floor.[12] The Department exceeded its Spending Plan because the (1) Spending Plan was not based on cost estimates of the specific projects and operations the Department scheduled for the fiscal year, (2) Chief Engineer's Office[13] did not monitor highway division compliance with the Spending Plan, and (3) the Chief Engineer's Office did not enforce highway division compliance with the Spending Plan.

[11] Comprised of the Department's certified budget ($5.1 billion), amounts planned from GARVEE and Build NC bond proceeds ($126 million), and an intentional spend down of cash ($670 million).

[12] § 143C-6-11 requires the Department to maintain a cash balance equal to at least 7.5% of total appropriations for the current fiscal year.

[13] The Chief Engineer oversees and directs the engineering and program activities of the Department's 14 highway divisions. The Chief Engineer's Office consists of the Chief Engineer, the Director of Highway Operations, and two Deputy Chief Engineers.



FINDING, RECOMMENDATIONS, AND RESPONSES

THE DEPARTMENT EXCEEDED ITS SPENDING PLAN BY $742 MILLION

The Department of Transportation (Department) exceeded its Spending Plan for state fiscal year (SFY) 2019 by $742 million and was in danger of falling below the statutory cash floor.[14]

As a result, it became necessary for the Department to lend over $1 billion from the State Highway Trust Fund to the Highway Fund,[15] the North Carolina General Assembly to provide the Department with approximately $220 million[16] from the General Fund, and the Department to delay $144 million[16] in payments to contractors.

The Department exceeded its Spending Plan because the:

- Spending Plan was not based on cost estimates of the specific projects and operations scheduled for the fiscal year
- Chief Engineer's Office did not monitor highway division compliance with the Spending Plan
- Chief Engineer's Office did not enforce highway division compliance with the Spending Plan

The Department Overspent by $742 Million

The Department planned to spend approximately $5.94 billion[17] in SFY 2019, but exceeded that amount by $742 million (12.5%) as shown in Table 1 below.

Table 1 – SFY 2019 Department Spending vs. Forecast

	In millions			
Expenditure Category	**Spending Plan**	**Actual Spending**	**Difference**	**% Difference**
Construction[18]	$3,310	$3,434	$124	3.7%
Operations & Maintenance[19]	$1,596	$2,174	**$578**	36.2%
Other Modes[20]	$364	$438	$74	20.3%
Other[21]	$671	$637	$(34)	(5)%
Total:	**$5,941**	**$6,683**[22]	**$742**	**12.5%**

Source: Department SFY 2019 Cash Model Baseline Forecast vs. Actual and auditor analysis. **Analysis did not include determining whether expenses were properly categorized.**

[14] § 143C-6-11 requires the Department to maintain a cash balance equal to at least 7.5% of total appropriations for the current fiscal year.

[15] According to the Department, the loan would not have been necessary if the Department reclassified planned federal aid projects as State projects. However, if reclassified, the Department would not have been able to request federal aid to fund these projects.

[16] The Department's overspend in SFY 2019 resulted in necessary actions taken in SFY 2019 and SFY 2020.

[17] Comprised of the Department's certified budget ($5.1 billion), amounts planned from GARVEE and Build NC bond proceeds ($126 million), and an intentional spend down of cash ($670 million).

[18] Construction expenditures include larger capital projects (over $10 million) that require 4 to 5 years to complete, GARVEE Expenditures, State Transportation Improvement Projects (STIP), and Right-of-Way (ROW) Expenditures. **Map Act Settlements** are included in ROW Expenditures which accounted for **only** $13 million (10.5%) of the $124 million overage in Construction.

[19] Operations and Maintenance expenditures include contract resurfacing, pavement preservation, bridge replacement, bridge preservation, roadside environment, general maintenance reserve and disaster funding.

[20] Other modes expenditures include public transportation, ferry, railroads, and airports.

[21] Other expenditures category includes administration, transfers, state aid to municipalities, debt service, etc.

[22] Agrees to 2019 NC Comprehensive Annual Financial Report. However, does not include $4 million of accruals since Table 1 shows spending on a cash basis.

To develop the SFY 2019 Spending Plan, the Chief Financial Officer (CFO) delegated authority to the Funds Administration Manager (Manager). The Manager developed the Spending Plan with input from each of the Department's divisions.

As part of the planning process, the Manager developed a baseline forecast and presented it to the Financial Planning Committee.[23] Forecasts drive the Spending Plan and were developed for three main areas:

- Revenue
- Construction (includes preliminary engineering)[24]
- Operations & Maintenance (includes disaster spending)

The forecast methods varied but included use of more sophisticated statistical software for the revenue forecast and was limited to the use of historical and seasonal data for the Operations and Maintenance forecast. Additionally, the disaster spending forecast used neither statistical nor historical data. The same predetermined amount was used for each year.

The SFY 2019 Spending Plan was discussed and finalized during Financial Planning Committee meetings in July and August 2018.

The Chief Engineer then allocated a portion of the total spending plan to each individual highway division based on planned projects, historical spending levels, and other factors.

There was no formal documented process for communicating goals, objectives, and responsibilities for complying with the Spending Plan. According to the CFO, the Chief Engineer was responsible for communicating to the division engineers of the 14 highway divisions and ensuring that the plan's objectives were met.

Procedures for updating, monitoring, and complying with the Department's Spending Plan were limited to the following:

- The Manager updated the cash model monthly with actual expenditures and adjusted forecasts as needed to reflect significant changes (new laws, policy changes, etc.).
- The CFO reviewed daily cash balances and monthly financial statements. He noticed in November 2018 that the Department may be in danger of falling below the statutory cash floor and reported his observation. The CFO has no direct authority over highway division spending. Therefore, the CFO reported it to the Chief Operating Officer (COO), who has the authority.[25]
- The Financial Planning Committee held monthly meetings to discuss the Spending Plan status. The Committee only makes recommendations. As a body, it had no authority to make decisions or implement corrective action. However, the COO, CFO, and Chief Engineer were all committee members.

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[23] The Financial Planning Committee includes all program directors and the Chief Engineer as members, but not the Division Engineers of the 14 highway divisions. The Financial Planning Committee meets to discuss updates on the spending plan, but the Committee does not make decisions about corrective actions.

[24] Preliminary Engineering includes the efforts required to plan and design a highway project for construction. It begins when a specific highway project first receives funding authorization for and/or design activities. The delivery of the construction documents for project letting marks the end of Preliminary Engineering.

[25] Both the CFO and the Chief Engineer report to the COO.

- The 14 individual highway divisions were responsible for monitoring their own spending plan, made all cash decisions including whether to increase or decrease spending, and were allowed to spend in excess of allocated amounts by **borrowing from the next year's allocation**. The Chief Engineer's Office[26] was responsible for providing oversight and had the authority to stop overspending.

Resulted in Need for Additional Funding

Because the Department exceeded its Spending Plan, the following three actions were necessary to ensure the Department had adequate funding to continue operations.

First, the Department loaned approximately $865.3[27] million from the State Highway Trust Fund to the Highway Fund during SFY 2019.[28]

Second, the General Assembly provided the Department with $220 million from the General Fund in SFY 2019 and SFY 2020 as follows:

- $90 million to cash flow expenditures related to disaster relief
- $64 million as initial funding to establish an emergency reserve to respond to major disasters
- $36 million for disaster relief and related costs, including Hurricane Dorian
- $30 million to accelerate repayment from the General Fund to the Highway Fund for economic development costs and Hurricane Florence reimbursements from the Office of Recovery and Resiliency

Third, the Department delayed nearly $144 million in payments owed to seven contractors in SFY 2020[29] to preserve cash and prevent work stoppage due to unavailability of funds. The Department negotiated a payment schedule with contractors that delayed payments for up to five months. In return, five of the contractors[30] agreed to receive interest payments totaling nearly $2.4 million.

Caused by Not Basing Spending Plan on Cost of Specific Projects and Operations

The Department exceeded its Spending Plan because it did not ensure that spending estimates for preliminary engineering and operations and maintenance were based on cost estimates of the specific projects and operations scheduled for the year. Additionally, the Department did not use readily available historical spending data to estimate disaster spending.[31]

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[26] The Chief Engineer's Office consists of the Chief Engineer, the Director of Highway Operations, and two Deputy Chief Engineers.

[27] $1,140,300,000 as of May 10, 2019. $275 million was loaned in SFY 2018, and $865.3 million was loaned in SFY 2019. Then in February 2020, the Department requested an additional $100 million loan to the Highway Fund from the Highway Trust Fund to meet the requirement of SB356.

[28] According to the Department, the loan would not have been necessary if the Department reclassified planned federal aid projects as State projects. However, if reclassified, the Department would not have been able to request federal aid to fund these projects.

[29] Also includes a payment to one contractor owed in May 2019.

[30] Two contractors agreed to receive no interest. Of the two, one contractor waived interest of 5% as long as the Department makes payments in compliance with the delayed payment schedule. The other contractor required no interest payment.

[31] Disaster spending includes snow and ice removal, federally declared disasters (hurricanes, floods, mudslides, etc.), and non-declared events.

Preliminary Engineering

The Department did not estimate SFY 2019 spending for preliminary engineering based on cost estimates of specific projects or operations.

Instead, the Department based preliminary engineering spending estimates entirely on prior-year spending. Additionally, spending estimates were not updated when additional projects were planned to begin throughout the year.

In SFY 2019, preliminary engineering accounted for $194 million (94%) of the $207 million overage in construction spending.[32]

Operations and Maintenance

The Department did not base the $1.59 billion SFY 2019 operations and maintenance[33] spending plan on actual planned maintenance projects for the year.

Instead, the Department used seasonal spending estimates and 10-year historical averages to develop the plan. The Chief Engineer's Office then allocated the statewide funds to the local highway divisions based on a formula.

Additionally, the Department did not use its own advanced statistical modeling that was readily available to develop the estimates. The Department has used advanced statistical modeling to estimate construction expenditures, but has not taken advantage of it for operations and maintenance.

Because the Department spent $2.17 billion for operations and maintenance in SFY 2019, spending exceeded the forecast by $578 million.[34]

Disaster Spending

The Department did not estimate SFY 2019 disaster spending based on historical spending information or any other type of available data.

Instead, the Department set-aside the same $50 million for disaster spending as it had for the last four fiscal years despite actual disaster spending that exceeded the planned spend every year by at least $28 million.

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[32] $207 million only accounts for overspending in Preliminary Engineering and Right-of-Way. The Department spent $83 million under forecast for construction resulting in overall overspend of $124 million for all construction expenditures.

[33] Operations and maintenance has six program areas: (1) contract resurfacing, (2) pavement preservation, (3) bridge replacement, (4) bridge preservation, (5) roadside environment, and (6) general maintenance reserve.

[34] This amount includes $246 million in disaster overspending discussed in the next section.

Because the Department spent $296 million for disasters in SFY 2019, spending exceeded the forecast by $246 million as shown in Table 2 below.

Table 2 – Disaster Spend Forecast vs. Actual

	In millions		
Fiscal Year	Forecasted Amount	Actual Spend	Amount Spent in Excess of Forecast
2015	$50	$78	$28
2016	$50	$86	$36
2017	$50	$200	$150
2018	$50	$171	$121
2019	$50	$296	**$246**

Source: Department management reports and auditor analysis. **Analysis did not include determining whether expenses were properly categorized.**

According to the CFO and Chief Engineer's Office, the Department was hesitant to plan more spending in disaster areas because it did not know whether there would be disasters in any given year. If disasters did not occur, then the money set aside for disasters would not be available for other priorities.

Yet when disasters occurred, the Department did not adjust its operations and maintenance forecasted amount and continued to overspend.

Also Caused by Chief Engineer's Office Not Monitoring Highway Division Spending

The Department also exceeded its Spending Plan because the Chief Engineer's Office did not regularly monitor spending within the 14 highway divisions.

While the Chief Engineer's Office had internal expenditure reports available for monitoring the highway divisions, it did not use the reports regularly during the fiscal year. The Chief Engineer's office approved division contracts greater than $5 million[35] but otherwise did not review or approve any division expenditures.

The Chief Engineer also held monthly in-person operational staff meetings with the 14 Division Engineers. Budget allocations and overages were occasionally discussed, but they were not part of the standard agenda.

Instead, the Chief Engineer's Office provided the full fiscal year's allocation up-front for each division and allowed each Division Engineer to manage division spending however they chose. For example:

- Some divisions ran spending reports every two weeks, others every four weeks, some at varying frequencies.

[35] Auditors did not perform procedures to evaluate the approval process.

- Some divisions looked at spending as a whole, while others tracked by program or county (each division is made up of multiple counties). The divisions did not manage spending by project.
- Each division created its own management report that calculated spending differently. For example, reports could use varying combinations of unit costs, activity rates, fixed costs, and project location.
- Divisions had different positions primarily responsible for managing spending. In some divisions the Division Engineer monitored while in others the Maintenance Engineer or Business Officer did so.
- Some divisions discussed spending regularly at monthly staff meetings while others discussed at varying frequencies.

Also Caused by Chief Engineer's Office Not Enforcing Compliance with Spending Plan

The Department exceeded its Spending Plan in part because the Chief Engineer's Office did not enforce highway division compliance with the Spending Plan.

For example, the Chief Engineer's Office did not reject a division's contracts waiting to be executed if the division's remaining unspent budget allocation was insufficient.

Also, the Chief Engineer's Office did not implement mid-year budget reductions to slow down overspending. Instead, the division's allocation for the next fiscal year was decreased, or "borrowed against." However, borrowed allocations were allowed to continue across multiple fiscal years, reducing the incentive for divisions to stay within the current year's allocation.

For example, some divisions intentionally let contracts that caused the division to exceed the current year's allocation with the expectation that the division's allocation would be reduced for the next fiscal year. This borrowing from future years prioritized allowing a project to proceed versus staying within budget.

Additionally, the Chief Engineer's Office did not require divisions to delay or terminate any construction contracts that had already been executed. All contracts included standard language from NCGS §143C-6-11 which gave the Department the "*right to terminate or suspend any transportation project contract…if funds will not be available for payment of the work to be performed during that fiscal year*".

However, the Chief Engineer offered three reasons why delaying or terminating a contract may not be feasible.

First, a construction contract cannot be immediately stopped; it must reach a "major milestone" that makes sense for the project (for example, the Department cannot easily or safely stop a half-completed bridge).

Second, the Chief Engineer stated that delaying or terminating executed contracts can lead to additional costs that the Department must pay:

- **Costs for materials already fabricated** specifically for the project
- **Cost of idle labor and equipment** that cannot be used on other projects
- **Increased bonding and insurance costs** for delayed projects
- **Possible legal fees** due to challenges from contractors for unpaid costs
- **Cost to re-bid the contract** if the original contractor cannot accommodate the delayed timeframe
- **Subcontractor concerns** when an original subcontractor takes on a different project during the delay, requiring the contractor to wait until the subcontractor is available or seek a replacement

Third, the Chief Engineer stated that delaying or terminating contracts increases the risk to the contractor which may be reflected in higher prices for future contracts.

However, state statute requires that:[36]

> Transportation Project funds shall be **budgeted, expended**, and **accounted** for on a "cash flow" basis. **Pursuant to this end**, transportation project contracts shall be **planned and limited** so payments due at any time **will not exceed** the cash available to pay them. *[Emphasis Added]*

RECOMMENDATIONS

The Department should base its Spending Plan on cost estimates of specific projects and operations scheduled for the fiscal year.

The Chief Engineer's Office should formally monitor each highway division's spending on a regular basis throughout the fiscal year to ensure that highway divisions don't overspend, particularly for Operations & Maintenance, Preliminary Engineering, and Disasters.

The Chief Engineer's Office should delay contract approvals, implement mid-year budget reductions, or take other corrective actions whenever highway divisions are overspending budgeted allocations. The Chief Engineer should consider requiring any necessary corrections on a quarterly basis.

AGENCY RESPONSE

See page 27 for the Department's response to this finding.

[36] § 143C-6-11(b).



MATTERS FOR FURTHER CONSIDERATION

1. OVERSIGHT FOR THE HIGHWAY FUNDS SHOULD BE IMPROVED

The Legislature should consider requiring a level of oversight for the Department of Transportation's (Department) Highway Fund and Highway Trust Fund similar to the level of oversight provided for the State's General Fund[37] agencies.

Currently, oversight of the Department differs significantly from the oversight of other state agencies in that the:

- Department manages billions of dollars in cash without external controls
- Department does not have a legislatively approved comprehensive spending plan
- Department spending is not adequately monitored

Department Manages Billions of Dollars in Cash Without External Controls

The Department manages billions of dollars in the Highway Fund and Highway Trust Fund without external controls in place to prevent overspending.

For example, state statute requires the Department to manage cash in the Highway Fund and Highway Trust Fund so that the balance falls under a **targeted** cash ceiling (maximum) to maximize cash financing of transportation projects and stays above a **statutorily required** cash floor (minimum) to protect the state's financial position.[38]

In state fiscal year (SFY) 2017, the Department had a cash balance of about $2.2 billion. The Department planned to accelerate projects and spend down its cash balance below the cash ceiling.

During SFY 2019, the Department spent its cash balance down to $432 million and was in danger of falling below the statutory cash floor.

As a result, it became necessary for the:

- Department to lend over $1 billion from the State Highway Trust Fund to the Highway Fund[39]
- North Carolina General Assembly to provide the Department with about $220 million from the General Fund
- Department to delay $144 million in payments to contractors

The overspending and resulting crisis could not have happened with the State's General Fund agencies because the Office of State Budget and Management (State Budget) oversees General Fund cash management.

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[37] The General Fund is made up of tax revenues (non-transportation) such as sales tax, individual income tax, corporate tax, insurance premium tax, and franchise tax. In addition, the general fund includes non-tax revenues such as income from the State Treasurer's investments, fees received from the court system, miscellaneous fees charged for state services, transfers from the Highway Fund and the Highway Trust Fund, and Medicaid disproportionate share receipts.

[38] The Department is required by § 143C-6-11(f) and (k) to manage transportation spending so that the total cash remains between a **statutorily required** floor equal to at least 7.5% of total appropriations for the current fiscal year and a **targeted** ceiling equal to between 15%-20% of the total appropriations for the current fiscal year.

[39] According to the Department, the loan would not have been necessary if the Department reclassified planned federal aid projects as State projects. However, if reclassified, the Department would not have been able to request federal aid to fund these projects.

State Budget allots[40] cash to General Fund agencies on a monthly or quarterly basis, and then monitors revenue collections and agency spending. This process enables State Budget to identify trends and implement budgetary and cash controls with support of the Office of State Controller (State Controller) to meet the state's financial obligations and avoid deficit spending.

However, this safety net is not present for the Highway Fund and Highway Trust Fund.

While State Budget monitors to ensure that the Department's cash remains above the statutory cash floor, it does not allot or otherwise control the Department's cash. And the State Controller simply releases cash at the Department's request and monitors only to ensure that the Department's daily use of cash will not result in a negative cash balance.

Consequently, the Department largely self-manages and self-monitors the billions of dollars that flow through the Highway Fund and Highway Trust Fund without external budgetary controls to ensure the State can meet its current and long-term transportation obligations.

Department Does Not Have a Legislatively Approved Comprehensive Spending Plan

Unlike other state agencies, the Department's certified annual budget is not what the Department spends against throughout the year. Instead, the Department starts with the legislatively enacted annual appropriation and then adds unspent prior year appropriations, and bond proceeds to develop a "comprehensive spending plan."[41] Neither the General Assembly, State Budget, nor the State Controller review or approve the Department's comprehensive spending plan.

As a result, Department spending is significantly greater than the legislatively approved budget. For example, the Department spent about $1.55 billion (30%) more than the SFY 2019 certified budget as shown in Table 3 below.

Table 3 – SFY 2019 Budget to Actual Expenditures

		In millions			
Fund	Certified Budget	Spending Plan	Actual Spend	Amount Spent in Excess of Certified Budget	% Spent in Excess of Certified Budget
Highway Fund	$3,593	$3,593	$4,896	$1,303	36%
Highway Trust Fund	$1,540	$1,540	$1,791	$251	16%
Intentional Spend Down of Cash		$670			
Amounts Planned from Bond Proceeds		$126			
Total:	**$5,133**	**$5,929**	**$6,687[42]**	**$1,554**	**30%**

Source: NC Certified Budgets (BD 307(R)), Department SFY 2019 Cash model Baseline Forecast, and 2019 NC Comprehensive Annual Financial Report

[40] North Carolina State Budget Manual, Section 3.7.1 Maintenance of a Balanced Budget, Allotment Process. The allotment account serves as the control for the requisition of funds and represents the maximum available for the quarter.

[41] Comprised of the Department's certified budget ($5.1 billion), amounts planned from GARVEE and Build NC bond proceeds ($126 million), and an intentional spend down of cash ($670 million).

[42] Includes $4 million of accruals not included in Table 1, which shows spending on a cash basis.

According to the Department, the State Budget Act[43] authorizes and necessitates spending that differs from the certified budget. For example, the Department states that spending will differ because:

- The statute gives the Department the authority to cashflow transportation projects.
- The Department must accelerate and decelerate spending to comply with the cash balance floor and ceiling.
- The Department spends federal allocations and reimbursements received after the budget is enacted for transportation projects and declared disasters.

While the additional spending may be within the Department's authority, the Spending Plan is established without benefit of legislative review and approval.

By contrast, the certified budget for General Fund agencies represents total planned spending from all sources, and each agency is required to spend accordingly. Similarly, agencies that operate outside of the General Fund (referred to as special revenue funds) also have legislatively enacted budgets that are considered total spending plans.

A legally adopted budget that accounts for the Department's total authorized spending each year (current revenues, cash from prior years, and bond sales) would improve the Legislature's and State Budget's ability to oversee the Department's spending.

Department Spending Is Not Adequately Monitored

Budgetary oversight of the Highway Fund and Highway Trust Fund is limited.

The role and function of State Budget includes ensuring that the entire state budget enacted by the legislature is properly certified and monitored to ensure that appropriations are used only for the purposes for which they were authorized.

As it does for other state agencies, State Budget certifies the Department's budget at the start of each fiscal year.

However, State Budget's ability to monitor budgetary compliance becomes limited as the Department adds unspent prior year appropriations and bond proceeds to the certified budget to develop its comprehensive spending plan.

In fact, State Budget says that it has neither the human nor technological resources to effectively monitor the Highway Fund and Highway Trust Fund because:

- The Department's multi-year capital projects and unique authority to spend outside of the enacted budget make oversight of its budget complex.
- The state's budgeting and accounting technology does not support monitoring of the Department's multi-year capital cash flow processes.

Consequently, State Budget's monitoring is largely dependent on what the Department self-reports.

[43] § 143C-6-11.

To improve its ability to monitor transportation funds, State Budget offered the following recommendations:

- State Budget needs a statistician/economist position to work with the Department's cash modeling group to develop a consensus project cash flow forecasting statement. The statement would allow for comparison of project budget and spending that would facilitate comprehensive and timely monitoring.
- The consensus five-year project cash flow estimate should be a part of the Department's budget request and included in the Governor's and General Assembly's budget. This would create transparency in project cash flow requirements during the budgeting process. The cash flow estimate would allow State Budget to develop a cash allotment policy to the Department in order to control current fiscal year cash flow approved for projects.
- Restructure Department budget codes to facilitate an allotment process similar to general fund agencies and improve budgeting and cash flow reporting by having one budget code specifically for administrative expenses and one for projects and maintenance.
- Create an accessible project reserve for the Department to adjust for unexpected changes in cash flow such as the need to accelerate projects or to account for under collection of anticipated revenues.

2. $4.8 BILLION ADVANCE CONSTRUCTION BALANCE SHOULD BE REPORTED AND MONITORED

The Legislature should consider requiring the Department of Transportation (Department) to periodically provide a detailed report on "**advance** construction" for oversight purposes.

Advance Construction is **one of two project authorization techniques** that allows for road construction projects to be financed with Federal-Aid Highway funds, administered by the Federal Highway Administration (FHWA). However, advance construction allows the FHWA to **authorize** a project **without obligating** [promise to pay] **Federal funds**"[44] at the time of authorization.

Currently, there is no external evaluation of the Department's **advance** construction practices because the Department does not provide a detailed report on its use of **advance** construction or on the outstanding **advance** construction balance, which was $4.8 billion[45] as of January 21, 2020.

The Department includes some information about **advance** construction in its financial statement schedules and in its State Transportation Improvement Program (STIP) document. However, there is no single document that provides the Legislature with a discussion of advance construction (1) benefits, (2) risks, (3) beginning balance, (4) expenditures, (5) contracted amounts, (6) planned additions, (7) planned conversions, and (8) ending balance.

[44] American Association of State Highway Transportation Officials, Use of Advance Construction in Financing Transportation Projects, 2011.
[45] $4,760,287,878.

Advance Construction Uses State Funds to Accelerate Federal-Aid Highway Projects

Every state has access to federal-aid highway funds to finance road construction. States access federal-aid by asking the FHWA to approve of and obligate (promise to pay) funds to a project. The state must then incur and pay for project expenditures and apply for reimbursement.

The federal budget limits the overall annual federal-aid highway program obligation. A portion of the overall limitation is distributed among the states as formula obligation limitation. This distribution is the state's "obligation authority" - the total amount of federal funds that the FHWA will obligate (promise to pay) for a state's highway projects in a federal fiscal year. For FY2019, North Carolina's **obligation authority** was **$1.1 billion.**

If a state does not use all of its obligation authority during a federal fiscal year, the federal government will redistribute the unused obligation authority to other states after August 1 of each fiscal year. The August redistribution process ensures that all of the annual obligation limitation will be used before it expires at the end of the federal fiscal year (September 30).

The FWHA allows states to use federal-aid highway funding in two ways - through the FWHA **traditional** financing or through **advance** construction.

In **traditionally** financed federal-aid highway projects, the FHWA approves the project and **obligates** (promise to pay) federal funds (80% of eligible costs) at the start of the contract. The Department then begins construction, pays construction costs with state funds, and **submits weekly** federal reimbursement requests to FHWA.

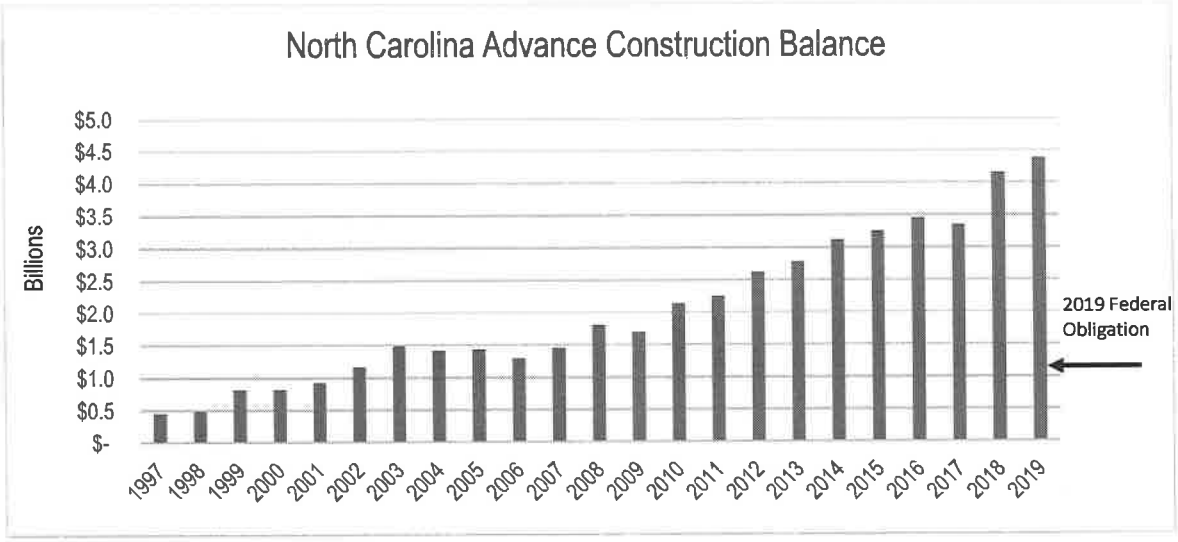
However, in **advance** construction the FHWA only approves a project as being **eligible** for federal funding. The FHWA **does not obligate** (promise to pay) federal funds. The Department then adds the federal share of eligible costs to the advance construction balance, begins construction, and pays construction costs **with state funds**.

At some point in the future (even the same year), the Department can ask the FHWA to convert the advance construction project to a federal-aid project and to obligate federal funds. The Department can then request federal reimbursement for the federal share of eligible project costs **up to the obligated amount**.

The Department has opted to use **advance** construction to finance the **majority** of road construction projects that it anticipates funding with federal-aid highway funds. According to the Department, it chose the **advance** construction financing over **traditional** to ensure the Department would be reimbursed the full amount of the state's allotment annually. The Department also uses advance construction financing to maximize the amount of additional obligation authority it can request during the August redistribution process.

Chart 1 below shows how the State has increased its use of advance construction from 1997 through 2019.

Chart 1



Source: 2011 AASHTO "Use of Advance Construction in Financing Transportation Projects" report and FHWA Financial Management Information System reports from 2011 - present.

While the State's annual obligation authority is approximately $1.1 billion, the Department has currently designated $4.8 billion in projects to be built through **advance** construction. The balance represents the amount of project costs that the FHWA has approved as being **eligible** for federal funding **without obligating** any federal funds.

Advance Construction Benefits the State

Advance construction provides several benefits to the State including:

Acceleration of state projects –

Advance construction allows states to accelerate projects by removing the limitation imposed by the state's obligation authority.

A state's obligation authority is the total amount of federal funds that the FHWA will obligate (promise to pay) to a state's projects in a federal fiscal year. In 2019, North Carolina's obligation authority was $1.1 billion.

The obligation authority limits the number of federal-aid highway projects that a state can start in a year because FHWA must obligate the total amount of funds needed when it approves a project. Once FHWA has obligated funds equal to a state's obligation authority, the state cannot start any more federal-aid highway projects that federal fiscal year.

But advance construction does not require FHWA to obligate federal funds, so a state is not limited by its obligation authority and can start more projects during the year.

Cash management –

Partial Conversion of Advance Construction (PCAC) can help states manage cash flow. The American Association of State Highway Transportation Officials (AASHTO) explains that:[46]

> PCAC enables a state to convert an AC project to a Federal-aid project in stages, based on cash flow requirements and availability of obligation authority, rather than all at once. Under PCAC, the state converts, obligates, and receives reimbursement for only a portion of the Federal share of project costs. This removes any requirement to wait until the full amount of obligation authority is available, enabling states to begin some projects earlier and more effectively manage cash flow.

Grant Anticipation Revenue Vehicles (GARVEE bonds) -

Advance construction makes GARVEE bonds feasible. GARVEE bonds are state debt instruments issued in anticipation of paying principal and interest with future federal-aid reimbursements.

Advance construction and partial conversion of advance construction allow states to issue debt, use that debt for highway construction, and then repay the debt with future federal reimbursements.

<u>However, Advance Construction Also Presents Risks</u>

Advance construction presents risks to the State that should be evaluated and monitored including:

Advance construction is not a federal obligation -

Although there may be little short-term risk that the federal government will not reimburse states for expenses, federal statute makes it clear that advance construction is not a federal obligation. Specifically, federal statute states:[47]

> An **advance** construction project **shall meet the same requirements** and be processed in the same manner **as a regular Federal-aid project, except**,
>
> (1) The FHWA authorization **does not constitute any commitment of Federal funds** on the project, and
>
> (2) The FHWA **shall not reimburse the State until the project is converted** under §630.709. *[Emphasis Added]*

Additionally, federal statute states:[48]

> The State Department of Transportation may submit a written request to the FHWA that a project be converted to a regular [traditional] Federal-aid project at any time **provided that sufficient Federal-aid funds and obligation authority are available**. *[Emphasis Added]*

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[46] AASHTO, <u>Use Of Advance Construction In Financing Transportation Projects</u>, 2011.
[47] 23 CFR 630.705(a).
[48] 23 CFR 630.709(a).

Because there is no initial obligation of Federal funds for projects approved by the FHWA for **advance** construction, there is increased risk in the long-term. For example:

- Federal funds may not be available for road construction projects estimated to take several years to build through **advance** construction. The further into the future a road construction project is required to take, the greater the risk that funds may not be available for the completion of the future construction, leaving the completion to be funded with state moneys.
- **Advance** construction projects that were initially funded with GARVEE Bonds with the intent to repay the bonds with federal-aid highway funding are at risk for federal funding in future years.

  The State's GARVEE bonds are 15-year term bonds that represent funds borrowed to pay for **advance** construction projects with the intent to repay the debt with federal-aid highway funds. Each year, the Department converts a portion of the advance construction balance, equal to the principal payment on the bonds and seeks reimbursement for the principal payment. Because the bonds are 15-year bonds, future payments could be at risk because the state cannot predict what the federal government might do or how its funding policies may change that far in the future.

  As of January 21, 2020, the State has issued approximately $1.5 billion[49] of GARVEE bonds to finance projects built through advance construction. Currently, the Department has not yet billed the federal government for approximately $706 million of GARVEE expenditures that are eligible for conversion and billing.

Consequently, the State accepts some risk that reimbursement could be delayed or even denied if federal funds are not available when the State requests project conversion and reimbursement. For example, federal funds may not be available in the event of another recession, stock market failure, or other financial crisis.

The State also accepts the risk that reimbursement could be denied in future years if the State does not retain documentation to demonstrate compliance with federal-aid project requirements.

Advance construction can increase the need for cash -

Advance construction allows the Department to accelerate projects by undertaking a greater number of concurrent federal-aid eligible projects than would otherwise be possible.

The practice of accelerating federal-aid eligible projects using advance construction requires the Department to expend additional state funding to cover the costs of these projects.

The additional expenditure can increase the need for cash in the short term until the Department can receive federal reimbursement.

[49] $1,522,277,709.

For example, the Department's 2018 financial statements states:

> $865,300,000 has been transferred from the Highway Trust Fund to the Highway Fund to cover increased expenditures resulting from efforts to accelerate construction projects, **particularly projects funded through the federal advance construction process**. [*Emphasis Added*]

Lack of Advance Construction Details Indicates Need for Better Reporting and Monitoring

As of the completion of this audit, the Department was not able to provide a breakdown of the $4.8 billion in **advance** construction. When asked for a breakdown into how much of the balance had been spent already, how much has been obligated through contractual agreements, and how much in projects not yet started, the Department responded:

> Of the 1.3 Billion in expenditures, $706,566,464 are GARVEE expenditures that have been reimbursed to NCDOT by the trustee. We still need to convert the Advance Construction funding and ask for reimbursement by FHWA over a 15-year span to pay back the Principal to the Trustee.
>
> $604,546,592 is the amount of expenditures spent on PE [preliminary engineering], ROW [right-of-way] and Construction projects, paid for with state dollars, and will be reimbursed over time as we convert AC [advance construction] on the individual projects.
>
> The majority of the $4.8 B balance of advance construction (A/C) was used on the right-of-way or construction phase of projects. For right-of-way projects, much of the time and effort is in obtaining appraisals for properties and negotiating with owners prior to making an offer to purchase. There are signed contracts with appraisers; however, the majority of right-of-way funding is used for purchases. There are instances where we have made an offer to purchase, but have not closed on the property and in those instances, we have created an obligation to pay. However, to quantify this would require that we review every proposed property purchase for every project whose right-of-way phase has been A/C'd. For construction projects, it is safe to assume that we have entered into a contract (or will be shortly) for all A/C's projects.

Because of the risks discussed above, the Legislature should consider requiring the Department to periodically provide the detailed information necessary to monitor and evaluate **advance** construction risks.

Additionally, the Legislature should consider requiring the Department to provide a breakdown of the projects and associated contracts that currently make up the $4.8 billion in advance construction detailing:

- Expenditures that have been paid with state moneys, the date the expenditures were paid, and the "anticipated" date of reimbursement from the FHWA.

- Expenditures that have been made and were funded with GARVEE bonds and a break-down of the outstanding bonds (i.e. amount outstanding, anticipated annual repayments that will be converted, and end term date of each outstanding bond).

- All other projects with associated contracts/commitments for the which the Department is obligated along with the years and annual amounts of the commitments. This information is important if a project has contract commitments that cover future years as this increases the risk that federal funds may be reduced or, worst case, unavailable when requested. Consequently, state funds would then have to be used to complete the project.

Once the Department provides the details of the $4.8 billion advance construction balance, the Legislature should consider requiring the Office of the State Auditor perform an audit of the information to verify that the breakdown is complete and accurate so it can be used as the starting point for future reporting to the Legislature, the Governor, and the Transportation Board.


THE GREAT SEAL OF THE STATE OF NORTH CAROLINA
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APPENDIX

Internal Control Components and Principles Significant to the Audit Objective

Our audit objective was to confirm how much the Department of Transportation exceeded its Spending Plan for state fiscal year 2019 and identify causes of the overspending.

Internal control components and underlying principles that were significant to our audit objective are identified in the table below.

	Audit Objective
Control Environment	
1. The oversight body and management should demonstrate a commitment to integrity and ethical values.	
2. The oversight body should oversee the entity's internal control system.	
3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.	X
4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.	
5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.	
Risk Assessment	
6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.	X
7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.	X
8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.	
9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.	
Control Activities	
10. Management should design control activities to achieve objectives and respond to risks.	X
11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.	
12. Management should implement control activities through policies.	

Information and Communication	
13. Management should use quality information to achieve the entity's objectives.	X
14. Management should internally communicate the necessary quality information to achieve the entity's objectives.	X
15. Management should externally communicate the necessary quality information to achieve the entity's objectives.	
Monitoring Activities	
16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.	X
17. Management should remediate identified internal control deficiencies on a timely basis.	X



STATE AUDITOR'S RESPONSE

The Office of the State Auditor (OSA) is required to provide additional explanation when an agency's response could potentially cloud an issue, mislead the reader, or inappropriately minimize the importance of the auditor findings.

Generally Accepted Government Auditing Standards state,

> When the audited entity's comments are inconsistent or in conflict with the findings, conclusions, or recommendations in the draft report, or when planned corrective actions do not adequately address the auditor's recommendations, the auditors should evaluate the validity of the audited entity's comments. If the auditors disagree with the comments, they should explain in the report their reasons for disagreement.

Oversight for The Highway Funds Should Be Improved

The Department of Transportation's (Department) response stated that it "strongly supports transparency and legislative oversight. NCDOT is currently subject to the following annual audits:

- EAGLE Internal Control Audit
- CAFR Audit
- Single Audit for federal compliance
- Financial Statement Audit"

While the Department is subject to the audits listed, this response could mislead the reader to believe that these audits would or could have prevented or detected the issues identified in this audit report or provide the level of additional oversight for the Department's Highway Funds this audit report says should be considered. **They would not.** Each of the audits listed by the Department has certain objectives, by regulations or auditing standards, and their conclusions are limited to those objectives only:

- **EAGLE Internal Control Audit** – a self-assessment of internal controls.
- **CAFR Audit** – an audit of select accounts to support an opinion on the financial position for the State of North Carolina.
- **Single Audit for federal compliance** – an audit of certain federal programs to support an opinion on compliance with federal rules and regulations at the state level.
- **Financial Statement Audit** – an audit to support an opinion on the Department prepared financial statements to show the financial position of the Department. This audit reflects financial position only, there is no opinion or assurance on whether or not the financial position is good.

Further, audits occur "after the fact" and are never meant to replace management's responsibilities for on-going monitoring of agency budgets and spending.

Therefore, the Legislature should consider requiring a level of oversight for the Department's Highway Fund and Highway Trust Fund similar to the level of oversight provided for the State's General Fund agencies.

$4.8 Billion Advance Construction Balance Should Be Reported And Monitored

The Department's response stated,

> To aide in efficient project delivery, NCDOT has been utilizing advanced construction practices. Beginning 25 years ago, these practices allow the Department to let projects throughout the whole year. Not only does this provided stability for contractors and consultants within the private sector, but also increases federal revenue…

This audit report is not disputing there are benefits to the use of advance construction. The report very clearly discusses the benefits **and risks** of the use of advance construction.

Despite the risks, there is no single document that provides the Legislature or anyone else with a clear discussion of advance construction (1) benefits, (2) risks, (3) beginning balance, (4) expenditures, (5) contracted amounts, (6) planned additions, (7) planned conversions, and (8) ending balance.

Therefore, the Legislature should consider requiring the Department to periodically provide the detailed information necessary to monitor and evaluate advance construction risks. The Legislature should also consider requiring OSA to audit the information and verify that the breakdown is complete and accurate so it can be used as the starting point for future reporting to the Legislature, the Governor, and the Transportation Board.



RESPONSE FROM DEPARTMENT OF TRANSPORTATION

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

April 30, 2020

The Honorable Beth A. Wood, CPA
State Auditor
North Carolina Office of the State Auditor
2 South Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0600

RE: Performance Report titled Department of Transportation Cash Spending Plan

Dear Ms. Wood:

As it relates to the audit conducted by your office concerning the Department's Cash Spending Plan for state fiscal year (SFY) 2019, I would like to thank you for the effort put forth by you, your staff, and the consultant subject matter experts. The Department of Transportation has reviewed the report and provides the attached responses to the findings, recommendations, and matters for consideration.

Thank you for the time and opportunity to review and respond to these findings. Please contact me if you have any questions regarding DOT's response to any of the findings and recommendations.

Sincerely,

DocuSigned by:
J. E. Boyette

J. Eric Boyette
Secretary, Department of Transportation

cc: Robert W. Lewis, Chief Operating Officer

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
1501 MAIL SERVICE CENTER
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RALEIGH, NC 27601

Introduction

The General Assembly, through General Statutes, and the Secretary's Confirmation Hearing in 2017, directed the Department to reduce its cash balance. The cash balance is the product of unexpended funds in numerous budget accounts from previous spending years' appropriations, **Figure 1**. Due in part to slow project delivery during SFY 2017, NCDOT established spending targets that were higher than the budget appropriations to spend the cash balance. This continued through SFY 2018 and SFY 2019. Knowing the importance of reliable forecasts when establishing fiscal year target spending plans, NCDOT used its cash modeling tool to provide predicted cash balances for each month over several years. This tool forecasted expenditures using construction expenditures from multi-year contracts and historical expenditure rates for specific programs within the funding categories of Operations & Maintenance and Preliminary Engineering. In addition to expenditure forecasts, the cash modeling tool incorporates the revenue forecast to predict cash balances.

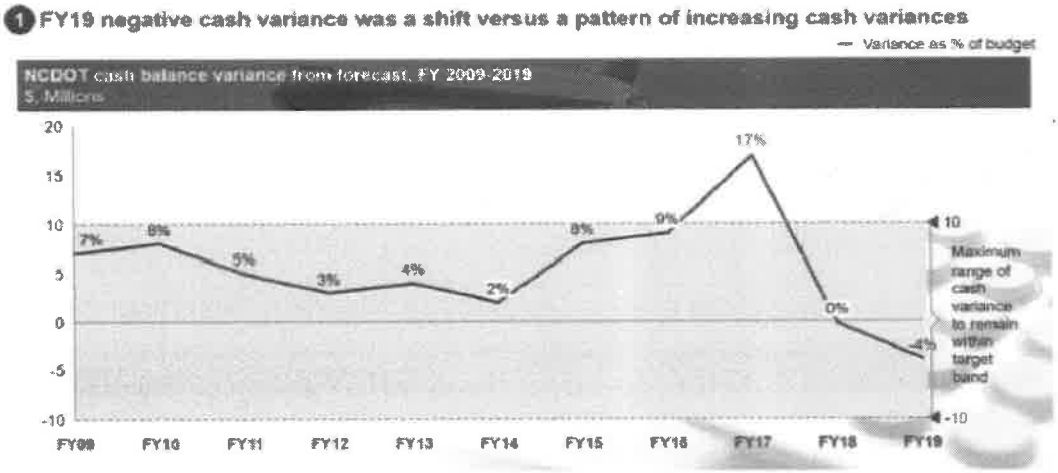


Figure 1: NCDOT's Cash Balance Variance from Forecast

The Department continues to refine its cash forecast tool to enhance its accuracy. The unpredictably of storms, in frequency and impact, is difficult to model. Certain spending programs, disaster and storm spending, do not have the same predictability that they had prior to SFY 2017. Since SFY 2017, NCDOT's response to storms has been at unprecedented frequencies and costs. Because storms are unpredictable and of the lack of budget appropriations for storms, storm response could not be included in the spend plan. This resulted in unbudgeted expenditures. To compensate for this moving forward in FY 2020 the department reduced the spend targets below budget appropriations in efforts to improve the cost balance.

Finding 1 Part A:

Spending Plan was not based on cost estimates of the specific projects and operations the Department scheduled for the fiscal year

Recommendation:

The Department should base its Spending Plan on specific projects and operations scheduled for the fiscal year.

Agency Response

The Department agrees with the State Auditor's finding and recommendation listed above.

NCDOT used historical expenditure rates for programs within Operations & Maintenance and Preliminary Engineering, not on a per project basis. Recognizing the need for further accuracy, NCDOT began creating and refining project-level and road system level forecast modeling tools to validate the spending plan on a monthly basis in each program for Operations & Maintenance, Figure 2. The modeling effort for these programs began in March of 2019 and is ongoing. Compared to the construction/contracted modeling tool, there are many differences that will require further refining to achieve good statistical accuracy. Operations and Maintenance spending on General Maintenance Reserve (GMR) contains thousands of projects within the system level that are reacting to conditions within the system that are continuously changing, making it nearly impossible to predict on an activity level.

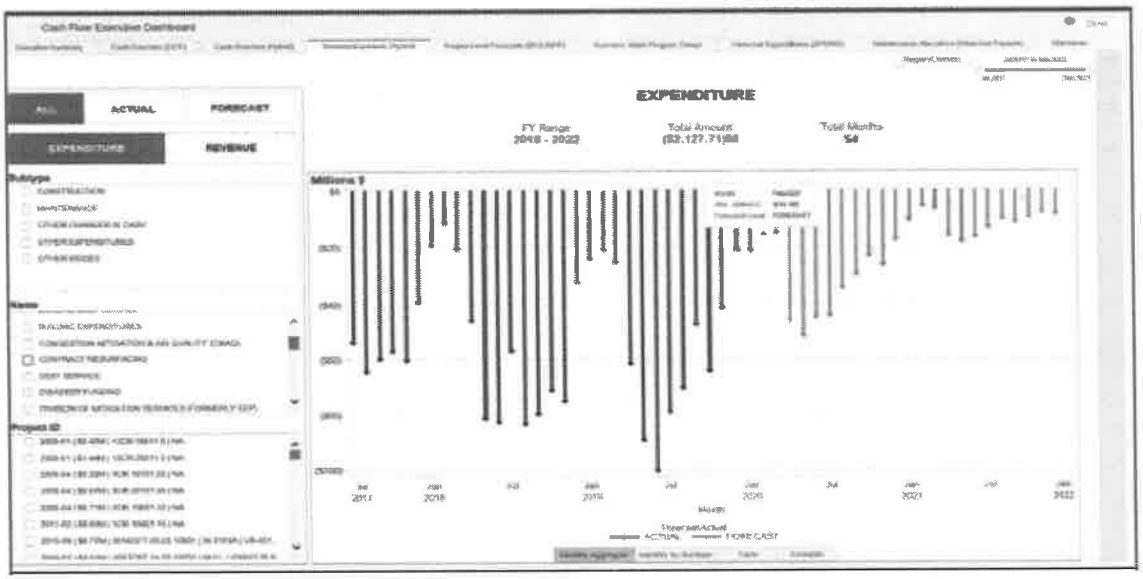


Figure 2: Project-level Expenditure Forecast Model, including Operation and Maintenance Projects and Programs

Finding 1 Part B:

Chief Engineer's Office did not monitor highway division compliance with the Spending Plan

Recommendation:

The Chief Engineer's Office should formally monitor each highway division's spending on a regular basis throughout the fiscal year to ensure that highway divisions don't overspend, particularly for Operations & Maintenance, Preliminary Engineering, and Disasters.

Agency Response

The Department agrees with the State Auditor's finding and recommendation listed above.

To align with spending targets, the 14 Highway Divisions are submitting quarterly expenditure forecasts, beginning December of 2019 and continues. All projects and programs, to the detail of the project/system/WBS element level, are included. This allows both the Chief Engineer's Office and respective Highway Division Engineer to compare and monitor actual spending versus the forecasted spending plan. Each Highway Division Engineer is able to view their respective Division's spend plan dashboard, Figure 3, to aide in more frequent monitoring of expenditures by program and adjust accordingly.

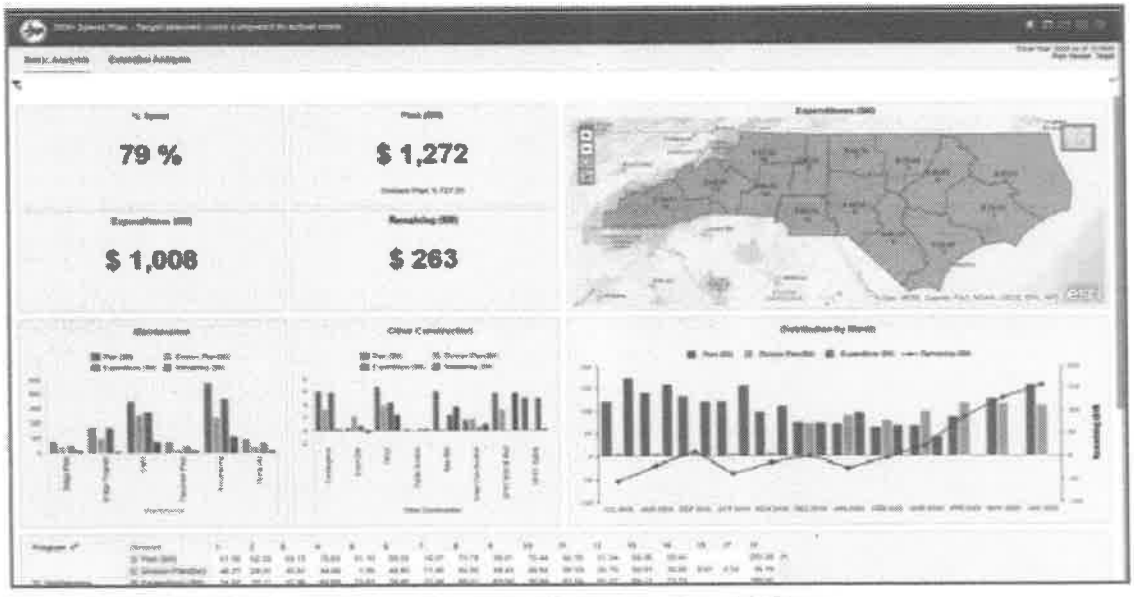


Figure 3: NCDOT Division of Highways Spend Plan Dashboard - Statewide View

In November of 2019, the Chief Engineer's Office began monitoring Preliminary Engineering (PE) expenditures on a weekly basis. The aforementioned project-level projections provided by the Highway Divisions are compared to the actual PE expenditures in the Preliminary Engineering Dashboard, Figure 4, and is resulting in better communication between the Highway Divisions, Technical Services, and the consulting engineers working on the projects.

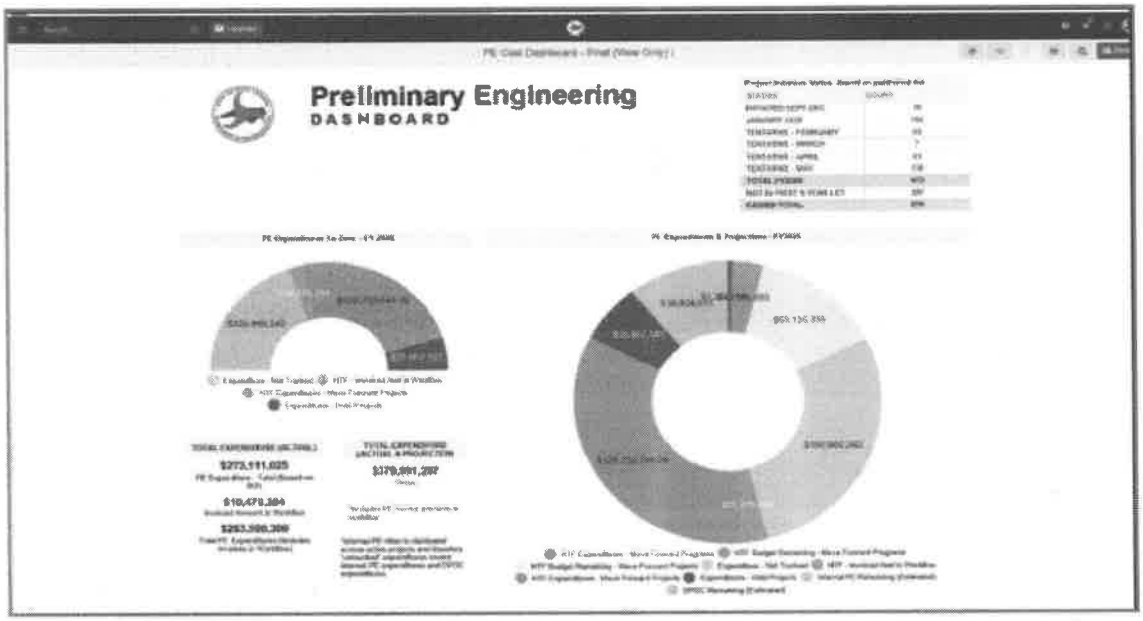


Figure 4: NCDOT Preliminary Engineering Dashboard

The audit states (p. 9) "The Department did not estimate SFY 2019 disaster spending based on historical spending information or any other type of data." The budget of $50M was presumed an appropriate disaster spending estimate as it was based on historical storm expenditures (averaged $66M per year through SFY 2016) and federal reimbursements to NCDOT over the same time period which averaged approximately $17M per year. Beginning in SFY 2017, storm expenditures unexpectedly increased to an average of $222M per year through SFY 2019, Figure 5.

	FY 2004 - 2016		FY 2017 - 2019		Increase Annually
	Cumulative Spend	Avg. Annual Spend	Cumulative Spend	Avg. Annual Spend	
Declared	$ 300,861,306	$ 23,143,177	$ 398,272,125	$ 132,757,375	$ 109,614,198
Non-Declared	$ 566,943,620	$ 43,611,048	$ 268,424,883	$ 89,474,961	$ 45,863,913
Total	$ 867,804,926	$ 66,754,225	$ 666,697,008	$ 222,232,336	$ 155,478,111

Figure 5: Historic Disaster Expenditures

The $50M budget estimate for disaster spending was not enough to cover the SFY 2017-2019 storm expenditures. As North Carolina was experienced a historically unprecedented increase in storm activity, the Department also experienced a decrease in the GMR appropriation from the General Assembly, Figure 6. The SFY 2018/2019 biennium budget for GMR returned to similar levels of SFY 1992/1993 (not shown). This resulted in the department having to make a choice to either work on disasters, perform maintenance activities often related to safety, or spend more funds than were allocated.

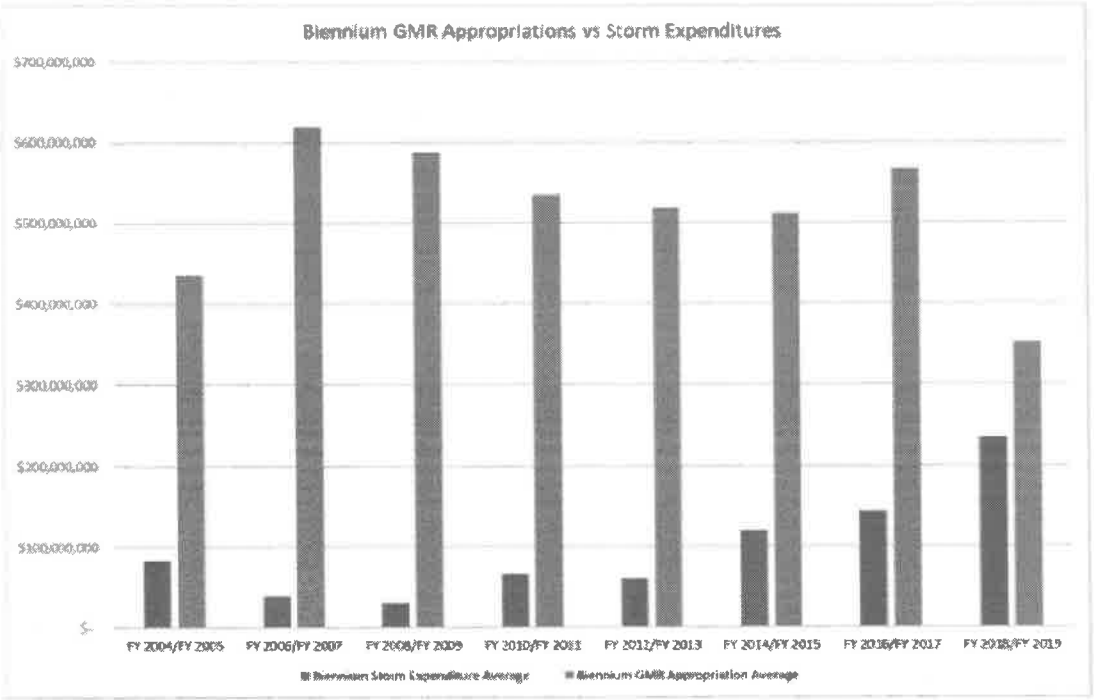


Figure 6: Biennium GMR Appropriations compared to Storm Expenditures

As one of the six programs under Operations & Maintenance, GMR appropriations are not only used to support storm responses but also support the expenditures of all routine road and bridge maintenance. Figure 7 shows a selection of only some activities included in GMR outside of storm response.

Activity	Annual Cost
Shoulder/Ditch	$ 60,000,000
Pavement Repair	$ 45,000,000
Removal of Hazards	$ 29,000,000
Traffic Devices	$ 50,000,000
Barrier/Guardrail	$ 17,000,000
Pipe Installation / Replacement / Repairs	$ 72,000,000
Office Engineer / Inspection / Assessment	$ 50,000,000
Incident Mangement Assistance Program	$ 7,000,000
Unpaved Roadway Maintenance	$ 13,500,000
Electricity for Signals and Roadway Lighting	$ 7,000,000
Total	$350,500,000

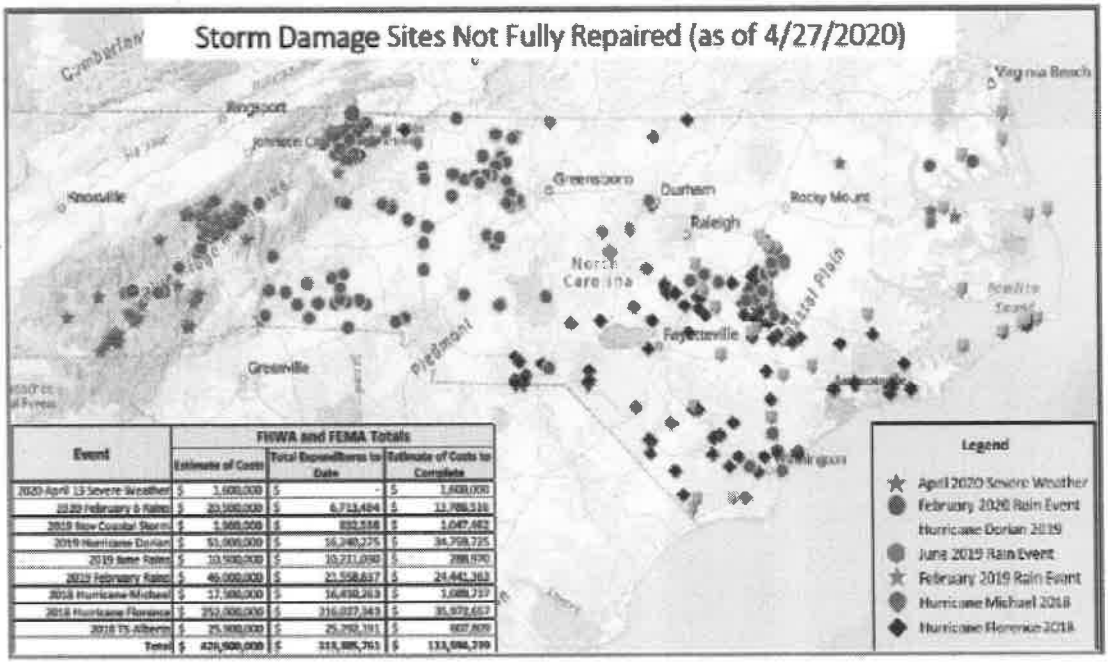
Figure 7: Selection of non-Storm Response GMR activities and their historical annual costs

The increased expenditures on storm response represent an increasing share of the declining GMR appropriations, **Figure 8**. This figure is a modified chart from Table 3- "Disaster Spend Forecast vs Actual" in the audit report (p. 10) to include the GMR appropriation decline.

	In Millions		
Fiscal Year	Forecasted Amount	Actual Spend	GMR Appropriation
2015	$ 50	$ 78	$ 449
2016	$ 50	$ 86	$ 451
2017	$ 50	$ 200	$ 468
2018	$ 50	$ 171	$ 285
2019	$ 50	$ 296	$ 309

Figure 8: Disaster Spend Forecast vs Actual vs declining GMR Appropriations
Note: This Figure is a supplement to Table 3- "Disaster Spend Forecast vs Actual" on page 10 of the Performance Report titled Department of Transportation Cash Spending Plan

To reduce overspend in GMR, NCDOT has taken steps including: limiting expenditures on non-safety related maintenance activities and repairs from storm damage. Storms from 2018 to present have left the Department with approximately 350 storm sites awaiting repairs and 75 road closures, **Figure 9**.



Event	FHWA and FEMA Totals		
	Estimate of Costs	Total Expenditures to Date	Estimate of Costs to Complete
2020 April 13 Severe Weather	$ 1,600,000	$ -	$ 1,600,000
2020 February 6 Rains	$ 20,500,000	$ 6,713,484	$ 13,786,516
2019 Nov Coastal Storm	$ 1,900,000	$ 892,538	$ 1,047,462
2019 Hurricane Dorian	$ 51,000,000	$ 16,240,275	$ 34,759,725
2019 June Rains	$ 10,900,000	$ 10,721,030	$ 288,970
2019 February Rains	$ 46,000,000	$ 21,558,637	$ 24,441,363
2018 Hurricane Michael	$ 17,500,000	$ 16,490,263	$ 1,009,737
2018 Hurricane Florence	$ 252,000,000	$ 216,027,343	$ 35,972,657
2018 TS Alberto	$ 25,900,000	$ 25,292,191	$ 607,809
Total	$ 429,500,000	$ 316,885,761	$ 113,086,239

Figure 9: Storm Damage Sites awaiting repair

The Department will continue to reduce overall expenditures but an increase in GMR appropriations is required before NCDOT can increase the disaster spending budget.

Session Law 2019-251 created a Transportation Emergency Reserve that will assist in increased storm activity going forward. The Department will continue to analyze all available data to identify trends and improve forecasts in this area and will utilize the emergency reserve, as necessary. However, the emergency reserve requires a pay back at the beginning of each SFY, which comes from Department funds.

Finding 1 Part C:

Chief Engineer's Office did not enforce highway division compliance with the Spending Plan

Recommendation:

The Chief Engineer's Office should delay contract approvals, implement mid-year budget reductions, or take other corrective actions whenever highway divisions are overspending budgeted allocations. The Chief Engineer should consider requiring any necessary corrections on a quarterly basis.

Agency Response

The Department agrees with the State Auditor's finding and recommendation listed above.

As mentioned previously, as of December 2019, the Highway Divisions are required to produce quarterly reports for the Chief Engineer's Office of anticipated expenditures at the project/WBS element level. These expenditure estimates are uploaded into the Department's Spend Plan Dashboard and used to compare project-level expenditures with spending targets, Figure 10, allowing the Chief Engineer's Office to make corrections throughout the year and improve the oversight of the Highway Divisions.

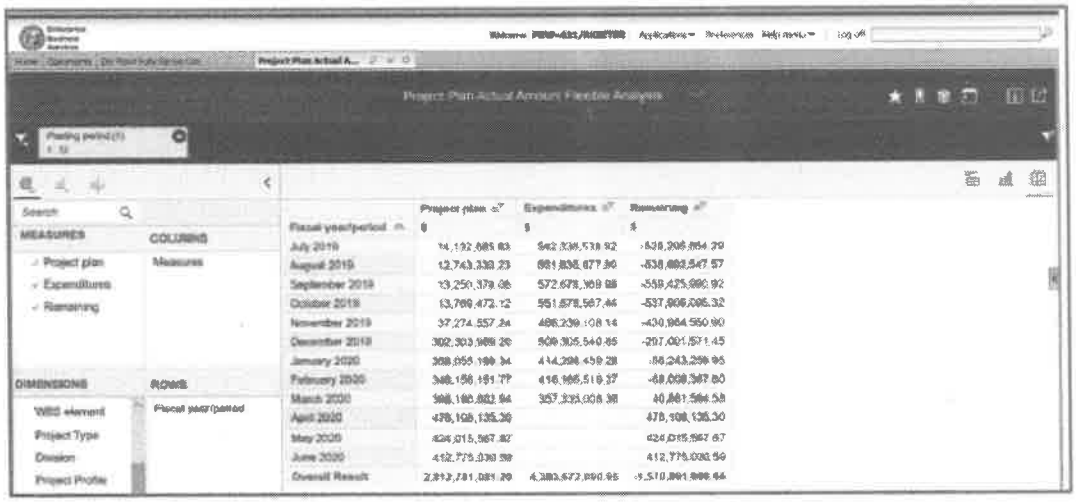


Figure 10: Comparison of Project-level Planned Expenditures to Actual Expenditures by Month in Spend Plan Dashboard

The Chief Engineer's Office continues to review anticipated expenditure amounts within each program and adjust any anticipated contract lettings as necessary to prevent potential overspending across all programs. The challenge of this task is that the Department has existing contracts where the monthly expenditures can span up to three fiscal years. Allocations for maintenance and operations programs have historically been on an annual basis but starting SFY 2020, the 14 Highway Divisions receives a 6-month allocation. This allows the Chief Engineer's Office flexibility to adjust for the second half of the fiscal year based on available revenue and expenditure forecasts. This allows the Department to adjust but does not solve the overall funding issues. The Session Law 2019-251 allows the Department to spread the disaster expenditures across more programs other than GMR but does not solve the funding issue.

Estimated Date for Implementing

All the recommendations are currently implemented, except for adjusting the disaster budget. Session Law 2019-251 requires the Transportation Emergency Reserve to be effective in SFY 2021. Additionally, the Department, and specifically the Chief Engineer's Office, continues to refine processes to manage the funding provided while at the same time building and maintaining North Carolina's valuable transportation assets.

Matters for Consideration (MFC):

The Legislature should consider requiring a level of oversight for the Highway Fund and Highway Trust Fund similar to the level of oversight provided for the state's General Fund.

The Legislature should consider requiring the Department to periodically report on advance construction for oversight purposes. The outstanding advance construction balance was $4.8M billion as of January 21, 2020.

Agency Response to Matters for Consideration

The department strongly supports transparency and legislative oversight. NCDOT is currently subject to the following annual audits:

- EAGLE Internal Control Audit
- CAFR Audit
- Single Audit for federal compliance
- Financial Statement Audit

In addition, the Department provides numerous reports, per legislation. Included is a weekly cash report similar to the General Fund Cash Watch provided by the Office of the State Controller (OSC).

To aide in efficient project delivery, NCDOT has been utilizing advanced construction practices. Beginning 25 years ago, these practices allow the Department to let projects throughout the whole year. Not only does this provided stability for contractors and consultants within the private sector, but also increases federal revenue, **Figure 11. Figure 12** shows the advance construction balances for all states.

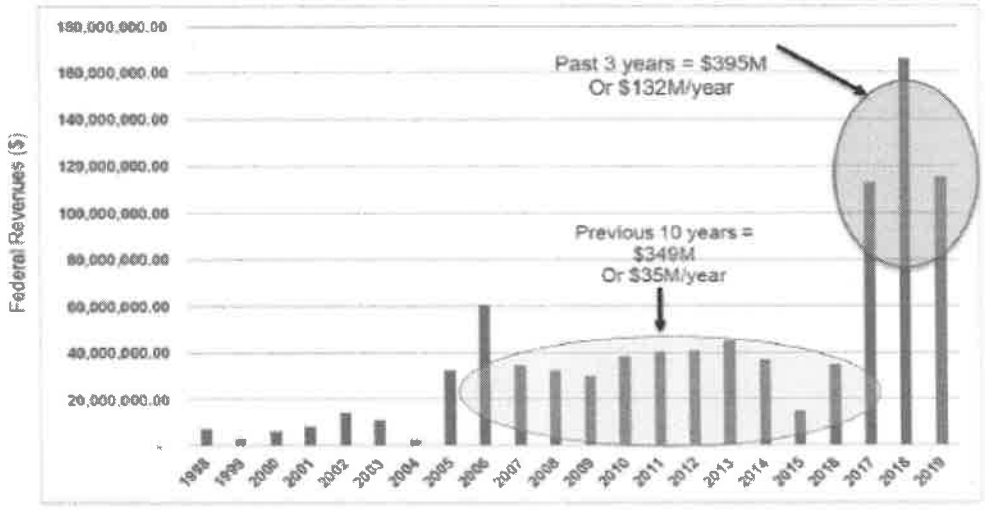


Figure 11: NCDOT Federal Revenues per year, demonstrating increased revenues due to Advance Construction Authorization

Response to Performance Report - Department of Transportation Cash Spending Plan

Advance Construction Balances

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	As of 3/31/20
Puerto Rico					10,119,838.23	10,119,838.23
Virgin Islands		$83,426,484	75,854,084.44	68,280,084.44	60,704,584.44	58,835,106.94
Wisconsin	$23,150,123	$29,713,707	34,825,828.38	295,029,730.26	74,469,037.63	135,867,403.96
Montana	$123,762,957	$60,838,161	65,661,568.10	65,935,014.71	102,019,137.21	29,709,273.03
South Dakota	$87,647,027	$118,229,705	102,339,983.21	76,910,797.20	105,658,651.85	270,517,587.47
Utah	$40,915,154	$58,152,199	57,141,927.31	55,959,222.97	110,480,935.81	56,731,249.34
Wyoming	$111,450,833	$93,496,584	116,200,266.49	99,347,641.09	119,041,909.90	182,076,126.90
Hawaii	$41,410,348	$46,976,950	152,953,497.44	155,246,350.25	124,958,801.95	90,996,295.29
Nebraska	$130,346,411	$87,470,234	111,190,880.34	136,421,687.25	125,652,589.64	183,025,527.64
New Hampshire	$247,275,838	$212,387,735	179,722,435.92	134,257,840.86	160,654,306.60	154,149,732.21
North Dakota	$204,701,827	$210,644,375	213,437,550.38	217,469,554.20	189,635,244.09	199,926,792.04
Missouri	$313,503,294	$230,677,227	129,204,931.48	151,102,700.27	199,190,961.59	454,174,474.46
Vermont	$158,880,381	$140,619,961	165,529,892.94	157,263,677.56	208,099,105.98	291,418,683.61
Delaware	$267,631,664	$231,265,091	211,823,203.29	158,325,328.71	208,781,837.37	194,514,475.03
Oklahoma	$162,661,265	$302,525,238	194,446,538.41	249,862,501.77	231,643,652.90	117,459,761.80
New Jersey	$126,800,443	$306,911,955	222,804,277.10	31,425,075.00	240,857,911.78	246,037,206.78
Maine	$163,649,748	$201,270,902	229,836,131.49	153,064,936.94	248,144,671.67	310,853,133.48
Kansas	$611,399,855	$517,120,119	389,663,610.11	285,408,693.99	263,303,988.03	477,125,346.70
Alaska	$366,406,212	$317,232,300	311,498,685.51	284,092,568.00	312,519,609.36	423,999,827.43
Arizona	$842,345,759	$771,343,578	554,804,653.69	384,984,515.61	378,558,499.13	346,975,893.42
District Of Columbia	$132,678,494	$509,005,713	497,232,221.99	485,460,209.49	478,459,418.75	466,684,881.25
Minnesota	$384,729,262	$273,585,917	443,395,316.97	587,197,895.78	479,133,559.57	551,038,394.35
Oregon	$343,316,693	$237,384,042	206,648,989.89	445,031,346.98	506,059,402.44	469,561,882.87
Connecticut	$441,409,094	$535,214,173	377,940,611.04	736,334,011.81	548,009,407.27	508,659,592.36
Indiana	$898,823,928	$603,629,705	559,234,466.63	461,541,710.20	592,479,217.16	1,716,294,070.32
Washington	$1,308,354,632	$898,885,170	794,879,207.50	647,090,977.74	601,555,871.46	474,636,249.90
Iowa	$440,115,779	$429,594,876	674,212,027.59	645,789,295.94	604,953,314.69	864,311,243.91
Illinois	$1,421,853,526	$795,787,647	597,201,488.30	460,284,385.77	626,853,058.31	1,382,438,072.66
Louisiana	$342,702,826	$506,930,556	472,454,154.56	380,849,760.29	629,049,099.23	840,918,170.33
West Virginia	$255,454,891	$399,819,292	708,952,936.00	504,806,197.87	634,614,423.17	611,986,442.89
Tennessee	$240,987,161	$302,858,577	383,189,549.85	556,096,038.85	656,685,652.39	656,566,628.85
Idaho	$913,027,287	$880,015,231	836,914,355.27	711,142,534.42	706,700,049.14	780,046,202.41
Georgia	$1,023,102,749	$1,136,966,106	1,174,880,104.69	930,270,034.30	714,446,015.15	322,655,851.73
Nevada	$828,471,324	$1,254,106,381	1,108,450,348.96	1,000,354,101.78	952,190,307.14	862,879,494.33
Mississippi	$1,167,731,981	$1,178,963,330	1,213,760,027.55	1,142,638,129.08	1,097,074,520.73	1,266,471,422.18
Colorado	$1,569,124,568	$1,810,329,988	1,692,583,436.26	1,287,326,352.71	1,103,457,267.90	1,097,379,112.93
Massachusetts	$1,295,434,211	$1,142,317,121	1,117,238,902.01	1,200,181,421.36	1,133,922,800.35	1,092,136,649.66
Pennsylvania	$1,141,487,970	$875,718,709	913,502,132.64	1,273,295,381.60	1,290,424,529.11	1,800,828,253.98
Rhode Island	$617,769,683	$605,021,395	928,255,018.65	1,275,346,958.59	1,342,816,110.07	1,391,591,224.77
Arkansas	$844,867,506	$987,947,536	1,029,864,643.00	1,276,224,092.00	1,346,140,934.00	1,267,810,759.00
Alabama	$811,292,005	$1,465,104,161	1,620,014,548.02	1,626,885,781.24	1,590,648,800.05	1,471,588,407.69
New Mexico	$1,067,065,700	$1,029,710,581	1,312,135,536.46	1,228,815,281.47	1,709,660,661.48	1,662,660,879.82
South Carolina	$1,247,854,216	$1,739,889,265	1,756,782,117.38	1,762,947,185.25	1,840,255,907.41	1,726,864,526.37
Kentucky	$1,469,529,246	$1,339,021,241	1,384,385,554.24	1,368,498,497.54	1,864,114,302.47	1,822,960,290.72
New York	$2,004,527,502	$1,451,974,302	1,999,900,903.04	1,873,410,050.88	2,087,279,832.00	2,678,687,824.00
Ohio	$2,279,828,956	$2,131,386,040	2,519,375,432.16	2,671,914,034.61	2,200,410,679.19	2,674,242,301.57
Michigan	$768,654,026	$970,184,916	776,990,580.43	2,346,859,311.91	2,498,086,716.77	2,641,389,656.10
Florida	$4,087,924,870	$4,032,259,119	3,753,322,148.00	4,114,263,558.00	4,035,052,071.00	4,519,216,366.00
North Carolina	$3,248,421,112	$3,449,797,959	3,347,413,755.00	4,151,072,081.00	4,375,357,176.00	4,722,455,927.00
California	$2,855,473,832	$3,290,864,271	3,989,791,109.89	5,269,673,187.62	6,107,403,658.63	5,306,628,716.54
Texas	$3,596,440,182	$2,671,657,463	3,106,008,296.69	4,559,910,511.33	8,186,645,982.75	8,069,857,221.18
Virginia	$6,249,885,768	$6,476,668,243	9,187,990,517.80	9,322,417,361.37	9,615,808,918.80	10,194,562,563.82

Figure 12: Advance Construction Balances of States

Conclusion

The audit highlights the complexity of the Department's financial and accounting systems. This performance report only examines SFY 2019, without the benefits of incorporating historical budgets and operations. The Auditor's recommendations have been or are currently being incorporated into NCDOT with the exception of increasing the budget for disasters within GMR. Without an increase in appropriation for GMR, increasing the disaster budget would have severe impacts on other Highway Fund programs.

ORDERING INFORMATION

COPIES OF THIS REPORT MAY BE OBTAINED BY CONTACTING:

Office of the State Auditor
State of North Carolina
2 South Salisbury Street
20601 Mail Service Center
Raleigh, North Carolina 27699-0600

Telephone: 919-807-7500
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Internet: https://www.auditor.nc.gov

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https://play.google.com/store/apps/details?id=net.ncstateauditor.ncauditor&hl=en_US

https://itunes.apple.com/us/app/nc-state-auditor-hotline/id567315745

For additional information, contact the
North Carolina Office of the State Auditor at 919-807-7666.

NC OSA
The Taxpayers' Watchdog

This audit required 2,780 hours of auditor effort at an approximate cost of $289,120. The cost of the specialist's effort was $90,625. As a result, the total cost of this audit was $379,745.

Department of Transportation

Performance Audit
Cash Spending Plan
April 2020

Beth A. Wood, CPA,
North Carolina State Auditor

ATTACHMENT 2

Performance Audit
DOT – Cash Spending Plan

- ✓ **Audit Objectives:**
  - ✓ **Confirm Amount DOT Exceeded Plan**
  - ✓ **Identify the Causes of Overspending**

Performance Audit
DOT – Cash Spending Plan

- ✓ **Audit Scope: (Session law 2019-251)**
  - ✓ Budget Adherence by Department, Division, Highway Division
  - ✓ Timeliness of Federal Reimbursement Requests
  - ✓ Timeliness of Response to Federal Inquiries
  - ✓ Controls & Oversight Related to Cash Management, Project Coordination & Delivery, Budget Adherence
  - ✓ Effectiveness of Communication & Coordination
  - ✓ Effectiveness of Cash Management for SFY 2019

Performance Audit
DOT – Cash Spending Plan

	IN	MILLIONS
FUND	CERTIFIED BUDGET	SPENDING PLAN
HIGHWAY FUND	$3,593	$3,593
HIGHWAY TRUST FUND	$1,540	$1,540
INTENTIONAL SPEND DOWN OF CASH	-	$670
AMOUNT PLANNED FROM BOND PROCEEDS	-	$126
Total:	$5,133	$5,929

Report - Page 4 – Footnote 1

Performance Audit
DOT – Cash Spending Plan

✓ **Confirmed Exceeded "Spending Plan" by $742M**

		In Millions		
Expenditure Category	Spending Plan	Actual Spending	Difference	% Difference
Construction	$3,310	$3,434	$124	3.7%
Operations & Maintenance	$1,596	$2,174	$578	36.2%
Other Modes	$364	$438	$74	20.3%
Other	$671	$637	$(34)	(5)%
Total	$5,941*	$6,683	$742	12.5%

* $5.1B Certified Budget + 670 M Planned Cash Spend Down + $126M Planned Bond Proceeds

Performance Audit
DOT – Cash Spending Plan

- ✓ FINDING - DOT Exceeded Spending Plan Due to:
- ✓ Plan Was Not Based on Cost Estimates of Projects/Operations Schedule for FY
- ✓ Chief Engineer's Office Did Not Monitor Compliance w/ Plan
- ✓ Chief Engineer's Office Did not Enforce Compliance w/ Plan

- ✓ 2 MATTERS FOR FURTHER CONSIDERATION

Performance Audit
DOT – Cash Spending Plan

- ✓ **Plan Was Not Based on Cost Estimates of Projects/Operations Schedule for FY**
  - ✓ **Preliminary Engineering - $194 M Overage**
  - ✓ **2019 Estimated Spending Not Based on Cost Estimates of Specific Projects or Operations**
  - ✓ **2019 Estimated Spending Based on Prior-Year Spending**

Performance Audit
DOT – Cash Spending Plan

- ✓ **Plan Was Not Based on Cost Estimates of Projects/Operations Schedule for FY (cont'd)**
  - ✓ **Operations & Maintenance - $578M Overage**
  - ✓ **2019 Estimated Spending Not Based on Actual Planned Maintenance Projects for the Year**
  - ✓ **2019 Estimated Spending Based Seasonal Spending Estimates & 10-Yr. Historical Averages**
  - ✓ **Disaster Spending - $246 of $578 Overage**
    - ✓ **Budgeted $50M/yr. Since 2015**

Performance Audit
DOT – Cash Spending Plan

- ✓ Chief Engineer's Office Did Not Monitor Compliance w/ Plan
- ✓ Spending Plan Not Monitored w/in 14 Highway Divisions
- ✓ Full Fiscal Year's Allocation Provided Initially
- ✓ 14 Division Engineers Managed Spending However They Chose

Performance Audit
DOT – Cash Spending Plan

- ✓ Chief Engineer's Office Did not Enforce Compliance w/ Plan
- ✓ Chief Engineer's Office Did Not Reject a Division's Contracts/Unspent Budget Insufficient
- ✓ No Mid-Year Budget Reductions/Borrow Against Next FY Allocation
- ✓ Borrowing Crossed Multiple Years

Performance Audit
DOT – Cash Spending Plan

GS 143C-6-11(b) Requires:

> **Transportation Project funds shall be budgeted, expended, and accounted for on a "cash flow" basis. Pursuant to this end, transportation project contracts shall be planned and limited so payments due at any time will not exceed the cash available to pay them.**

Performance Audit
DOT – Cash Spending Plan

RECOMMENDATIONS:

- ✓ Spending Plan Should be Based on Cost Estimates of Specific Projects and Operations
- ✓ Chief Engineer's Office Should Formally Monitor Each Highway's Spending On a Regular Basis/Adjust
- ✓ Chief Engineer's Office Should Take Corrective Actions Whenever Highway Divisions are Overspending
- ✓ Chief Engineer Should Consider Requiring Corrections on Quarterly Basis

Performance Audit
DOT – Cash Spending Plan

- ✓ MATTERS FOR FURTHER CONSIDERATION

- ✓ MFC 1: Oversight Should Be Improved
- ✓ Managing Billions of Dollars w/out External Controls
- ✓ No Approved Budget/Spend Plan
- ✓ Spending Not Adequately Monitored

- ✓ WHO?? OSBM? Financial Planning Committee? Other?

Performance Audit
DOT – Cash Spending Plan

- ✓ **MATTERS FOR FURTHER CONSIDERATION**

- ✓ **MFC 2: $4.8 B Advance Construction Should be Reported & Monitored**
- ✓ **Currently NO Evaluation of Advance Construction Practices**
- ✓ **No Detailed Report on Use of Advance Construction**
- ✓ **No Detailed Report on Outstanding Balance**

Performance Audit
DOT – Cash Spending Plan

- ✓ MFC 2: $4.8 B Advance Construction Should be Reported & Monitored
- ✓ "Some Information Provided – Financial Statement Schedules/STIP Document
- ✓ No Single Document:
  - ✓ Describing Advance Construction
  - ✓ Benefits,
  - ✓ Risks,
  - ✓ Beginning Balance,
  - ✓ Expenditures,
  - ✓ Contract Amounts,
  - ✓ Planned Additions,
  - ✓ Planned Conversions
  - ✓ Ending Balance

Performance Audit
DOT – Cash Spending Plan

- ✓ MFC 2: $4.8 B Advance Construction Should be Reported & Monitored
- ✓ Every State Has Access to Federal-Aid Highway $- Federal Highway Administration (FHWA)
- ✓ Annual Limit Per State – "Obligation Authority"
- ✓ 2019 North Carolina's Obligation Authority - $1.1B
- ✓ State Must Incur & Pay Expenditures
- ✓ Request Reimbursement

- ✓ State Must Meet Annual Obligation Authority to be Eligible for Unused $ Redistributed by FWHA

Performance Audit
DOT – Cash Spending Plan

- ✓ 2 Ways to Use Federal Highway Funding
- ✓ Traditional
- ✓ Advance Construction

- ✓ North Carolina Opted to Use Advance Construction to Finance Projects with Federal-Aid

Performance Audit
DOT – Cash Spending Plan

- ✓ **Federally-Financed Highway Projects**
- ✓ **Traditionally Financed:**
  - ✓ **FWHA Approves Project**
  - ✓ **Obligates Federal Funds (80%) at Start of Contract**
  - ✓ **Construction Begins & Pay Construction Costs w/ State Funds**
  - ✓ **Submit Weekly Reimbursement Requests To FHWA**

Performance Audit
DOT – Cash Spending Plan

- ✓ Federally-Financed Highway Projects
- ✓ Advance Construction
  - ✓ Project Approved "Eligible" for Federal Funding
  - ✓ No Obligation of Federal $
  - ✓ DOT Adds Federal Share of Eligible Costs to Advance Construction Balance
  - ✓ Begins Construction
  - ✓ Pays Construction Costs w/ State Funds
  - ✓ Some Point in Future Converts Advance Construction Project to Federal-Aid Project & FHWA Obligates Funds
  - ✓ DOT Requests Federal Reimbursement

Performance Audit
DOT – Cash Spending Plan

- ✓ Traditionally-Financed vs Advance Construction
- ✓ Traditionally-Financed
  - ✓ Limits Number of Federal-Aid Projects Started Annually
  - ✓ Once FHWA Obligates Funds = State's Obligation Authority State Cannot Start any more Federal-Aid Projects
- ✓ Advance Construction
  - ✓ Does Not Require Obligation of Federal funds
  - ✓ Projects Approved – Dollars Not Obligated
  - ✓ Start More Projects Annually – "Anticipated" to Be Paid w/ Federal Funds
  - ✓ Approval by FHWA Subject to State's Obligation Authority

Performance Audit
DOT – Cash Spending Plan

- ✓ Current Advance Construction Balance - $4.8 B
- ✓ $4.8 B – Ties to Federal Report of Approved Projects
  - ✓ Approved by FWHA, $ Not Obligated

- ✓ According to DOT Balance Represents:
  - ✓ $1.3B in Expenditures

    $706.6M – GARVEE Bonds

    $604.5M – State Funds – convert & seek reimbursement
  - ✓ $3.5B - ???

Performance Audit
DOT – Cash Spending Plan

- ✓ More Formal Document Including:
  - ✓ Describing Advance Construction
  - ✓ Benefits,
  - ✓ Risks,
  - ✓ Beginning Balance,
  - ✓ Expenditures,
  - ✓ Contract Amounts,
  - ✓ Planned Additions,
  - ✓ Planned Conversions
  - ✓ Ending Balance

Performance Audit
DOT – Cash Spending Plan

- ✓ **Advance Construction Recommendations:**
- ✓ **Consider Requiring DOT to Provide Breakdown of All Projects & Associated Contracts in Advance Construction Detailing:**
- ✓ **Expenditures Paid w/ State Moneys**
  - ✓ **Date of Expenditures**
  - ✓ **Anticipated Date of Reimbursement From FHWA**
- ✓ **Expenditures Funded w/ GARVEE Bonds**
  - ✓ **Breakdown of Outstanding Bonds, i.e., Amount Outstanding, Anticipated Annual Repayments to be Converted, Term End Date**
- ✓ **All Other Projects w/ Associated Contracts/Commitments**

Performance Audit
DOT – Cash Spending Plan

- ✓ **Advance Construction Recommendations** (cont'd):

- ✓ Have Schedule/Breakdown Audited by Office of State Auditor

- ✓ Use the Prepared Breakdown as Starting Point

- ✓ Require the Detailed Information Ongoing

Performance Audit
DOT – Cash Spending Plan

Questions?



NCGA

NORTH CAROLINA GENERAL ASSEMBLY

SENATE COMMITTEE

ON

TRANSPORTATION

May 20, 2020

Room 1124

12:00 PM

Senate Sergeant at Arms:

TERRY BARNHARDT

JOHN ENLOE

BILLY FRITCHER

FRANCES PATTERSON

VISITOR SIGN-UP SHEET

TRANSPORTATION
SENATE COMMITTEE
May 20, 2020
12:00 PM

PLEASE SIGN IN BELOW

NAME	COMPANY/AGENCY
SAM WATTS	NC Dept of State Treasurer
Justin Delaney	NCDOT
BOBBY LEWIS	NCDOT
Tim Little	NCDOT
Greer Beaty	NCDOT
John Easterling	KTS
Madeline Hurley	NCOSA

Principal Clerk ____
Reading Clerk ____

Updated #1: Room Changed to 643 LOB

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 27, 2020	12:00 PM	643 LOB

Presentations from the Board of Transportation and the Department of Transportation in response to the performance audit conducted by the State Auditor.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 27, 2020	12:00 PM	1124/1224 LB

Presentations from the Board of Transportation and the Department of Transportation in response to the performance audit conducted by the State Auditor.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Transportation Committee

May 27, 2020
12:00PM
Legislative Office Building, Room 643

AGENDA

Call to Order – Senator Tom McInnis, Presiding Chair
Senator Jim Davis, Chair

Welcome and Opening Remarks

Introduction of Sergeant-At-Arms

Presentations – Response to State Auditor's Performance Audit of the Department of Transportation

1. Michael S. Fox, Chairman, North Carolina Board of Transportation

2. Eric Boyette, Secretary of Transportation, North Carolina Department of Transportation

Committee Discussion

Adjournment

Senate Committee on Transportation
Wednesday, May 27, 2020 at 12:00 PM
Room 643 of the Legislative Office Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on May 27, 2020 in Room 643 of the Legislative Office Building. There were sixteen members present.

Senator Tom McInnis, Chair, presided.

Senator McInnis welcomed everyone and introduced the Sergeant-At-Arms. He reminded the committee the goal of these meetings is to develop a bipartisan plan to add oversight to DOT and to assist the Department in its spend plan and its cash budgeting. The recent audit report, discussions and news articles have told us why DOT is in this situation.

Senator McInnis recognized Howard Marsilio, Legislative Analysis Division, for an overview of Senate Bill 356 as it relates to the major disaster concerns and the money that was allocated from that bill for major disaster. He made the following points:

S.L. 2019-251 (S356) (November 18, 2019):
- Created the Transportation Emergency Reserve as a special fund within the Department for use in federally declared major disasters under the Stafford Act and not for snow and ice removal or non-declared emergency operations:
- Authorized DOT, in coordination with OSBM, to make department wide budget adjustments (except salaries) to pay for unanticipated snow and ice removal and emergencies expenditures.
- Directed DOT in consultation with OSBM to revise its base budget to increase the amount of funds available for snow and ice removal and emergency expenditures.

S.L. 2020-3 (S704, Sec. 4.9) (effective May 4, 2020):
- Directs the Department to not transfer to the Reserve statute for fiscal year 2020-2021.

Senator McInnis recognized Co-Chair of Transportation, Senator Jim Davis to correct a statement made in error that the DOT was one of only 20 states to use Advance Construction when in reality, just about every state uses Advance Construction. He stated he was confusing it with Garvey bonds. There are about 20 states that use Garvey bonds, and he wanted to make that correction for the record.

Senator McInnis recognized Michael S. Fox, Chairman of the North Carolina Board of Transportation, for a response to the State Auditor's performance audit of the Department of Transportation. He stated the Department agrees with the underlying findings of the audit, and the department is fully committed to taking additional steps necessary to address any concerns, either raised in the audit or otherwise. Chairman Fox provided a handout for the committee. See Attachment 1. In 2017 there was a cash accumulation of $2.4 billion allocated to projects that were not spent due to inability to deliver the projects for three reasons. DOT was taking too long

to get the necessary reviews required by law to obtain right-of-away acquisition and utility, relocation, etc. A second financial problem area surfaced when disaster hit in the fall of 2018 with a string of historic natural disasters in Hurricane Michael and Hurricane Florence, and snow and rock slides and mudslides that are very expensive to fix. Thirdly, was the Map Act, which the North Carolina Supreme Court ruled was an unconstitutional taking of people's property. After 2016, we had to pivot and find a way to do the right thing to try to resolve these cases. Our staff realized we didn't have the levers to slow spending down and will work with you to find the path going forward. With his experience at DOT, our new Secretary Eric Boyette is very qualified to lead us through these times.

Senator McInnis recognized the Acting Secretary of the Department of Transportation, Eric Boyette for a PowerPoint presentation. See Attachment 2. Secretary Boyette created a Financial Oversight and Improvement Director to help not only internally within the Transportation Agency, but also within our sister agencies, for transparency with Office of State Budget and Management (OSBM) and with the Treasurer's office. The year 2019 was reviewed.

Senator McInnis thanked the Honorable Beth Wood for attending. Senator McInnis then asked Fox and Boyette if they are in the process of working on the bond deal. Chairman Fox replied yes, they are able to do the initial sale of bonds. Secretary Boyette added that they are currently working with the NC Treasurer's office to have answers for questions about future sale.

Senator McInnis asked Chairman Fox if he thought that the board has the authority to properly oversee the financial management or if the board needs additional authority. Senator McInnis also asked Chairman Fox if he has any recommendations or thoughts for better external oversight of DOT. Chairman Fox answered that in the next week they are going to work on being able to provide an answer and will report back to Senator McInnis with a response, also stating his personal opinion the current statute does not provide that authority, nor directs them to do that.

Senator McInnis recognized Secretary Boyette to answer how the storms, FEMA, and other challenges are playing out, and if there will be a significant amount of money being withheld in Washington for the reimbursements. Secretary Boyette that around $200 million from FEMA is the current balance right now.

Senator McInnis recognized Co-Chair Jim Davis for questions and comments. Senator Davis directed his question to Chairman Fox, asking when they learned of the overspending and what his response was to it.

Chairman Fox stated that it was apparent to them in the fall of 2018 and spring of 2019 that they were going to have financial problems. At that time staff also advised steps to delay projects in order to continue to respond to the storm.

Senator McInnis recognized Senator Smith for comments and questions. Senator Smith stated that there is an unexpended balance of $64 million in ferry, rail, aviation, and transit. She questioned if there are measures put in place to freeze the budget while funds in reserve are being worked on to address the issue. Also, she received a call from her constituent stating that the San Souci Ferry route and Parkers Ferry route are ending, asking if this was a temporary action in addition to the freezing of the budget. Chairman Fox responded Senator Smith is seeing the cash flow over that period of time. Seeing as the cash flow is dipping down and below the cash floor, there are steps to further decrease the spend plans.

Senator McInnis recognized Senator John Alexander. Senator Alexander questioned Secretary Boyette about the surplus of land for DOT projects that were unused. Secretary Boyette stated that the excess land is being sold through a program to anyone who wants or needs it.

Senator McInnis recognized Senator Britt. Senator Britt asked Secretary Boyette if there was any effort to slow spending down by statute from the COO or anyone. Secretary Boyette stated that the spending slowed in the beginning of 2018 and continued through 2019. Employees have been furloughed, saving $6.5-$7 million currently.

Senator McInnis recognized Senator Woodard. Senator Woodard asked Secretary Boyette to explain DOT functions with the cash flow model and how that helps the department operate compared with those agencies that run through a general model. Secretary Boyette explained that they get a yearly allocation. They normally do not have capital programs. DOT makes sure that there is cash available for all of the projects that may take 3-5 years. Senator Woodard then asked for Secretary to explain Advance Construction. Secretary Boyette explained that as they have federal money for Advance Construction coming in, they can create consistent and steady work for the DOT partners in the industry. This helps DOT spread federally appointed money across the projects. Senator Woodard asked Secretary Boyette why the DOT only budgeted $50 million for natural disaster, but it has always surpassed that amount. Secretary Boyette stated that it is budgeted at $50 million because it is strictly for non-declared disasters.

Senator McInnis recognized Senator Daniel. Senator Daniel stated when looking at the McKinsey report in 2011, $50 million was adequate. He then asked Secretary Boyette why DOT did not make objections with disaster related spending; how they budget for maintenance fees and more for the storms; and how they stretch the money. Secretary Boyette replied DOT should be budgeting more and that it is a balance between declared and non-declared disasters.

Senator McInnis recognized Senator Gunn who asked if the value of the surplus mitigation credits were known and if there will be assistance in finding additional funding for the selling of

those mitigation credits. Secretary Boyette stated that staff will send those numbers to each interested member.

Senator McInnis recognized Senator Rabon for his comments. Senator Rabon stated there is historically an appropriation of $250-$300 million sitting for declared disasters that is useless to DOT. Senator Rabon believes going forward that DOT should have a cap so they can pull out of General Maintenance Reserve (GMR) for declared disasters and then be reimbursed by FEMA. Because DOT is a state department and currently in arrears to contractors and others that desperately need to be paid, Senator Rabon asked Secretary Boyette if that amount can show on the dashboard. Secretary Boyette replied the dashboard will display the amount. Senator Rabon asked Secretary Boyette a second question. What steps are being taken to assure that we can pay our bills in a timely fashion and we can keep the industry moving? Secretary Boyette answered based on the cash model shown in his diagram, since they do cross fiscal years, they actually are looking at projects and delaying project to slow their spending. They are monitoring their spending, what projects have different outlays, and if they have to pull those projects back in, they will. He noted some projects cannot be pulled back in because they could have claims filed against them.

Senator McInnis recognized Senator Carl Ford. Senator Carl Ford asked Secretary Boyette if there was an approximate amount he would need to pay. Secretary Boyette responded approximately $800 million to $1 billion. Senator Carl Ford stated the Map Act finally happened, after years of rumors, but not enough planning was being done, which needs to change. Going forward, it needs to be taken under control ASAP so it doesn't continue to affect projects in the future.

Senator McInnis recognized Senator Smith for a follow-up question for Secretary Boyette. She asked how he is cutting back on his ferry services and if there will be any furloughs. Boyette answered they are avoiding furloughs and his team has cut back on everything except for employees. Senator Smith continued by asking if there were any raises. Secretary Boyette stated there were no raises given to senior staff.

Senator McInnis recognized Senator Rabon who asked Secretary Boyette about allocating funds for declared disasters and if doing so may jeopardize federal reimbursement. Secretary Boyette replied that the issue between declared and non-declared is if FEMA would reimburse DOT.

Senator McInnis asked Secretary Boyette about the external oversight and who would Secretary Boyette recommend providing them (DOT) with oversight and assistance to maintain staying within the spend plan. Also, is there any outside agency within state government that would be beneficial to help the agency without causing wreckage? Secretary Boyette responded DOT is partnering with OSBM to ensure revisions to the dashboards are created.

Senator McInnis recognized Senator Davis for closing remarks. Senator Davis stated that no one is to blame for the Map Act. It is purely the legislature, and we do not blame anyone for Covid-19, or natural disasters. Senator Davis explained what the legislature wants is to refine the policy for DOT and make DOT more accountable and better equipped to serve the citizens of North Carolina.

Senator McInnis recognized Auditor Beth Woods for comments. Auditor Woods questioned why she has not heard from the members about accurate and reliable forecasting. Stating that one of the issues brought up in the recent audit, is preliminary engineering was $194 million over budget, which was based on the year's prior budget. Believing that preliminary engineering is project by project, overspending makes sense but it should be done in moderation while also being based on the year prior spending and not what we will be spending in years to come. Auditor Woods also pointed out that the operations and maintenance category was $578 or $576 million over spent while $246 million of it was for disaster and another $322 million was for the operations and maintenance. Again, the forecasting was based on a 10 year historical average along with seasonal spending. She stated what is needing to be fixed is the antiquated forecasting being done by DOT moving forward.

Senator McInnis recognized Ellis Powell from the Carolina Pavement Association for comments. From an industry perspective, DOT has had cash flow problems all last year. As Chairman Fox recognized earlier, those cash flow problems were them turned into problems for the industry. Mr. Powell also recognized that Covid-19 is causing expenses to outpace the revenue by great amounts. Without help from the General Assembly and federal government, DOT will have to shut down projects that are in the process of being created and worked on at this very moment.

Meeting adjourned at 1:24 PM

Presentations- Response to State Auditor's Performance Audit of the Department of Transportation

Attachment 1. Michael S. Fox, Chairman, North Carolina Board of Transportation

Attachment 2. Eric Boyette, Secretary of Transportation, North Carolina Department of Transportation

Senator Tom McInnis, Chair
Presiding

Lynn Taylor, Committee Clerk

NORTH CAROLINA
Department of Transportation

Building a Best-in-Class DOT

DRAFT AND CONFIDENTIAL – NOT FOR DISTRIBUTION
September 2019

ATTACHMENT 1

Contents for discussion today

1. **What happened** with cash reserve levels over the past decade?
2. **Why did the cash position fall** more than the forecast in FY19?
3. **What is NCDOT doing** to prevent variances going forward?
4. What **support does NCDOT need** from others going forward?

1 The strategic objectives of NCDOT include the need to reduce and right-size cash balance

Better Transportation Service for North Carolina

Our Mission: Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina.



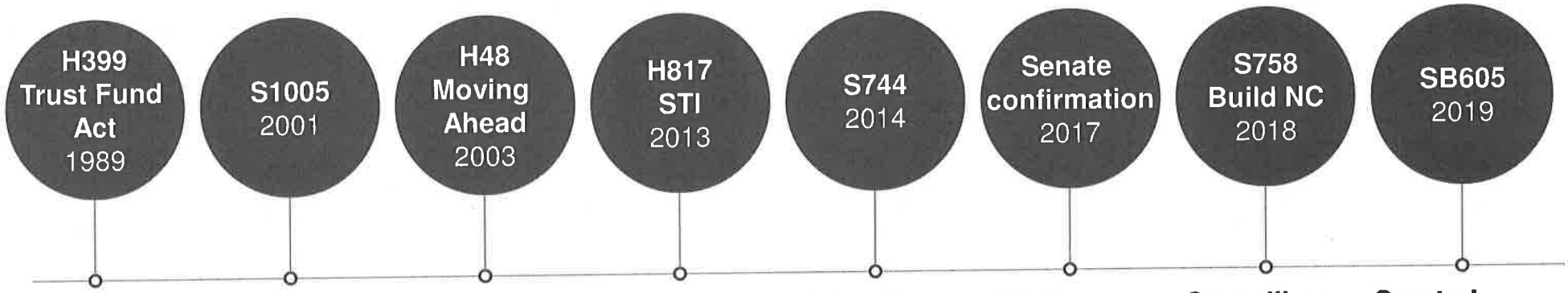
- ☑ Prioritization/Programming
- ☑ Scoping, Scheduling
- ☑ Project Development
- ☑ Procurements
- ☑ Right-of-Way
- ☑ Operations and Maintenance
- ☑ Revenue and Cash Model

1 NCDOT today operates in a more complex environment, with a smaller staff, than it did just 10 years ago

Key trends	Past NCDOT		NCDOT today		NCDOT 2030+
Larger projects[1]	▪ FY07 **Projects >$10M: 56%** of let spend	↑	▪ FY19 **Projects >$10M: 87%** of let spend	↑	▪ FY23-25: **Projects >$10M: >90%+** of let spend
More complex contracting	▪ **DB is 6 – 23%** of construction spend FY09 – FY11	↑	▪ **DB is 40%** of FY19 construction spend	↑	▪ **DB likely to increase** ▪ **Other innovative contracting likely to increase**
Shift to focus on operations	▪ FY09: **Operations expense 43%** as much as construction expense	↑	▪ FY19: **Operations expense 60%** as much as construction expense	↑	▪ Operations expense expected to **continue to rise** as share of portfolio
Greater decentralization	▪ FY15, **5% of construction spend**, 47% of projects are division led	↑	▪ FY19, **9% of construction spend**, 52% of projects are division led	↑	▪ **Divisions increase** share in construction, maintain share in operations
Declining internal workforce	▪ **~15K employees (1996)**	↓	▪ **~10K employees**	↓	▪ **Potentially fewer employees**, greater outsourcing

1 May be influenced by cost inflation factor as well

1 Different legislative actions have impacted NCDOT balance



Creates Highway Use Tax for highway capital projects

Equity more of a priority

Intended to **reduce high cash balances**

Combined two funds for cash purposes, permitted used for maint-enance

Intended to **reduce cash balances further**

Highway fund authorized to cover Trust Fund expenses

Adopted data-driven project selection

85% of projects different than prior STIP

Cash balances increase

Set cash balance target to 15 to 20% of spend

Moved floor from 5.0% to 7.5% of revenue

Cash balances peaked at $2.1B

Forecasts seemed accurate

Hurricane damage begins

Set **ceiling of $750M in cash to allow bond sales**; later changed to $1B

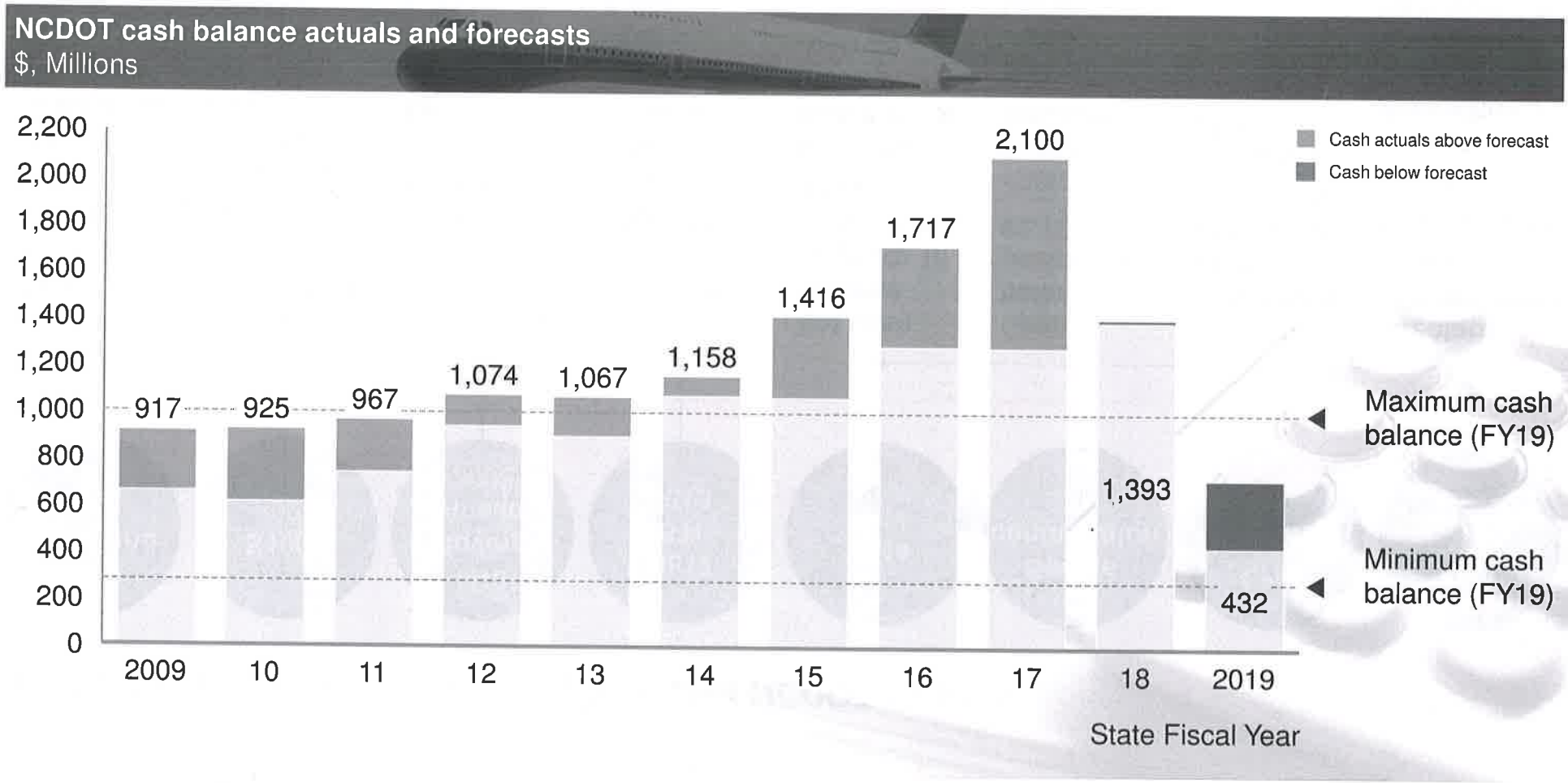
Created Disaster Relief Fund

Loan of $90M

Reimbursement of storm expenditures and $58M in accelerated repayments to NCDOT

SOURCE: NCDOT

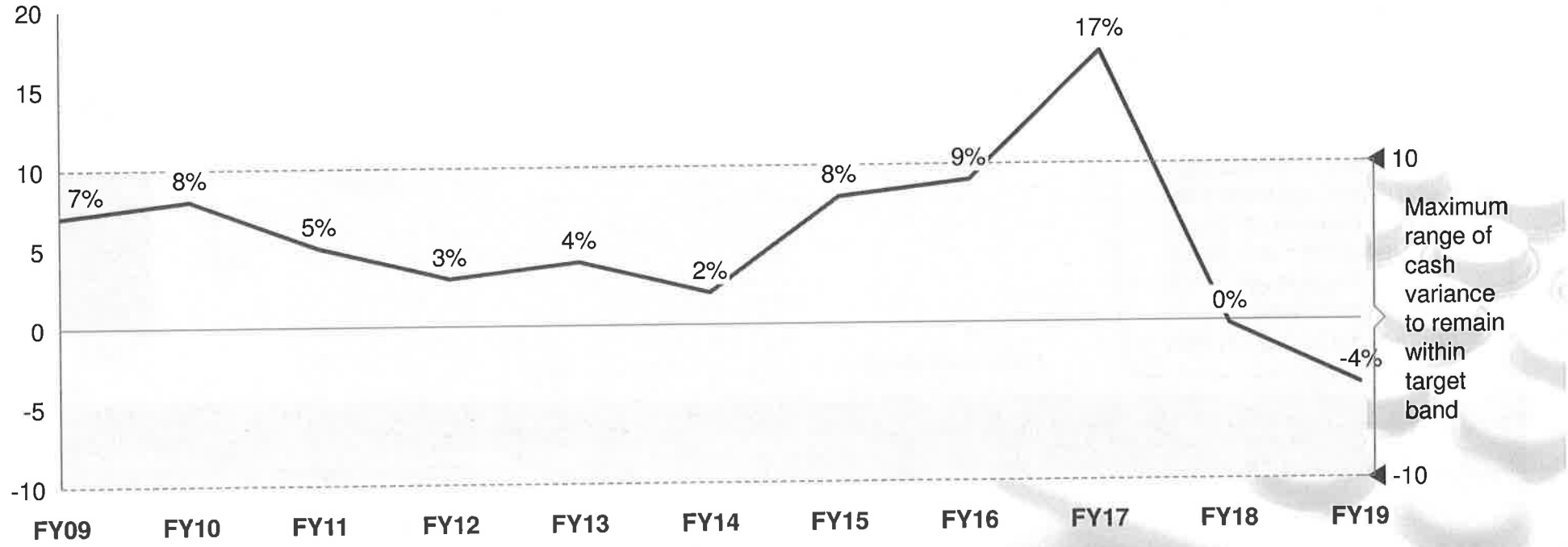
1 NCDOT cash balance actuals and forecasts (2009-2019)



1 FY19 negative cash variance was a shift versus a pattern of increasing cash variances

— Variance as % of budget

NCDOT cash balance variance from forecast, FY 2009-2019
$, Millions

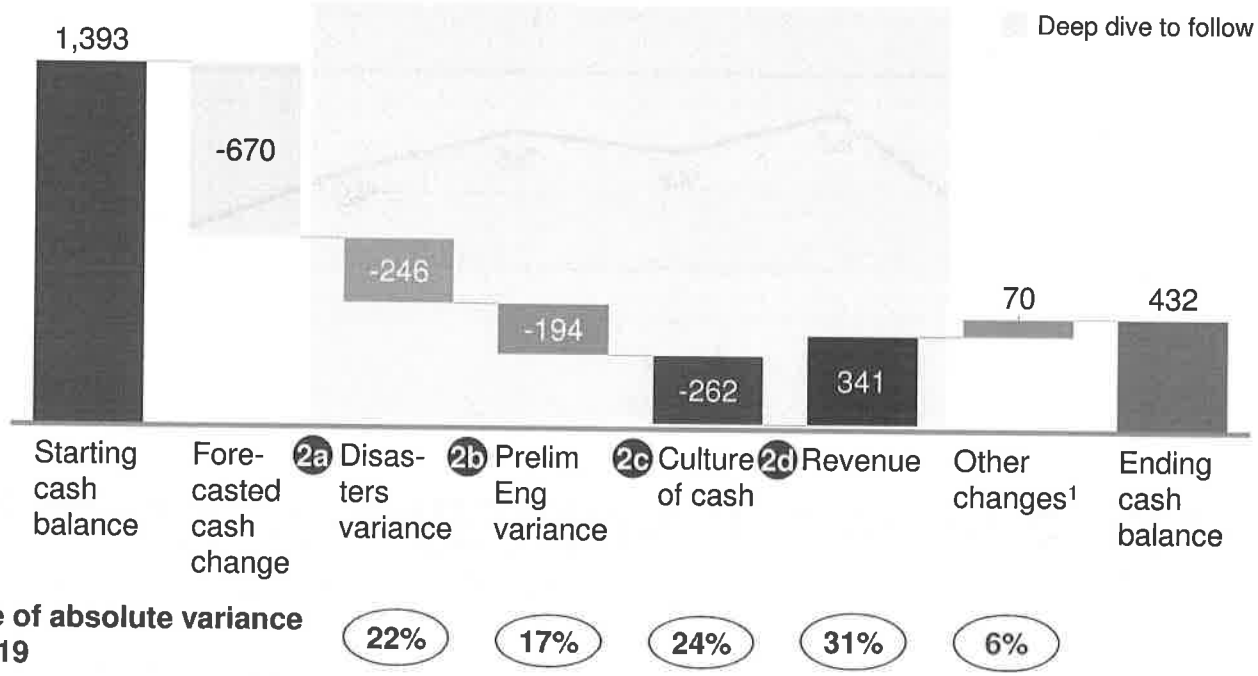


1 Includes Other Modes and Other Expenditures categories of cash model. Other expenditures includes Admin, State agency transfers, General Fund transfers, State aid to municipalities, debt service excluding GARVEE & Build NC, Other programs; Represents a precision that NCDOT has not often achieved (exceed or nearly exceed 4 of last 5 years)

SOURCE: NCDOT cash models 2014-19 as of 30 Apr 2019, "Qtr compare to baseline" tabs

2 Disasters, preliminary engineering and a weak 'culture of cash' contributed to nearly 70% of the FY19 variance

NCDOT cash balance variance from forecast, FY 2019
$, Millions



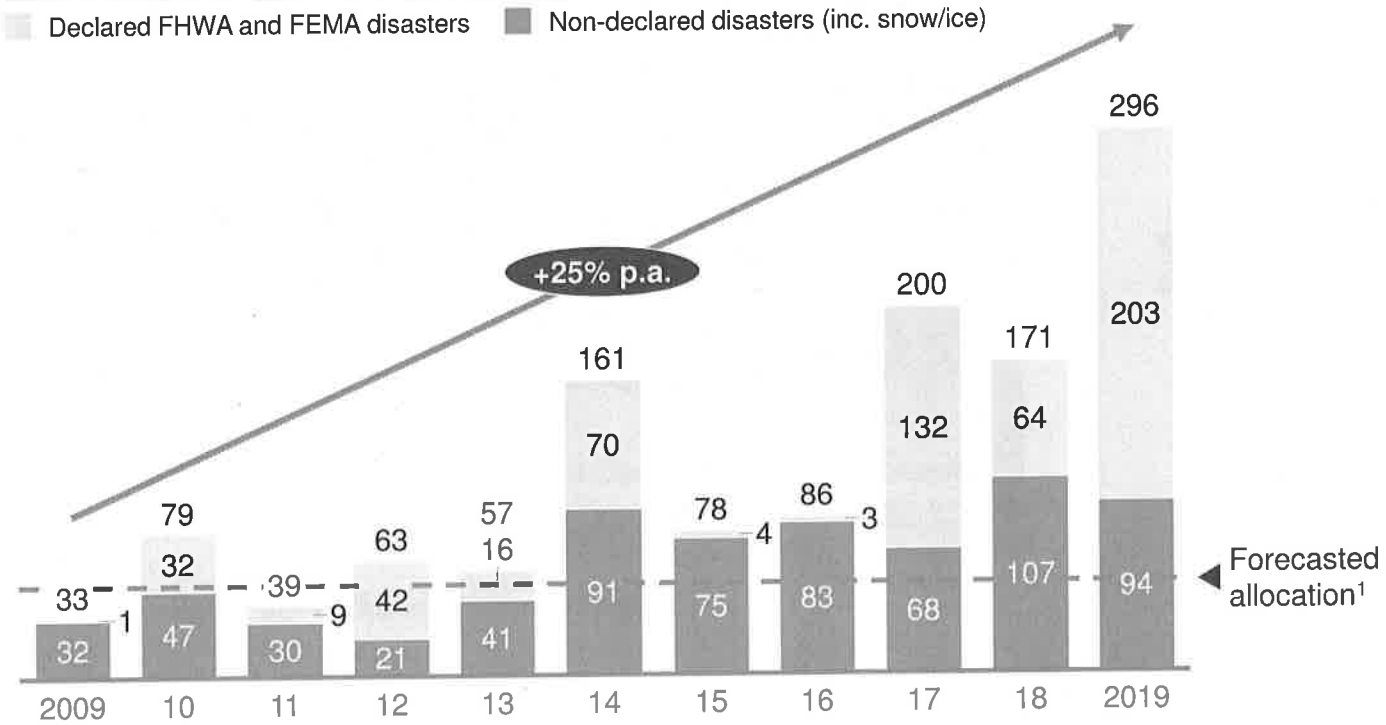
- **Nearly 70% of FY19 variance** (on an absolute basis) was due to either **disasters (22%), preliminary engineering (17%), or broader performance / governance challenges** with contractors and Divisions **(24%)**
- **Revenue has historically been relatively well-forecasted,** and experienced a positive 6% variance in FY19
- **Other expenses and working capital changes are small contributors to** absolute variance

1 Includes Working capital changes as well as other expenses including "Other modes" category of cash model as well as "Other expenditures" category (includes state agency transfers

SOURCE: NCDOT cash model FY19, "Qtr compare to baseline" tab, Historical Data_Emergency Expenditures & Reimbursement as of 5 August 2019

2a Disaster spend has consistently exceeded forecast since 2013

NCDOT spend on declared and non-declared disasters, including snow and ice, FY09-19[2]
($, Millions)



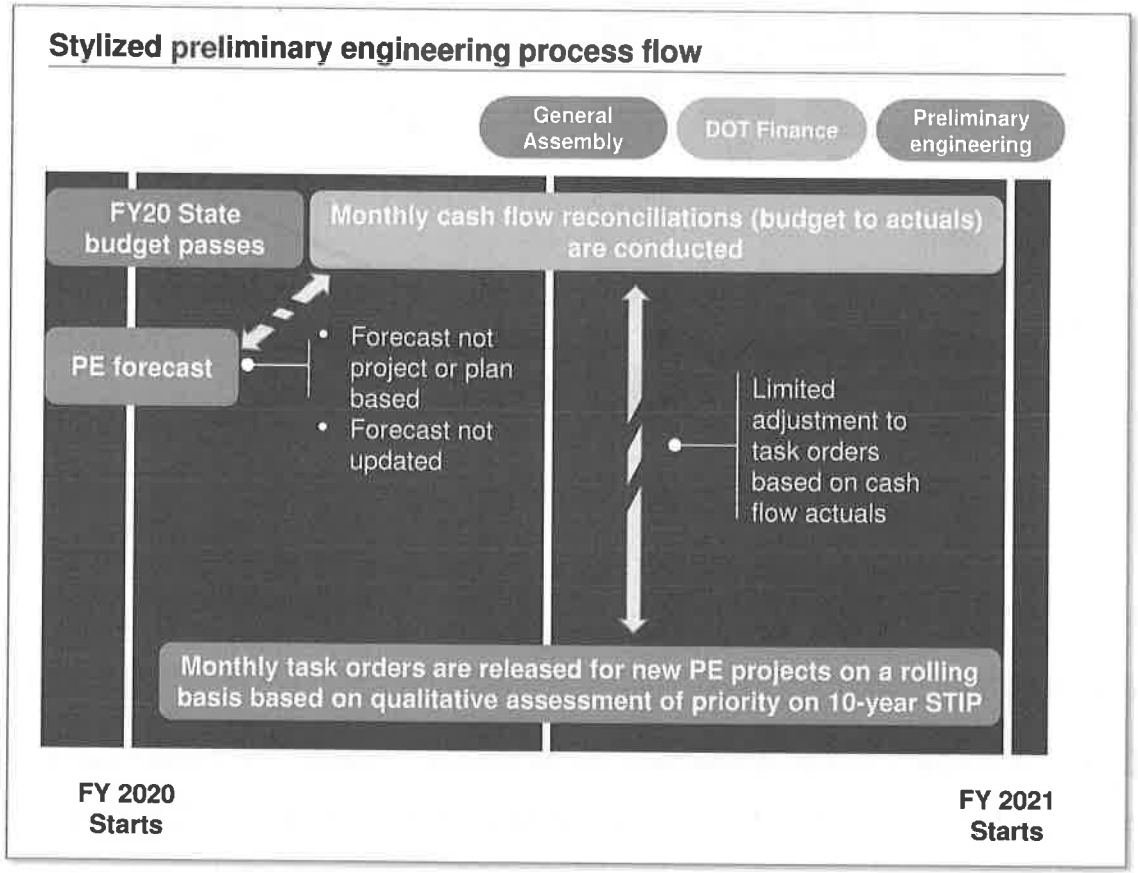
- NCDOT **disaster expense has grown at a CAGR of 25% per year since 2009** but forecasted allocations have remained constant
- While disaster spend was close to allocations from 2009-13; **large increases experienced in 2014-19**, from both declared and non-declared disasters

1 Operations budgets $10M annually for FEMA disasters and an additional few million dollars (exact amount changes annually) for enterprise non-declared disasters excluding snow and ice. This amount assumed to be $5M annually here, plus $35M budgeted for snow/ice, or $50M in total
2 Includes FHWA construction spend and non-emergency declared disasters

SOURCE: Historical Data Emergency Expenditures & Reimbursement as of 5 August 2019, NCDOT cash models 2009-2019, "Qtr compare to baseline" tabs

2b Preliminary engineering has not used robust forecasting process, nor historically prioritized its contribution to cash variance, instead focusing on building a pipeline of projects

Stylized preliminary engineering process flow



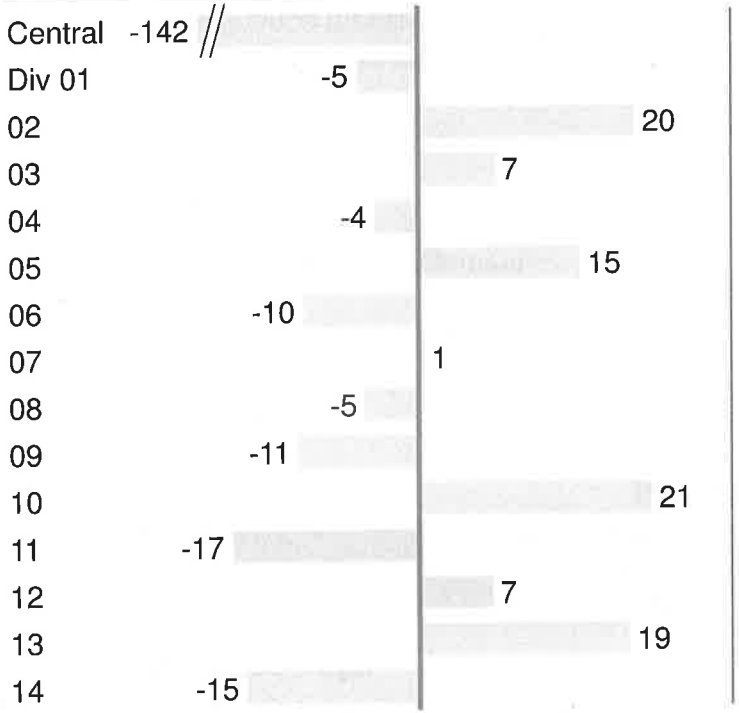
Key forecasting challenges

- **Preliminary engineering forecasting is based on prior-year budget,** rather than a project demand-based model
- PE efforts in recent years **intentionally overspent budget** to build pipeline of projects
- **Mid-year PE spending adjustments are hindered** by > 1-year task orders

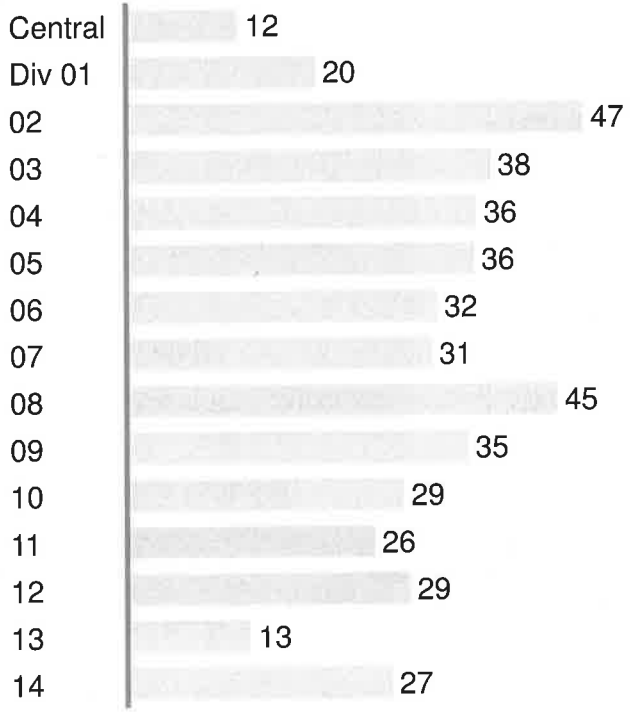
SOURCE: Interviews with NCDOT Preliminary Engineering staff leadership

2c Divisions have historically missed cash forecast; in FY19, all divisions overspent their allocation, amplifying the total operations spend variance

NCDOT operations spend variance[1] by division, FY15-17 cumulative ($, Millions)



NCDOT operations spend variance[1] from allocation[2] by division, FY19 ($, Millions)



- Before pressure to reduce cash below the cash limit, divisions varied widely on spending variance (both positive and negative variances)
- After recent pressure to reduce cash balances, divisions uniformly overspent

1 Actual minus allocation. Actual spend is derived from Ops trackers and therefore excludes local, public/private match, damages and fees and will differ slightly from cash model actuals
2 Allocations refers to the appropriated budget for the year, plus any mid-year supplemental funding that is allocated

SOURCE: NCDOT operations allocations and actuals by division by year, FY19; Dashboard modernization overview August 2019

2c Divisions have historically prioritized project delivery, and other goals, over meeting cash forecast targets

Adherence to cash forecast has not always been a top priority across NCDOT

- Every division overspent FY19 appropriations
- Current performance management practices do not support adherence to cash forecast e.g.,
  - Of 47 performance metrics, only 3 address finances
  - Divisional leadership not a part of monthly finance meetings
  - Financial leadership not a part of monthly highway division staff meetings where project delivery decisions are made

NCDOT primary metrics (subset)

1. Final Planning Document Success
2. ROW Plans Complete
3. Let Success (…)
13. Bike & Ped Crash Count (under dvmt)
14. Revenue Amount
15. Expenditure Amount
16. Cash Balance
17. MBE/WBE Utilization
18. Structurally Deficient Bridges
47. Employee Unplanned Absence Rate

From interviews with division leaders…

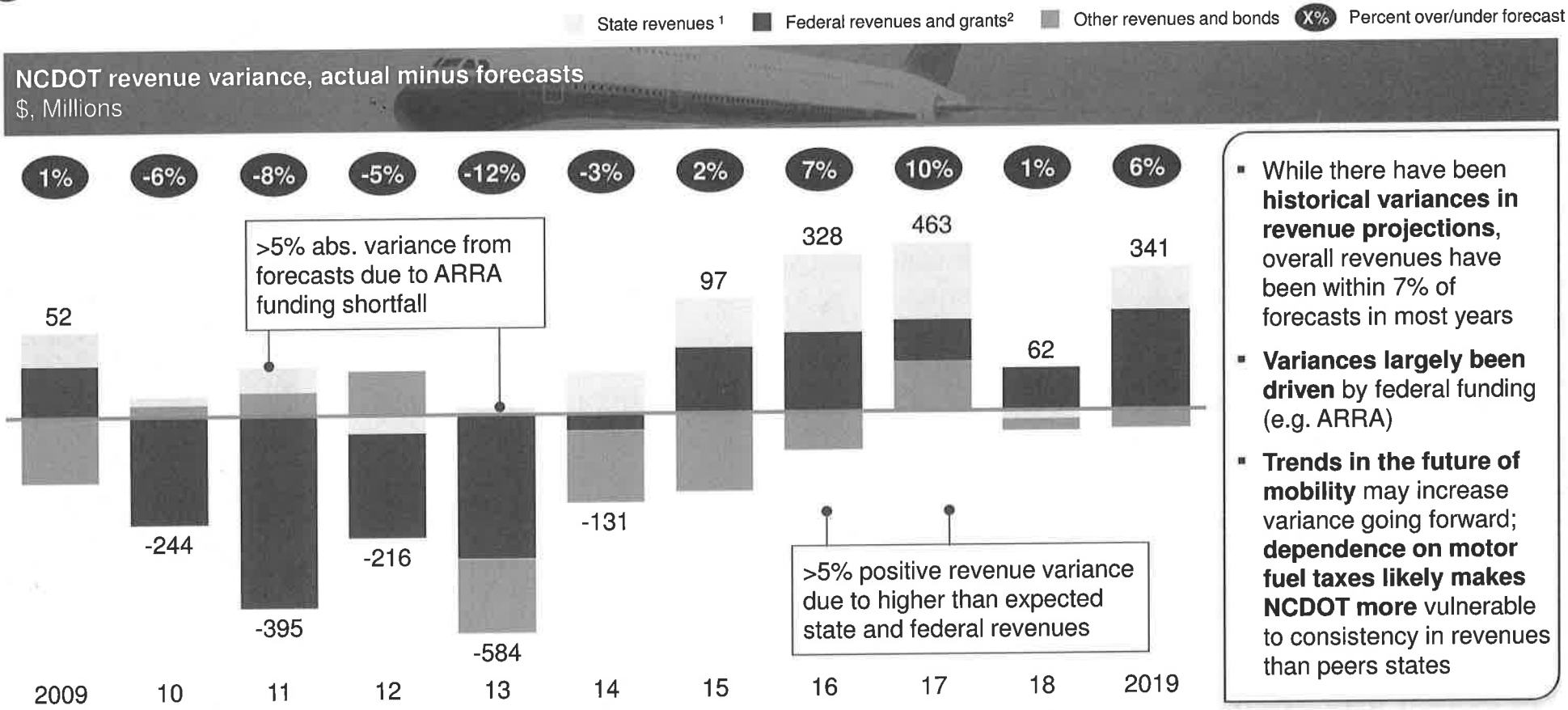
"We generally deal with what is allocated, not cash."

"In the past 2 years we had to double up on resurfacing - were behind…so this past year had to spend what we got and also spend the next year's money"

"Even though we received $56M in contracts, we're letting $100M because we were spending previous year's money. I'm not sure if this was getting translated up to cash model in aggregate."

SOURCE: NCDOT operations allocations and actuals by division by year, FY19; Dashboard modernization overview June 2019

2d Revenue forecasting variance is typically less than 7%, and often much smaller



- While there have been **historical variances in revenue projections**, overall revenues have been within 7% of forecasts in most years
- **Variances largely been driven** by federal funding (e.g. ARRA)
- **Trends in the future of mobility** may increase variance going forward; **dependence on motor fuel taxes likely makes NCDOT more** vulnerable to consistency in revenues than peers states

1 Includes all state revenues from motor fuel tax, highway use tax, and DMV fees
2 Includes Turnpike, InfraGrant, ARRA

SOURCE: Certified Budget Revenues, NCDOT Cash Flow Model

3 NCDOT challenges will likely increase in the future given more complex work and leaner staff

Key trends	Past NCDOT	NCDOT today	NCDOT 2030+
Larger projects[1]	▪ FY07 **Projects >$10M: 56%** of let spend	▪ FY19 **Projects >$10M: 87%** of let spend	▪ FY23-25: **Projects >$10M: >90%+** of let spend
More complex contracting	▪ **DB is 6 – 23%** of construction spend FY09 – FY11	▪ **DB is 40%** of FY19 construction spend	▪ **DB likely to increase** ▪ **Other innovative contracting likely to increase**
Shift to focus on operations	▪ FY09: **Operations expense 43%** as much as construction expense	▪ FY19: **Operations expense 60%** as much as construction expense	▪ Operations expense expected to **continue to rise** as share of portfolio
Greater decentralization	▪ FY15, **5% of construction spend**, 47% of projects are division led	▪ FY19, **9% of construction spend**, 52% of projects are division led	▪ **Divisions increase** share in construction, maintain share in operations
Declining internal workforce	▪ ~15K employees (1996)	▪ ~10K employees	▪ **Potentially fewer employees**, greater outsourcing

1 May be influenced by cost inflation factor as well

3 Four sets of initiatives will mitigate variances going forward

PRELIMINARY

Focus area	Initiative
Improve annual cash forecasting	Improve **financial planning coordination across the organization** (e.g. between central DOT and divisions/modes) and **apply increasing rigor into forecasting** for areas requiring more precision (e.g. snow/ice, disaster, preliminary engineering)
Contracting	Survey contracting landscape and investigate potential structures, to **develop new contracting model that increases agility** while meeting NCDOT's other objectives (e.g., value for money)
Organizational performance and governance	**Set cash KPIs**, and **cascade these throughout NCDOT**; then set governance and processes for **responding to cash overages**, as well as **consequences for areas that overspend**
Build robust data architecture and embed digital capabilities	Create a **single source of truth** around data, and **improve data governance**, to enable **real-time view of cash**, and the application of **predictive analytics**

Cross-cutting themes:

- **Improve communication** (e.g. standard cash definition, cascading comms throughout organization)
- **Increase coordination** (e.g. between divisions and central, across DOT decision-making, standardized data)
- **Embed prediction** (e.g. embed predictive abilities, make decisions in advance, advanced analytics)

SOURCE: Best practices, NCDOT leadership workshop, team analysis

4 There are a number of changes by outside parties that could help NCDOT adapt to this new environment

PRELIMINARY

Levers

Additional detail follows

Changes in legislative rules that could help alleviate cash reserve pressures could include, but are not limited to:

- **Aligning the current cash ratio with peer states by adjusting reserve requirements**
- Consolidating funding sources into one fund to facilitate cash response agility
- Establishing a working capital loan facility to mitigate unforeseen short-term cash crunches
- Excluding disaster spending from cash balance requirements, e.g., ensuring that disaster spending, including that covered by Disaster Relief Cash Flow Loan Fund, does not count against legislative mandated cash balance, or borrow out of general fund for disasters

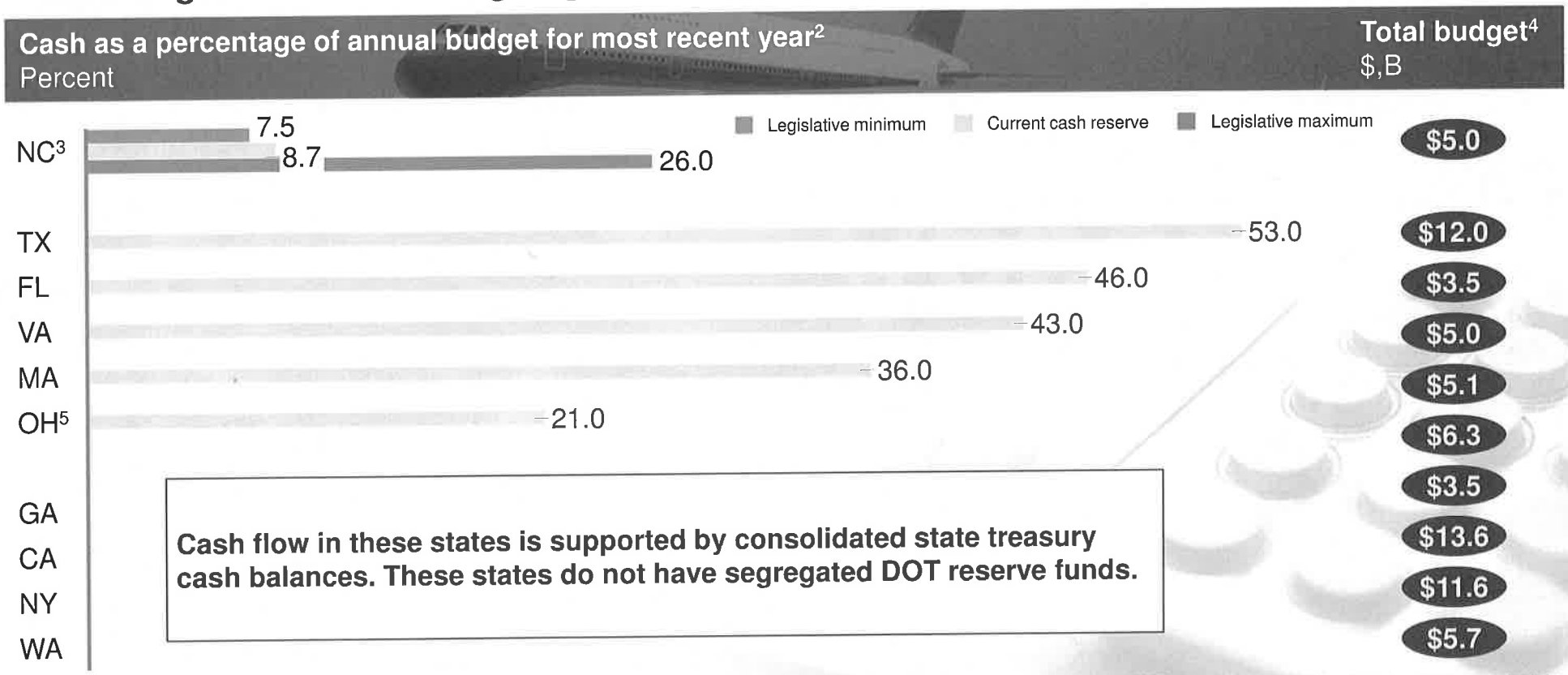
Considerations

- Working capital loans are not frequently used in peers states. However, short-term loans or short-term contract debt are more frequently used to buffer cash flow variance in design-build projects

Impact

- Shifts demands on cash flow from management practices and operations to financing mechanisms

4 NCDOT cash limit requirements are narrower than peer states[1] which will make meeting cash targets more difficult going forward



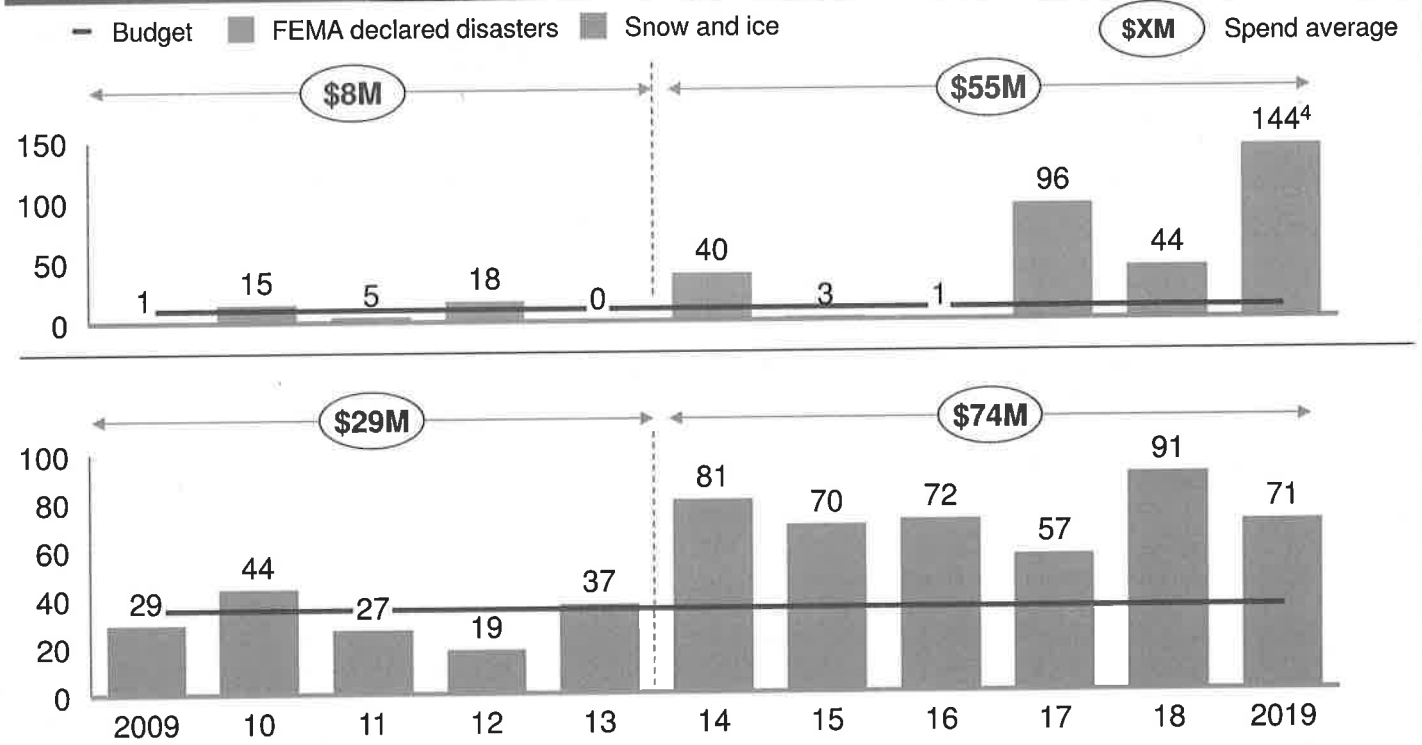
1 Peer states are other large or comparable states based on drivers of transportation needs (e.g., size, population growth, GDP growth); 2 Percentage is of state DOT appropriations; 3 NC's appropriated revenues (net federal receipts) are the basis for lower limit. The upper limit is $1 billion total cash balance–the equivalent of ~26% of appropriated state revenue not including federal revenues; 4 State DOT scopes vary (whether they include multi-modal and local roads); financial reporting approach varies by state, fund source, and accounting and reporting methodology (variations include restricted/unrestricted cash pooling and reporting of federal receipts); 5 OH: Significant tax increase under consideration to cover transportation funding liabilities

SOURCE: State DOT Annual Financial Statements and State Annual CAFR (NC is from 2019; TX, VA, OH, MA, GA, CA, NY are from 2018; FL, WA is from 2017)


Appendix

2a Beginning in 2014, spend associated with disasters exceeded budgeted amounts

NCDOT spend on declared disasters and snow and ice, FY09-19[1,2]
($, Millions)



- NCDOT disaster **spend has grown significantly since 2009**, particularly for FEMA declared disasters and snow and ice
- **Both snow/ice and hurricanes drove large increases in 2014-2019**, relative to 2009-2013
- However, **forecasted amounts for disaster spend has remained constant** despite increases in spend
- **Snow/ice spend variance, as well $5M in undeclared disaster spend, did not contribute to variance**, since other spend was lowered; **$54M in FHWA disaster spend was in construction** and did not contribute to operations variance

1 FHWA disaster expenses not included because come out of the construction budget
2 operations budgets $10M annually for FEMA disasters and an additional few million dollars (exact amount changes annually) for enterprise non-declared disasters excluding snow and ice. This amount assumed to be $5M annually here.
3 Includes FHWA declared disaster and non-emergency disaster (excluding snow and ice) 4 The $140M is from the cash model; the $136M shown here is from the disaster spending tracker

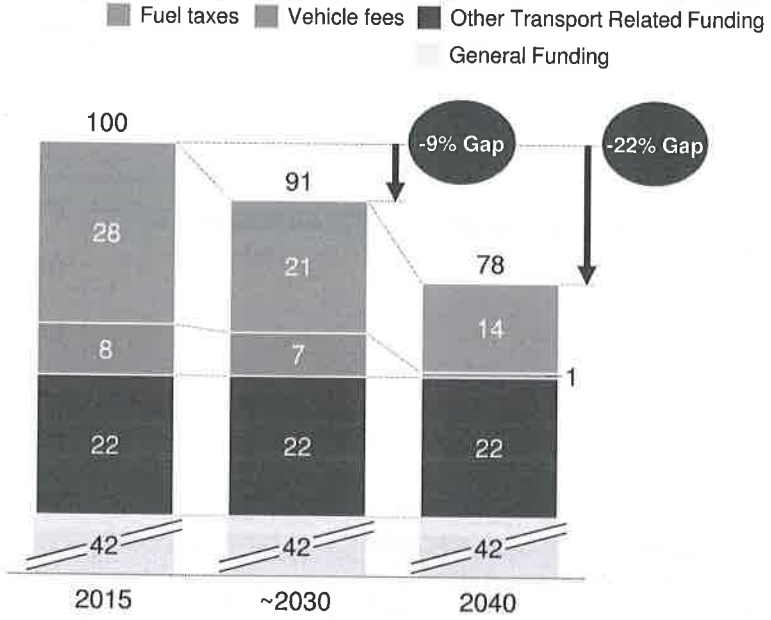
SOURCE: Historical Data_Emergency Expenditures & Reimbursement, NCDOT cash models 2009-2019, "Qtr compare to baseline" tabs

2d Trends in the future of mobility can put revenue projections at risk

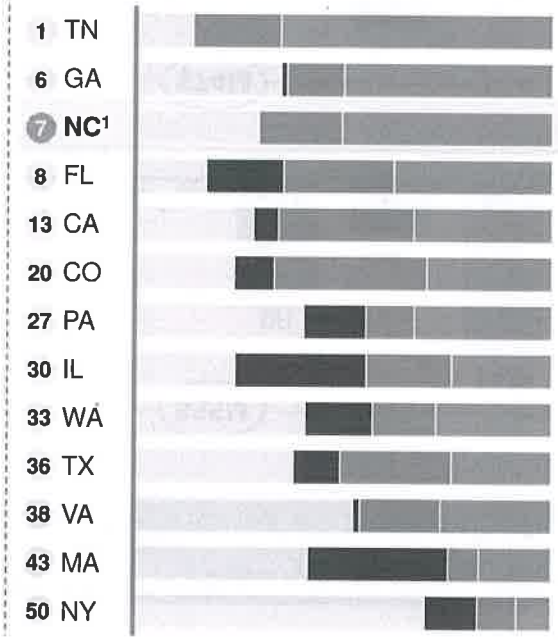
Changes in mobility will reduce funding from fuel taxes and vehicle fees

Given NC's dependence on vehicle-related revenues, future funds at risk and must tackle issue going forward

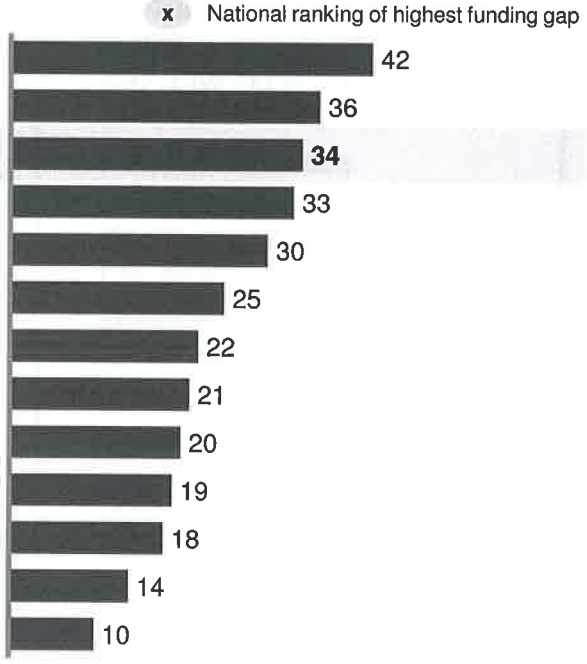
Funding for State and Local road spending across U.S., historical (2015) mixed traffic (~2030) fully autonomous world (~2040)
Portion of total road funding covered (%)



Revenue composition of road funding in 2015 by state
Portion of total road funding covered (%)



Gap in 2015-2040



1 Timing, different data sources account for a small mismatch; general funds include state/local;
2 General funding includes parking fees, investments, bonds, general funding, and other non-fuel and non-vehicle taxes at state/local/federal levels; 3 Includes tolls and property taxes;
4 Includes all motor vehicle taxes and fees; 5 Includes local, state, and federal fuel and gas taxes

SOURCE: Federal Highway Authority Revenue Tables HF1, LDF, LGF21 (2015)

3a Forecasting

PRELIMINARY

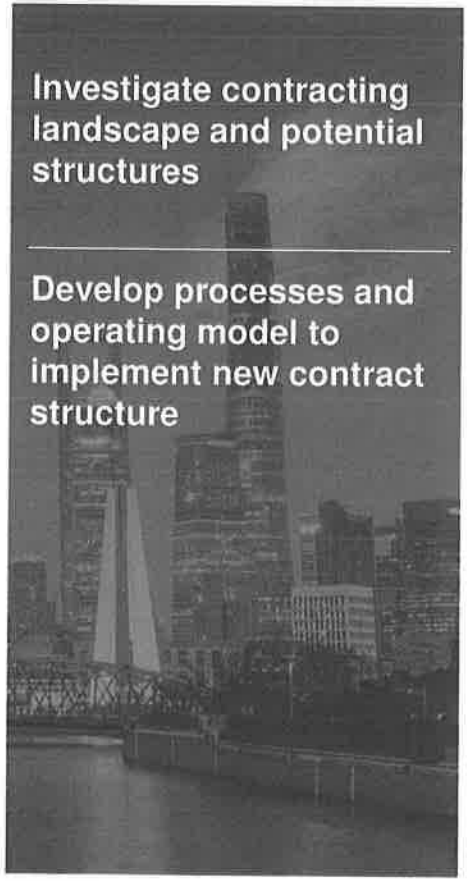
Focus area	Where we want to go	Root cause addressed
Improve coordination between division and central	▪ **Mandate spend operating plans** for divisions and modes ▪ Create **communication mechanism between divisions and central** for real time data flow (e.g. dashboard) ▪ **Established structured monthly meetings** between central and divisions/modes to coordinate and align on progress	▪ Lack of prioritization and project controls ▪ Agility of operating model
Enhance learning loop of SAS	▪ **Develop formal real-time mechanism to communicate project changes** to SAS model ▪ **Incorporate tools to flag early warning signs** for projects ▪ **Develop metrics to assess accuracy of model**	▪ Agility of operating model
Improve snow / ice and disaster forecasting	▪ **Develop budgetary plan for snow/ice and disaster spend** in line with historical data	▪ Agility of operating model
Add rigor to PE forecasting	▪ **Plan yearly PE portfolio** in advance ▪ **Conduct project level forecasts** using historical curves and build bottom-up forecasts ▪ **Improve contractor estimates** by developing internal benchmark estimates	▪ Lack of prioritization and project controls ▪ Agility of operating model

SOURCE: Best practices, NCDOT leadership workshop, team analysis

3b Contracting

PRELIMINARY

Initiative	Where we want to go	Root cause addressed
Investigate contracting landscape and potential structures	▪ **Conduct diagnostic on contracting** by examining pain points of current contracting, vendor and stakeholder landscape, and future state objectives	▪ Agility of operating model
Develop processes and operating model to implement new contract structure	▪ **Determine best-fit contract structures for objectives and develop implementation road map**, addressing critical enablers, procurement operating model, processes, and vendor management process needed to achieve objectives	▪ Agility of operating model



SOURCE: Best practices, NCDOT leadership workshop, team analysis

3c Organizational performance and governance

PRELIMINARY

Initiative	Where we want to go	Root cause addressed
Establish and prioritize cash variance-based KPIs	▪ Develop **cash-related KPIs** ▪ **Cascade and embed KPIs** into all aspects of organization ▪ **Develop incentives** to follow KPIs across	▪ Lack of prioritization and project controls
Cascade cash reporting & decisions throughout organization	▪ Develop and communicate **consistent definition for cash** ▪ **Embed cash reporting, review and decisions** across NCDOT ▪ **Establish a council** where cash decisions are made in balance with other strategic priorities ▪ **Establish an SOP for cash levers** that will be methodically evaluated ▪ Use **consistent views** of the data	▪ Lack of prioritization and project controls
Establish governance for timely cash decisions across NCDOT	▪ Shift to **shorter time periods** for cash targets (e.g. quarter vs. annual) ▪ Adjust division spend plans every **3-6 months** ▪ Embed **early warning signal tools** to predict potential shortfalls ▪ Require each division to **create contingency** – Integrate broader stakeholders into cash flow decisions – Ensure overruns have offsetting decisions in cash elsewhere	▪ Lack of prioritization and project controls ▪ Agility of operating model
Establish consequences for performance	▪ NCDOT **executive leadership intervenes** regularly ▪ Add **fiscal year budget targets and cash KPIs** to performance evaluations ▪ **Heighten executive scrutiny** of business plans for poor performers ▪ **Disallow 'borrowing'** from future year budgets	▪ Lack of prioritization and project controls

SOURCE: Best practices, NCDOT leadership workshop, team analysis

3d Data, digital, tools to enable agility and controls

PRELIMINARY

Initiative	Where we want to go	Root cause addressed
Develop diagnostic baseline on existing data	▪ **Develop data lake** to determine baseline of existing data and analytics capabilities	▪ Agility of operating model
Create single source of truth	▪ **Build a roadmap to a single source of truth** ▪ **Coordinate with the Department of IT** on digital roadmap	▪ Agility of operating model
Improve data governance	▪ **Assign clear owners to individual data elements** ▪ **Increase coordination between NCDOT IT and Finance** ▪ **Establish data governance structure based on business needs** rather than reporting requirements ▪ **Create procedures for data use and changes**	▪ Agility of operating model
Enable real-time data	▪ **Reduce lag times** between SAP and HI-CAMS ▪ **Create a clear and consistent process** on pulling data for reports ▪ Incorporate **cash forecast data into dashboard** to assess real time cash position across organization	▪ Lack of prioritization and project controls ▪ Agility of operating model
Embed predictive analytics	▪ Automate analysis of data and processes to **create 'red flags'** on key issues (e.g. contractor performance predictions) ▪ **Advanced analytics for asset disposition and other business needs** (e.g., tool to determine utility and value)	▪ Lack of prioritization and project controls ▪ Agility of operating model

SOURCE: Best practices, NCDOT leadership workshop, team analysis

NORTH CAROLINA
Department of Transportation



Senate Transportation Committee

Eric Boyette
Secretary, North Carolina Department of Transportation

May 27, 2020

ATTACHMENT 2

Comparison of NCDOT spending: GM&R stands out

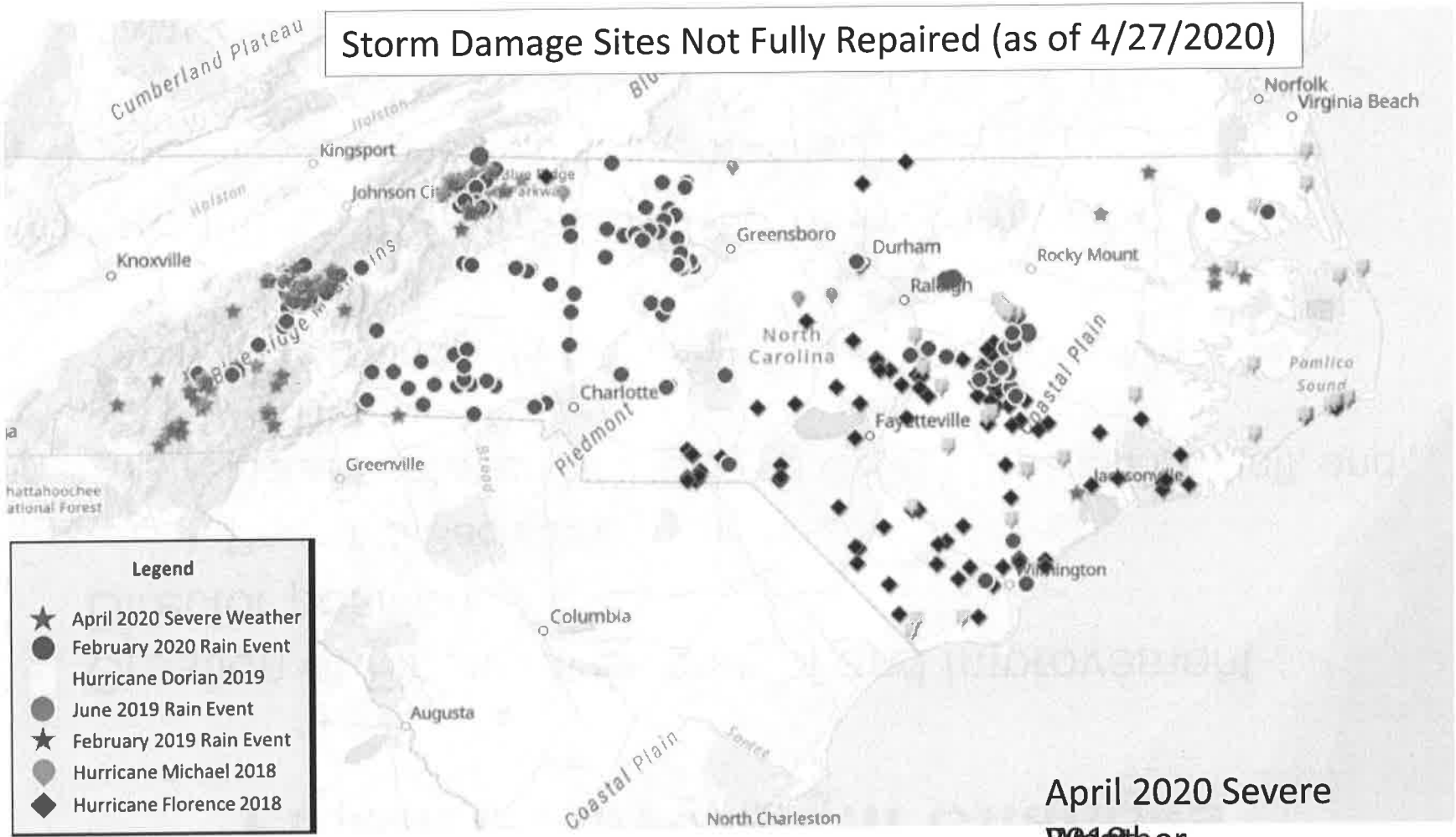
Cumulative FY 2003-2019 amounts	**Approp's**	**Expenditures**	**Unexpended Balance**
Capital Program (STIP)	$34,305m	$33,273m	+ $1,031m
Ferry, Rail, Aviation, Transit	$ 2,896m	$ 2,832m	+ $ 64m
Programmatic Maintenance	$ 8,836m	$ 8,660m	+ $ 175m
General Maintenance and Reserves	$ 9,029m	$ 9,699m	- **$ 669m**
SUBTOTAL	$55,067m	$54,465m	+ % 602m
less GARVEE debt service reserve			- $ 132m
TOTAL UNEXPENDED or CASH BALANCE			**+ $ 470m**

Note: programmatic maintenance includes contract resurfacing, pavement preservation, bridge program, bridge preservation, roadside environmental

Note: the above table doesn't include the smaller accounts (Contingency, Spot Safety, Secondary Road, etc.)

- Storm costs were **$667M** from FY17 through FY19

Storm Damage Sites Not Fully Repaired (as of 4/27/2020)



April 2020 Severe Weather

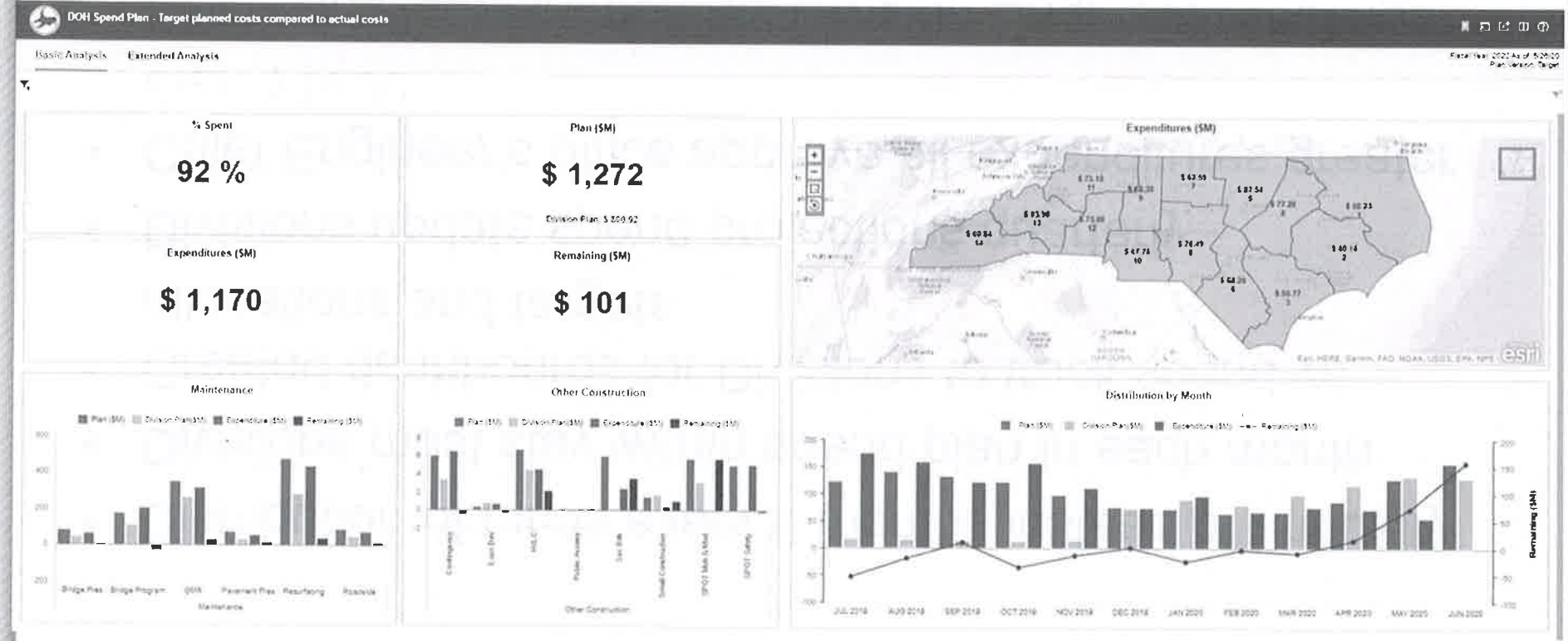
Financial Oversight Changes

- Creation of Financial Oversight and Improvement Director position
  - Report to Secretary
  - Liaison between NCDOT and OSBM, Treasurer's staff, and Auditor's staff
  - Help build budgeting capacity within the Divisions
- Strengthen the Financial Planning Committee
  - Review membership and functions
- EAWG
  - Act on FPC recommendations

Division of Highways Changes

- Distribution of funds every 6 months instead of annually
- Divisions must stay within spend plan in each month
- Created dashboards for Divisions to track spend vs. allocations and targets
- Divisions update spend projections quarterly
- Chief Engineer's office approve all expenditures greater than $1000
- CFO participate in monthly Division Engineer meetings

Overall Division Spend Dashboard



Single Division Spend Dashboard



Modal Spend Dashboard (IMD)



Response to Questions

1. Internal Audit Functions
   - Misconceptions of the role of the OIG
   - Of 21 auditor positions, only 14 filled
   - PED conducting review of OIG

2. Department Spending
   - Majority of DOH spend above budget was disasters and contract resurfacing
   - Part of remaining amount unused balance from FY2018

Questions?

Eric Boyette
Secretary
North Carolina Department of Transportation

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee

On Transportation

May 27, 2020

Room 643, LOB

12:00 PM

Senate Sergeant at Arms:

JOHN ENLOE

BILLY FRITSCHER

JIM HAMILTON

CHARLES HARPER

SHEREE HEDRICK

Speaker Sign-Up Sheet

Senate Committee On Transportation

May 27, 2020 – Room 643 L0B – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Beth Wood	State Auditor

Speaker Sign-Up Sheet

Senate Committee On Transportation

May 27, 2020 – Room 643 L0B – 12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Ellis Powell	CAPA

Senate Committee On Transportation

May 27, 2020 - Room 643 LOB –12:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Tom Fetner	FSP
James Pantington IV	Barnhill Contracting Company
Ellis Powell	CAPA
Richard Walls	WF
Tim Hiltbrunner	ACCI
BOBBY LEWIS	NCDOT
Tim Little	NC DOT
David Funk	NP
Monica Fuller	NCDOT
	ICI

Principal Clerk
Reading Clerk

Updated #1: Note Time and Room Change

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	May 28, 2020	12:00 PM	643 LOB

Presentation from the Department of State Treasurer and the office of State Budget and Management in response to the performance audit conducted by the State Auditor.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	May 28, 2020	10:00 AM	1027/1128 LB

Presentation from the Department of State Treasurer and the office of State Budget and Management in response to the performance audit conducted by the State Auditor.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Transportation Committee

May 28, 2020
12:00PM
Legislative Office Building, Room 643

AGENDA

Call to Order – Senator Jim Davis, Presiding Chair
Senator Tom McInnis, Chair

Welcome and Opening Remarks

Introduction of Sergeant-At-Arms

Presentations – Response to State Auditor's Performance Audit of the Department of Transportation

1. Dale R. Folwell, CPA, State Treasurer, North Carolina Department of State Treasurer

2. Charles Perusse, State Budget Director, North Carolina Office of State Budget and Management

Committee Discussion

Adjournment

Senate Committee on Transportation
Thursday, May 28, 2020 at 12:00 PM
Room 643 of the Legislative Office Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on May 28, 2020 in Room 643 of the Legislative Office Building. 11 members were present.

Senator Jim Davis, Chair, presided.

Senator Jim Davis welcomed everyone and introduced the Sergeant At Arms. Senator Davis stated the Committee would hear from the Department of Transportation, Beth A. Wood, State Auditor, Dale R. Folwell, CPA, and North Carolina State Treasurer, Charles Perusse, State Budget Director, North Carolina Office of State Budget and Management. Senator Davis thanked everyone for his or her participation in yesterday's meeting. Senator Davis stated, "The meeting, he felt, was productive. Today's meeting will be about the financial side."

Senator Tom McInnis was recognized. Senator McInnis offered comments by stating, "This is a monumental task to gather information in a bipartisan way to bring forth a positive effect on the DOT. Jobs are at risk. We want to continue to give people the opportunity to work. We want the safest roads to ride on, safest airways, productive ports, railways hauling the most freight. Comments are looked forward to and welcomed."

Senator Jim Davis welcomed and recognized Dale R. Folwell, CPA, and North Carolina State Treasurer to deliver comments. Mr. Folwell began by saying, "Thank you for the support of the DOT over the last 10 years." Mr. Folwell stated, "Talking points would be divided into three parts referring to yesterday, today, and tomorrow. Yesterday, we had staff writing checks that could not be cashed. We need personal control. The Statute issued by the NCGA needs to be adhered. Debt affordability study needs to be completed and data gathered. DOT needs realignment. NC bonds need to be build. Today, we need Bond issued certification. Financial issues need to be addressed. Tomorrow, we need to discuss our fiscal year budget and address recommendations: This body or the Governor's office needs to transfer the responsibility to OSBM. Let the DOT focus on the roadways but the financial portion be run by OSBM. Personnel reassignments need to be made. The last recommendation was to have the State Auditor continue the work of investigation. We need to get a transparent way of doing things."

Senator Warren Daniel asked, "Did transfers happen in 2020 that the Legislature passed in the 2019-251, SB 356?" Dale R. Folwell, CPA, and North Carolina State Treasurer, responded, "Does not feel the transfers happened." MOU and Statute was discussed. Senator Daniel then asked, "50million in transfers was supposed to happen in February 2020 and May 2020, did this happen?" Mr. Folwell stated, "This did not occur. The Department informed they did not want the money. If that is incorrect information, a follow-up will be made."

Senator Joyce Waddell asked, "Looking at the recommendation, is there a date when OSB transfers were to start?" Dale R. Folwell, CPA, and North Carolina State Treasurer, replied, "No

certain date was set for this to occur. It was under the direction of the General Assembly when the DOT Secretary was asked to resign and OSB be transferred from DOT to another Governor's Cabinet Agency." Senator Waddell asked, "Was any Staff Development to be put in place to help Staff?" Mr. Folwell said, "That question would best be asked to Charles Perusse." Senator Waddell then asked, "Will Staff from the entire department be transferred?" Mr. Folwell answered, "That will be the responsibility of the Cooper Administration. DOT needs to focus on building and repairing roads and let OSB deal with the budget, scheduling, and tax flow."

Senator Tom McInnis asked, "Under the Internal Audit, 24 FTE's and 14 filled auditors, how many filled? Is it not strange that this produced no internal audits?" Dale R. Folwell, CPA, and North Carolina State Treasurer explained, "It is strange. It is hard to attract qualified auditors to state government. The Auditors there should be producing reports." Senator McInnis then asked, "CFO did not report to Secretary of Transportation. Is that not standard practice to report to highest-level official in that unit? Mr. Folwell agreed. Senator McInnis inquired, "Bonds were added to 400million total. Is it committed inside DOT or fresh money?" Mr. Folwell explained, "Not able to verify." Lastly, Senator McInnis offered a final question on the subject, "You do not have the necessary information to provide documentation to sell the bonds to get the money to DOT, correct?" Mr. Folwell, replied, "To the comfort level of the disclosure counsel to who has to sign off on. We issue bonds every week and are accustomed to doing so with hardly any controversy."

Senator Erica Smith asked, "Is it your recommendation on budget to transfer to OSBM? Dale R. Folwell, CPA, and North Carolina State Treasurer, answered, "Yes." Senator Smith asked, "Has a preliminary analysis been completed or do they anticipate a transfer unit? Mr. Folwell replied, "The later." Senator Smith then asked, "Have you had analytical discussions with Mr. Charles Perusse? Is there a timeframe for which this should occur?" Mr. Folwell said, "Quickly. The earlier the better so we can get controls in place." Senator Smith asked, "Will Eric Boyette's proposal capability of the Dashboard provided from yesterday transfer over?" Mr. Folwell answered, "Yesterday was the first time he had heard mention of the Dashboard.. Dashboards are very important and need to be right." Senator Smith asked, "Have you had any discussion on the unit transfer and when do you anticipate the transfer? How many employees will the transfer over entail?" Mr. Folwell replied, "This has been suggested. All of them."

Senator Michael Garrett asked Dale R. Folwell, CPA, and North Carolina State Treasurer, "Have any agencies issued a watch notice on our rating? Mr. Folwell responded, "Moody Report states could be a reason to be credit watch negative. Not accustomed to that language." Senator Garrett asked, "Is that an official watch notice or commentary?" Mr. Folwell responded by saying, "Commentary. "Senator Garrett followed up by asking, "Is the rating for the state as a whole or constrained to DOT?" Mr. Folwell answered, "State as a whole."

Senator Kirk deViere asked, "Will the financial operations move to OSBM. Dale R. Folwell, CPA, and North Carolina State Treasurer, said, "Yes." Senator deViere asked are there any other organizations within our state government that operate that way?" Mr. Folwell responded, "Not that he is aware of. But, can't think of any organization as broken in this way as DOT." Senator deViere commented, "Organizational fixes are on systems or leadership."

Department of Transportation, Beth A. Wood, State Auditor, was recognized and offered the following thoughts. Moving Financial Operations to have separate duties and not all in one place by following what other agencies do. Discussion was had on OSBM. OSBM would have a certified budget not a spend plan. In the audit, what OSBM said was what is needed. It is difficult to get good Internal Auditors. Concern mounts because there has been no Internal Audit report since 2016. There are 21 positions: 14 are filled, three Internal Auditors, and no Performance Auditors. This situation needs to be looked at for what the Agency needs and staff it that way.

Charles Perusse, State Budget Director, North Carolina Office of State Budget and Management, Offered a slide show presentation. (See attachment one)

Senator Erica Smith asked Charles Perusse, State Budget Director, North Carolina Office of State Budget and Management, "Concerning the last recommendation regarding Dale R. Folwell's, CPA, and North Carolina State Treasurer's, statement on the entire unit of employees moving can you offer some clarity on the recommendation? There appears to be some conflict." Mr. Perusse stated, "Does not believe Mr. Folwell's solution is best." Senator Smith asked, "Has there been any discussion with the State Auditor on the best way to schedule budget and finance?" Mr. Perusse said, "Department of Transportation, State Auditor, Beth A. Wood's Press Release was read. His department is trying to look forward to be a part of the solution. It is best to use a systemic approach going forward. This is an opportunity for success." Senator Smith inquired, "There is a big concern on funding. What will happen and what is your opinion of furloughs, unemployed contractors, unfinished projects? What will be the impact? Are the recommendations in finding funding?" Mr. Perusse stated, "They are working together on the Covid Response package. 300million additional monies are going to the DOT to keep DOT projects going until June 30 and the early part of next fiscal year. Waiting on Federal Treasury or Congress to act."

Senator Warren Daniel asked, "Was there a time in 2019 when OSBM raised a red flag as to DOT and Conversation had on DOT's spending? Charles Perusse, State Budget Director, North Carolina Office of State Budget and Management, responded, "Yes, Hurricanes working back from 2018." Senator Daniel, stated he understands natural disaster. Then, Senator Daniel asked, "At what point was discussion had on the continued deficit?" Mr. Perusse replied, "There were ongoing conversations on continued and existing projects. Work began with them on allotments and management expenditures move closely to 12- 18 months."

Senator John Alexander asked, "Where are the short and long term fixes to the budget? Who will be watching the DOT's bad spending habits?" Charles Perusse, State Budget Director, North Carolina Office of State Budget and Management, responded by stating, "This is a collaborative effort. Districts will watch monthly expenditures. Data is there to better control spending."

Senator Tom McInnnis asked, "Can we talk more about the percentage to create different outcome? Charles Perusse, State Budget Director, North Carolina Office of State Budget and Management, responded with, "Flexibility to obligate future revenue in multi-year projects. Discussion to lessen and provide more flexibility on systemic change. We hope to work with

Transportation Committee going forward." Senator McInnis added, "In a bid for the Bond, is 400million obligated or could be used?" Mr. Perusse answered, "It is obligated for cash solution." Senator McInnis stated, "It was brought to our attention that the CFO does not report to DOT according to standards. Do you find that strange in the chain of management?" Mr. Perusse responded, "No. 80% of agencies probably work this way." Senator McInnis added, "In response to your previous statement of the General Assembly requiring the DOT to quickly use funds; they certainly did not listen to the orders provided by the Senate Transportation Committee."

Senator Joyce Waddell asked, "Does it seem there are more opportunities for finances and solution with 300million coming to help bail out the DOT? Mr. Perusse answered, "Yes. Hope so." Chairman Jim Davis, added, "The 300million will be dependent upon federal regulations being changed. That money is hoped for, not a done deal." Mr. Perusse said, "To help through June 30, Short Session as help to get through this difficult time. 2021 will need systemic changes." Senator Waddell asked, "From the solutions given, when the bottom line is looked at the DOT was following advice from the General Assembly's legislation. From there can the budgetary restraints be met? Senator Jim Davis replied to Senator Waddell's question by stating, "The DOT did not overspend their budget at the direction of the General Assembly." Mr. Perusse said. "We are all in this together."

Seeing there were no further questions, Senator Jim Davis recognized Department of Transportation, Beth A. Wood, State Auditor for comments. Ms. Wood stated, "In November 2018 Dot was made aware but nobody did anything to slow down spending. Looking forward the DOT needs sustainability. As the committee moves forward there needs to be sustainability, policy and procedure changes, fixes to the leadership so this does not happen again, and there needs to be awareness before this happens again.

Senator Jim Davis stated, "The Department of Transportation, State Auditor Beth A. Wood' Comments reaffirm the goal of this committee. The committee is solution oriented."

Victor Barbour, Director, NC Government Relations and Highway-Heavy Division, was recognized as a Guest. Mr. Barbour shared, "DOT is in danger due to their overspending and need more oversight. This is killing our industry and contractors."

There being no further business, Senator Jim Davis adjourned the meeting at 1:41PM.

Senator Jim Davis, Presiding Chair

Penny Jordan

Penny Jordan, Committee Clerk

Office of State Budget and Management (OSBM)

Charles Perusse
State Budget Director

Presentation to Transportation Committee
May 28, 2020

ATTACHMENT 1

Purpose

DP3

- Role of OSBM in overseeing the Department of Transportation's (DOT's) Budget

- Make recommendations on improvements and appropriate resources to ensure appropriate oversight and accountability at DOT

Slide 2

DP3 Not sure if just because it's a 1st draft, but 2nd bullet makes it sound like we want to manage DOT. Isn't it more 'to put in place governance arrangements, budgetary changes and appropriate resources to ensure appropriate oversight and accountability of DOT'?

Devenish, Paul, 05/25/2020

Performance audit highlighted five reforms in the following areas:

- Allotments
- Cash Spending Plan
- Restructure Budget Codes
- Create an Accessible Appropriated Project Reserve
- Additional Economist/Statistician at OSBM

Slide 3

MT1 roles seems like an odd term here. Are these 4 changes? then they are:
1) Develop a cash spending and allotment plan
2) Restrucutre DOT budegt codes
3) Create an accessible proejcts reserve
4) Hire an economist/ statistician to aid in cash modeling

McRee, Lanier T, 05/25/2020

DP1 Reforms? To emphasize that we haven't been able to exercise oversight in the past because of the legislation...
Devenish, Paul, 05/25/2020

MT2 accessible meaning it is appropriated and can be accessed if the need arises - do we need to clarify that?
McRee, Lanier T, 05/25/2020

DP2 Agree - we need to suggest some circumstances and under what governance arrangements or conditions it could be accessed. E.g. on production of a report detailing reasons and a recovery plan to make savings.
Devenish, Paul, 05/25/2020

MT5 I might separate these two to make the presentation easier to follow
McRee, Lanier T, 05/25/2020

MT6 Generally the switch between recommendations is hard to follow. I might insert this slide with the recommendation to be discussed highlighted...makes it longer but easier to follow. See slide 10 as example.
McRee, Lanier T, 05/25/2020

Allotments

What is an Allotment?

MT3
MT4
DP4

- An authority to expend funds
- Based the department's certified budget
- A method of cash control for the State

Slide 4

MT3 How are DOT's Different? This says what allotments are but the purpose of the slide is "different"
McRee, Lanier T, 05/25/2020

MT4 I see it in 2 slides...buries the lead!

Also, what about cash spending plan? (header) not really mentioned on this slide directly...maybe draw that out?
McRee, Lanier T, 05/25/2020

DP4 I like Slide 8 - would it be worth bringing this up front and using it to talk to the issue?
Devenish, Paul, 05/25/2020

General Fund Agency Allotments

The State Budget Act requires OSBM to:

Implement an allotment system for State Agencies

- Based on anticipated operating costs for the fiscal period within the year, as defined by OSBM

Modify, as needed, and approves allotment

- See G.S. 143C-6-3

The State Controller implements the allotment by moving cash to the Agencies' accounts

Department of Transportation Allotment

The State Budget Act requires OSBM to:

Provide DOT with Multi-Year Allotments that do not expire

- Allot DOT funds based on estimated revenues for the Fiscal Year and maximum future contracting authority
  - ✓ Maximum future contracting authority set in G.S. 143C-6-11(g)

- See G.S. 143C-6-11

Differences between State Agency and DOT Allotments

General Fund Allotments	Transportation Allotments
• Single year	• Multiple years
• Based on certified budget	• Based on certified revenue
• Do not exceed certified budget	• Exceed certified revenue based on future revenue
• Expire at end of period	• Do not expire

Recommended Changes: Allotments

OSBM recommends the following changes:

- Remove mention of allotments in G.S. 143C-6-11(h) and allow OSBM to allot funds to DOT based on certified operating expenditures

- Would not prohibit DOT from engaging in projects whose expenditures span multiple years

Cash Spending Plan

- North Carolina operates under a biennial budget and appropriates funds for two fiscal years
- DOT appropriations follow other State Agencies
- However, the General Assembly authorizes and certifies additional revenues for four years beyond the biennium to DOT

Recommended Changes: Cash Spending Plan

- Include projected expenditures forecast in Governor's Recommended Budget and the budget passed by the General Assembly

- Budget expenditures by type so they can be reduced if forecasted revenues do not materialize

- Keep some obligation limits

MT7

Restructure Department Budget Codes

- Agencies operate out of distinct budget codes that align with how the funds are collected and expended

- Generally agencies have numerous budget codes which typically are:
  - ✓ General
  - ✓ Special
  - ✓ Federal
  - ✓ Capital
  - ✓ Trust
  - ✓ Enterprise

Slide 11

MT7 too detailed? how long is this presentation supposed to be? Could just be words...
McRee, Lanier T, 05/25/2020

Restructure Department Budget Codes

DP5

The Department of Transportation collects revenue and expends funds out of two budget codes:

- Combines operating, maintenance, and highway construction capital expenditures all in one place
- Limits ability to oversee fund budget and expenditures

Slide 12

DP5 Appreciate this is a 1st draft - might want to reframe this as 'x, y and z are combined in a single code. A side effect of operating in this way is to reduce transparancy and accountability'

Devenish, Paul, 05/25/2020

Recommended Change: Budget Codes

Realign budget codes as follows:

- Collect revenues in one special fund or federal fund, depending on source

- Transfer from revenue funds to other budget codes for Department expenditures:
  - ✓Departmental operations, including divisions
  - ✓Transfers to non-Department entities
  - ✓Maintenance
  - ✓Multi-year construction contracts

Accessible Project Reserve

- DOT must maintain a reserve of cash in the Highway Fund and Trust Fund of 7.5% of budgeted annual expenditures to continue letting projects

- S.L. 2019-251 created a new Emergency Reserve to respond to declared disasters

- There is no general reserve for unforeseen losses in revenue or unanticipated project costs

Options for Consideration

- Flexibility on 7.5% reserve

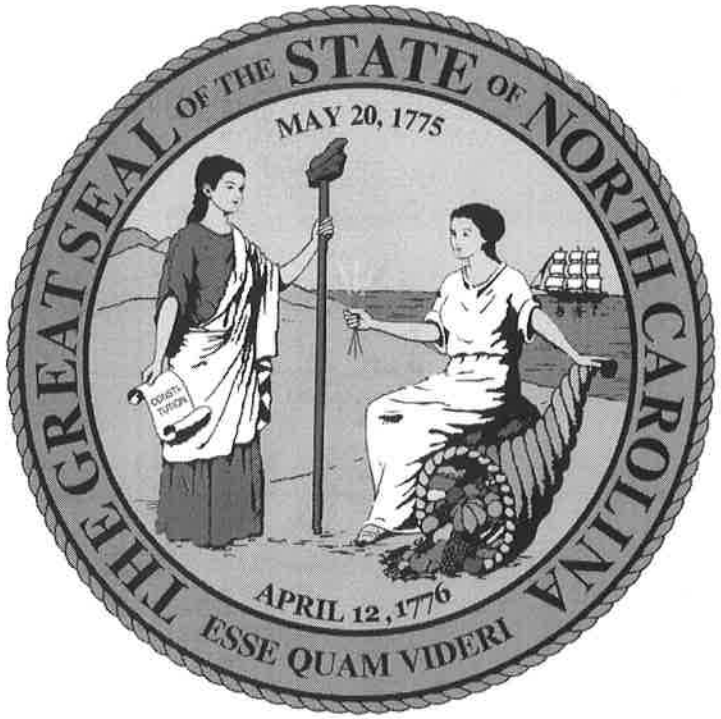
- Consider holding back portion of estimated revenues for contingencies

Additional Staff Economist/Statistician

- DOT revenues and expenditures are complex and differ significantly from the General Fund
- OSBM currently does not have a dedicated economist/statistician to monitor and forecast revenues and expenditures
- Hire new position that is dedicated to this effort (similar to what was done for Medicaid in 2015)

Current OSBM Strategies

- Track DOT's cash balance on a weekly basis
- Track DOT's cash flow and future-year revenues to ensure that they are within their Statutory Limits
- Meet with DOT on a weekly basis to discuss potential issues, including:
  - ✓Cash balance
  - ✓Accounts payable
  - ✓COVID-19 expenditures and revenue losses
  - ✓DOT financial dashboards
  - ✓Budget management plans



North Carolina Office of State Budget and Management
Charles Perusse, State Budget Director
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NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Transportation, Senate Committee

May 28, 2020 12:00 PM Rm. 643

Senate Sergeant-at-Arms

Billy Fritscher

Sheree Hedrick

Dwight Green

Frank Urben

Jim Hamilton

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Visitors Sign-in

Transportation, Senate Committee

10/28/2020

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY / BILL No.
	RAMC. LPAs. ARMA
	RAMC
Susan Vick	Fetzer + Vick
Vidia Jarbett	Rep. John Jarbett
Charles Perusse	OSBM
CS Hollis	CSH
Ellis Powell	CAPA
Victor Barbour	Carolinas AGC
David Ferrell	NP

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Speaker Sign-in

Transportation, Senate Committee

10/28/2020

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY / BILL No.
Charles Perusse	OSBM
Victor Barbour	Carolinas AGC

Principal Clerk
Reading Clerk

Updated #1: HB 158 Added

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 3, 2020	12:00 PM	1124/1224 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 843	Waive Road Test/DMV Expand Office Hours.	Senator Brown Senator McInnis Senator Perry
HB 158	DOT Reporting Changes.-AB	Representative Presnell

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Principal Clerk ____
Reading Clerk ____

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Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, June 3, 2020, 12:00 PM
1124/1224 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 843	Waive Road Test/DMV Expand Office Hours.	Senator Brown Senator McInnis Senator Perry
HB 158	DOT Reporting Changes.-AB	Representative Presnell

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

TRANSPORTATION COMMITTEE REPORT
Senator J. Davis, Co-Chair
Senator McInnis, Co-Chair

Wednesday, June 03, 2020

Senator McInnis,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **158** **(CS#1)** DOT Reporting Changes.-AB

Draft Number:	H158-PCS30594-SU-52
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Tom McInnis will handle HB 158



Senate Committee on Transportation
Wednesday, June 3, 2020 at 12:00 PM
Room 1124/1224 of the Legislative Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on June 3, 2020 in Room 1124/1224 of the Legislative Building. Senators Jim Davis, Tom McInnis, John Alexander, Deanna Ballard, Danny Britt, Kirk DeViere, Carl Ford, Michael Garrett, Rick Gunn, Joyce Waddell and Michael Woodard were present.

Senator Tom McInnis, Chair, presided.

Senator McInnis welcomed everyone and introduced the Sergeant-At-Arms.

HB 158 DOT Reporting Changes.-AB (Representative Presnell)

Senator McInnis stated HB 158 DOT Reporting Changes was added to the agenda. Section 2 would be removed from SB 843 Waive Road Test/DMV Expand Office Hours and will move forward to amend HB 158 with Section 1 of SB 843.

SB 843 Waive Road Test/DMV Expand Office Hours. (Senators Brown, McInnis, Perry)
Senator McInnis recognized Senator Perry to present SB 843. Without objection, Senator McInnis then moved to displace SB 843.

Senator McInnis relinquished the Chair to Senator Jim Davis. Senator Davis then recognized Senator McInnis to bring forth an amendment taking Section 1 of SB 843 and add it to HB 158.

Senator Davis recognized Senator Alexander who asked if it would do away with the rest of HB 158. Senator Davis confirmed it would.

Senator Davis recognized Senator Woodard for a favorable motion of the amendment. It was unanimous.

Senator Davis then relinquished the Chair back to Senator McInnis. HB 158 was taken up by the committee as amended.

Being no further discussion, Senator McInnis recognized Senator Gunn for a favorable report to HB 158 as amended and rolled into a new PCS. The vote was unanimous.

The meeting adjourned at 12:09 PM.

Senator Tom McInnis, Chair
Presiding

Lynn Taylor, Committee Clerk

SENATE BILL 843:
Waive Road Test/DMV Expand Office Hours.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 3, 2020
Introduced by:	Sens. Brown, McInnis, Perry	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 843 would waive the road test requirement to obtain a Level 2 limited provisional license. It would also appropriate funds to the Division of Motor Vehicles to expand operating hours at certain Division offices to accommodate increased demands following pandemic-related closures.

CURRENT LAW AND BACKGROUND: Under the graduated drivers license statute (G.S. 20-11), there are three levels of driving privileges for persons less than 18 years of age: Level 1 – limited learner's permit; Level 2 – limited provisional license; and Level 3 – full provisional license. (See the chart on page 2 for detailed requirements and restrictions for each level.)

The Division of Motor Vehicles has general statutory authority in issuing drivers licenses to administer tests, including road tests, in order to examine an applicant's physical and mental ability. However, it is a specific statutory requirement under the graduated drivers licensing provisions that an applicant pass a road test administered by the Division in order to obtain a Level 2 limited provisional license.

On March 18, 2020, the Division closed many offices and limited services, including suspension of road tests, due to the COVID-19 crisis. About 65 offices remain closed, and road tests are not currently being offered, except for commercial drivers licensing and medical reassessments.

BILL ANALYSIS: Senate Bill 843 would require the Division to waive the requirement that an applicant for a Level 2 limited provisional license pass a road test to obtain the license if the applicant meets all other requirements. Any Level 2 limited provisional license holder who receives a waiver under the act would be required to pass a road test prior to obtaining a Level 3 full provisional license.

The bill would also appropriate $200,000 from the Highway Fund to the Division for a pilot program to expand operating hours at high-volume Division offices to accommodate increased demands resulting from COVID-related closures and delays.

EFFECTIVE DATE: The road test waiver provision would be effective when the bill becomes law and would expire on the date the Division resumes administering road tests. The appropriation would be effective July 1, 2020. The remainder of the act would be effective when it becomes law.

ren Cochrane-Brown
Director



Legislative Analysis Division
919-733-2578

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

GRADUATED DRIVERS LICENSE PROVISIONS (G.S. 20-11)

	LEVEL 1 – Limited Learner's Permit	LEVEL 2 – Limited Provisional License	LEVEL 3 – Full Provisional License
REQUIREMENTS	• Eligible at 15. • Passes driver education course. • Passes DMV written test. • Has driving eligibility certificate, high school diploma, or equivalent.	• Eligible at 16. • Has held a Level 1 permit for at least 12 months. • Has no convictions for moving violations, seat belt infractions, or violations of mobile phone prohibition within the last 6 months. • Passes DMV road test. • Has driving eligibility certificate, high school diploma, or equivalent. • 60 logged hours driving, 10 at night.	• Eligible at 16.5. • Has held a Level 2 license for at least 6 months. • Has no convictions for moving violations, seat belt infractions, or violations of mobile phone prohibition within the last 6 months. • Has driving eligibility certificate, high school diploma, or equivalent. • 12 logged hours driving, 6 at night.
TIME RESTRICTIONS	• 5:00 am – 9:00 pm for first 6 months. • After 6 months, no restriction.	• If supervised, no restriction. • If unsupervised: o 5:00 am – 9:00 pm. o Driving directly to or from work. o Driving directly to or from an activity of a volunteer fire department, rescue squad, or emergency medical service.	NONE
SUPERVISION	Supervision required at all times, and the supervising driver must be seated beside the permit holder in the front seat of the vehicle.	When supervision is required, the supervising driver must be seated beside the license holder in the front seat of the vehicle.	NONE
PASSENGER LIMITATIONS	Only the supervising driver may be in the front seat.	If unsupervised: • Unlimited number of occupants over the age of 21. • Unlimited number of occupants who are family members or members of the same household. • Only one non-family member occupant under the age of 21, if no family member or household occupant is under 21.	NONE
USE OF MOBILE PHONE	All use prohibited.	All use prohibited	Use prohibited except in emergencies and calling parent, guardian, or spouse.

*All drivers must be in possession of license or permit when driving, and every person occupying the vehicle must have a safety belt properly fastened or be restrained by child passenger restraint system when the vehicle is in motion.

*A "supervising driver" is a parent, grandparent, guardian, or responsible person approved by the parent, guardian or DMV, who has been a licensed driver for at least five years.

SENATE BILL 843

Short Title:	Waive Road Test/DMV Expand Office Hours.	(Public)
Sponsors:	Senators Brown, McInnis, and Perry (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

May 27, 2020

A BILL TO BE ENTITLED

AN ACT TO TEMPORARILY WAIVE THE ROAD TEST REQUIREMENT FOR LEVEL TWO LIMITED PROVISIONAL LICENSES AND APPROPRIATE FUNDS FOR THE DIVISION OF MOTOR VEHICLES TO IMPLEMENT A PILOT PROGRAM TO EXPAND OFFICE HOURS TO ACCOMMODATE BACKLOGS RESULTING FROM THE COVID-19 CRISIS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding G.S. 20-11(d)(3), the Division of Motor Vehicles shall waive the requirement that an applicant pass a road test in order to obtain a Level 2 limited provisional license if the applicant meets all other requirements to obtain the license.

SECTION 1.(b) In addition to all other requirements for a Level 3 full provisional license set out in G.S. 20-11, a Level 2 limited provisional license holder who receives a waiver under subsection (a) of this section must pass a road test administered by the Division in order to obtain a Level 3 full provisional license.

SECTION 1.(c) This section is effective when it becomes law and applies to applications for provisional licenses submitted on or after that date. Subsection (a) of this section expires on the date the Division resumes administering road tests.

SECTION 2.(a) There is appropriated from the Highway Fund to the Division of Motor Vehicles the sum of two hundred thousand dollars ($200,000) in nonrecurring funds for the 2020-2021 fiscal year for the purpose of establishing and implementing a pilot program to increase the operating hours of targeted, high-volume Division offices to accommodate increased demands following closures and delays due to the COVID-19 crisis.

SECTION 2.(b) This section becomes effective July 1, 2020.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 158
Committee Substitute Favorable 3/5/19

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

Sponsors:

Referred to:

February 26, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO VARIOUS DEPARTMENT OF TRANSPORTATION REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

REPEAL DMV HEARINGS REPORT

SECTION 1. G.S. 20-4.03(c) is repealed.

DRIVERS LICENSE TECHNOLOGY FUND

SECTION 2.(a) G.S. 20-37.01 is repealed.

SECTION 2.(b) G.S. 20-37.02(e) is repealed.

REPEAL PRIVATE AND FICTITIOUS LICENSES AND PLATE REPORT

SECTION 3. G.S. 20-39.1(i) reads as rewritten:

"(i) The Commissioner shall administer the issuance of private plates for publicly owned vehicles under the provisions of this section to ensure strict compliance with those provisions. ~~The Division shall report to the Joint Legislative Commission on Governmental Operations by January 1 and July 1 of each year on the total number of private plates issued to each agency, and the total number of fictitious licenses and plates issued by the Division.~~"

MAINTENANCE AND CONSTRUCTION REPORT/TRANSPORTATION IMPROVEMENT PROGRAM AMENDMENTS

SECTION 4. G.S. 136-12 reads as rewritten:

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

~~(a) The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee by March 1 of each year on how the previous fiscal year's funds for maintenance and construction were allocated and expended. The report shall include expenditures of both State and federal funds and shall be in sufficient detail that the county can be identified. A full account of each road project shall be kept by and under the direction of the Department of Transportation or its representatives, to ascertain at any time the expenditures and the liabilities against all projects; also records of contracts and force account work. The account records, together with all supporting documents, shall be open at all times to the inspection of the Governor or road authorities of any county, or their authorized representatives, and copies thereof shall be furnished such officials upon request.~~

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

(b) At least 30 days before it approves a Transportation Improvement Program in accordance with G.S. 143B-350(f)(4) or approves interim changes to a Transportation Improvement Program, the Department shall ~~submit~~ post the proposed Transportation Improvement Program or proposed interim changes to a Transportation Improvement Program to ~~the following members and staff of the General Assembly:~~ its Web site.

~~(1) The Speaker and the Speaker Pro Tempore of the House of Representatives;~~
~~(2) The Lieutenant Governor and the President Pro Tempore of the Senate;~~
~~(3) The Chairs of the House and Senate Appropriations Committees;~~
~~(4) Each member of the Joint Legislative Transportation Oversight Committee; and~~
~~(5) The Fiscal Research Division of the Legislative Services Commission.~~"

OUTSIDE COUNSEL REPORT

SECTION 5. G.S. 136-18.03(d) reads as rewritten:

"(d) Report. – The Department shall provide ~~a semiannual~~ an annual report to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Justice and Public Safety Oversight Committee on the performance metrics set forth in subsection (c) of this section."

BASELINE UNIT COST REPORT/JOB SATISFACTION AND CITIZEN SATISFACTION SURVEYS AND REPORTS/COST ESCALATION REPORT

SECTION 6. G.S. 136-18.05 reads as rewritten:

"§ 136-18.05. Establishment of "DOT Report" Program.

(a) Intent. – It is the intent of the General Assembly that North Carolina's reputation as the "Good Roads State" is restored, which requires a partnership between the Governor, the Department of Transportation, the General Assembly, and all North Carolina citizens. Further, the General Assembly finds that improving the condition of North Carolina's roads requires increased oversight, accountability, innovation, and efficiency. It is the belief of the General Assembly that, through increased transparency and responsiveness to the public, the condition of the roads in this State will be the best in the nation within 10 years.

(b) Establishment and Components. – To achieve the intent set forth in subsection (a) of this section, the Department shall establish and implement the "DOT Report" Program (Program). The Program shall include the following components:

(1) Responsiveness. – The Department shall structure the Program to gather citizen input and shall commit to quickly addressing structural problems and other road hazards on State-maintained roads. Citizens may report potholes, drainage issues, culvert blockages, guardrail repairs, damaged or missing signs, malfunctioning traffic lights, highway debris, or shoulder damage to the Department of Transportation by calling a toll-free telephone number designated by the Department or submitting an online work request through a Web site link designated by the Department. Beginning January 1, 2016, upon receiving a citizen report in accordance with this subdivision, the Department shall either address the reported problem or identify a solution to the reported problem. Excluding potholes, which shall be repaired within two business days of the date the report is received, the Department of Transportation shall properly address (i) safety-related citizen reports no later than 10 business days after the date the report is received and (ii) non-safety-related citizen reports no later than 15 business days after the date the report is received. The Department shall determine, in its discretion, whether a citizen report is safety-related or non-safety-related. The Department shall transmit information received about potholes or other problems on roads not

maintained by the State to the appropriate locality within two business days of receiving the citizen report. The Department shall post a monthly report to the Department's performance dashboard Web site on the number of citizen reports received under this subdivision for the month immediately preceding the monthly report, the number of citizen reports fully addressed within the time frames set forth in this subdivision for the month immediately preceding the monthly report, the number of citizen reports addressed outside of the time frames set forth in this subdivision for the month immediately preceding the monthly report, and the number of citizen reports not fully addressed for the month immediately preceding the report.

(1a) Efficiency. – The Department shall adopt procedures in all stages of the construction process to streamline project delivery, including consolidating environmental review processes, expediting multiagency reviews, accelerating right-of-way acquisitions, and pursuing design build and other processes to collapse project stages. By December 1, 2015, the Department shall establish a baseline unit pricing structure for transportation goods used in highway maintenance and construction projects and set annual targets for three years based on its unit pricing. In forming the baseline unit prices and future targets, the Department shall collect data from each Highway Division on its expenditures on transportation goods during the 2015-2016 fiscal year. Beginning January 1, 2016, no Highway Division shall exceed a ten percent (10%) variance over a baseline unit price set for that year in accordance with this subdivision. The Department of Transportation shall institute annual tracking to monitor pricing variances. The ten percent (10%) maximum variance set under this subdivision is intended to account for regional differences requiring varying product mixes. ~~If a Highway Division exceeds the unit pricing threshold, the Department shall submit a report to the Joint Legislative Transportation Oversight Committee, the Fiscal Research Division of the General Assembly, the chairs of the House of Representatives Appropriations Committee on Transportation, and the chairs of the Senate Appropriations Committee on the Department of Transportation no later than the fifteenth day of February following the end of the calendar year on why the variance occurred and what steps are being taken to bring the Highway Division back into compliance.~~ In order to drive savings, unit pricing may be reduced annually as efficiencies are achieved.

(2) Performance. – Beginning December 1, 2015, the Secretary of the Department of Transportation shall conduct ~~an annual~~ a biennial job satisfaction survey of all Department personnel that shall address relationships among all levels of leadership, work environment, issues impacting job performance, and leadership performance in creating the dynamic work environment necessary to meet new performance outcomes. In addition, the Department shall conduct ~~an annual~~ a biennial survey of North Carolina citizens to measure the level of citizen satisfaction with the condition of the roads and highways of this State. ~~Within 30 days of compiling the information received from surveys conducted in accordance with this subdivision, the results of these surveys shall be reported to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.~~

~~(c) Quarterly Cost Escalation Report. – Within 30 days of the end of each quarter, the Department of Transportation shall submit to the chairs of the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division of the General Assembly a quarterly report containing summaries by month of a report for resurfacing projects and a report for~~

~~contracts let centrally and by the highway divisions. Both reports shall contain all of the following information itemized by highway division:~~

~~(1) Total number of projects.~~
~~(2) Number of awarded projects.~~
~~(3) Number of bidders.~~
~~(4) Average number of bidders per project.~~
~~(5) Number of single bids.~~
~~(6) Number of contracts not awarded.~~
~~(7) Total cost estimate for projects.~~
~~(8) Total low bid amount.~~
~~(9) Percentage above or below estimate.~~"

REPEAL RESIDUE PROPERTY DISPOSAL REPORT

SECTION 7. G.S. 136-19.7(*l*) is repealed.

REPEAL SMALL PROJECT BIDDING REPORT

SECTION 8. G.S. 136-28.10(c) is repealed.

REPEAL PUBLIC SERVICE FEES REPORT

SECTION 9. G.S. 136-44.2B is repealed.

REPEAL MAINTENANCE OPERATIONS AND PERFORMANCE ANALYSIS REPORT

SECTION 10. G.S. 136-44.3 is repealed.

HIGHWAY MAINTENANCE IMPROVEMENT PROGRAM REPORT

SECTION 11. G.S. 136-44.3A(a)(4) reads as rewritten:

"(4) Highway Maintenance Improvement Program Needs Assessment. – A report of the amount of funds ~~needed,~~ needed for all maintenance and bridge replacement activities, the number of affected lane miles, and the percentage of the primary and secondary system roads that are rated to need a resurfacing or pavement preservation treatment within the Highway Maintenance Improvement Program's five-year time period but are not programmed due to funding constraints."

ELIMINATE PUBLIC TRANSPORTATION SYSTEM CONSOLIDATION AND COORDINATION REPORTING REQUIREMENT

SECTION 12. G.S. 136-44.20(e) reads as rewritten:

"(e) The Department of Transportation is authorized to annually allocate funds to qualifying public transportation systems to be used to consolidate or coordinate with other public transportation systems to maximize resources, gain efficiencies, and increase access to public transportation. In order to be eligible for funding under this subsection, a public transportation system must submit a plan for consolidation or coordination with another public transportation system. The plan must include a time line for completion and an estimated cost for completion. The Department is not required to provide the full amount of the estimated cost identified in the plan. The Department shall disburse the funds no later than 30 days from the date it approves the plan. The amount allocated under this subsection to a public transportation system shall not exceed two hundred thousand dollars ($200,000) annually. ~~Beginning December 1, 2017, the Department shall provide an annual report to the Joint Legislative Transportation Oversight Committee identifying for the year preceding the report (i) each public transportation system provided funding under this subsection, (ii) the amount of funds disbursed to each public~~

~~transportation system, and (iii) the purpose or purposes for which each public transportation system has used the funds.~~"

MID-CURRITUCK BRIDGE

SECTION 13. G.S. 136-89.183A is repealed.

BONNER BRIDGE

SECTION 14. G.S. 136-89.183B is repealed.

STATE PORTS AUTHORITY CONTRACTS REPORT

SECTION 15. G.S. 136-273(c) reads as rewritten:

"(c) Notwithstanding subsections (a) and (b) of this section, if the North Carolina State Ports Authority finds that the delivery of a particular port facility must be expedited for good cause, the Authority shall be exempt from the following statutes, and rules implementing those statutes, to the extent necessary to expedite delivery: G.S. 133-1.1(g), G.S. 143-128(a) through (e), G.S. 143-132, and G.S. 143-135.26. Prior to exercising an exemption authorized under this subsection, the North Carolina State Ports Authority, through its Executive Director, shall give notice in writing of the Authority's intent to exercise the exemption to the Secretary of Administration. The notice shall contain, at a minimum, the following information: (i) the specific statutory requirement or requirements from which the Authority intends to exercise an exemption; (ii) the reason the exemption is necessary to expedite delivery of a port facility; and (iii) the way the Authority anticipates the exemption will expedite the delivery of a port facility. The Authority shall report ~~quarterly~~ to the Joint Legislative Commission on Governmental Operations on any building contracts exceeding two hundred fifty thousand dollars ($250,000) to which an exemption authorized by this subsection is ~~applied.~~applied within 60 days of signing the contract."

REPEAL BID THRESHOLD INCREASE REPORT

SECTION 16. Section 35.5(b) of S.L. 2016-94 is repealed.

EFFECTIVE DATE

SECTION 17. Except as otherwise provided, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 158

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H158-ASU-67 [v.1]

Amends Title [YES]
Second Edition

Date _____ ,2020

Senator McInnis

moves to amend the bill on page 1, line 1, through page 5, line 33, by deleting the lines and substituting the following:

"A BILL TO BE ENTITLED

AN ACT TO TEMPORARILY WAIVE THE ROAD TEST REQUIREMENT FOR LEVEL TWO LIMITED PROVISIONAL LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 20-11(d)(3), the Division of Motor Vehicles shall waive the requirement that an applicant pass a road test in order to obtain a Level 2 limited provisional license if the applicant meets all other requirements to obtain the license.

SECTION 2. In addition to all other requirements for a Level 3 full provisional license set out in G.S. 20-11, a Level 2 limited provisional license holder who receives a waiver under Section 1 of this act must pass a road test administered by the Division in order to obtain a Level 3 full provisional license.

SECTION 3. This act is effective when it becomes law and applies to applications for provisional licenses submitted on or after that date. Section 1 of this act expires on the date the Division resumes administering road tests for Level 2 limited provisional license applicants.";

and by rewriting the short title accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 158
Committee Substitute Favorable 3/5/19
PROPOSED SENATE COMMITTEE SUBSTITUTE H158-PCS30594-SU-52

Short Title: Waive Road Test Requirement. (Public)

Sponsors:

Referred to:

February 26, 2019

A BILL TO BE ENTITLED

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SECTION 3. This act is effective when it becomes law and applies to applications for provisional licenses submitted on or after that date. Section 1 of this act expires on the date the Division resumes administering road tests for Level 2 limited provisional license applicants.

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Transportation, Senate Committee

June 03, 2020 12:00 PM Rm. 1124/1224

Senate Sergeant-at-Arms

Terry Barnhardt

Sheree Hedrick

Dwight Green

Terry Edmondson

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Visitor, Sign-in

Transportation, Senate Committee

06/03/2020

SPEAKER: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY / BILL No.
[illegible]	[illegible]
[illegible]	RAMC - LPOAs
Joe McClees	McClees Consulting
Justin DeLaney	NCDOT
Fuller, Monica	NCDOT
[illegible]	C&A
[illegible]	NCRMA
David Farrell	NP

Updated #1: Bills Added

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 10, 2020	12:00 PM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 307	Mod. Utility Vehicle Classification.	Representative Dixon Representative Brisson Representative Humphrey Representative R. Turner
SB 739	Personal Delivery Device/PDD/Delivery Robots.	Senator Perry Senator Searcy Senator Sawyer

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Principal Clerk ____
Reading Clerk ____

Updated #1: Bills Added

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Principal Clerk
Reading Clerk

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AND
BILL SPONSOR NOTICE

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DAY	DATE	TIME	ROOM
Wednesday	June 10, 2020	12:00 PM	1027/1128 LB

Transportation agenda to be determined

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, June 10, 2020, 12:00 PM
1027/1128 Legislative Building

AGENDA

Call to Order- Senator Jim Davis, Presiding Chair
Senator Tom McInnis, Chair

Welcome and Opening Remarks

Introduction of Sergeant At Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 307	Mod. Utility Vehicle Classification.	Representative Dixon Representative Brisson Representative Humphrey Representative R. Turner
SB 739	Personal Delivery Device/PDD/Delivery Robots.	Senator Perry Senator Searcy Senator Sawyer

Committee Discussion

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

TRANSPORTATION COMMITTEE REPORT
Senator J. Davis, Co-Chair
Senator McInnis, Co-Chair

Wednesday, June 10, 2020

Senator J. Davis,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **739** **(CS#1)** Personal Delivery Device/PDD/Delivery Robots.

Draft Number:	S739-PCS45479-SUa-53
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **307** **(SCS#1)** Mod. Utility Vehicle Classification.

Draft Number:	H307-PCS30598-BG-65
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Jim Perry will handle SB 739
Senator Norman W. Sanderson will handle HB 307



Senate Committee on Transportation
Wednesday, June 10, 2020 at 12:00 PM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on June 10, 2020 in Room 1027/1128 of the Legislative Building. 11 members were present.

Senator Jim Davis, Chair, presided.

Senator Jim Davis recognized the Sergeants At Arms, Legislative Assistants, Senate President Pro Tempore Legislative Assistant, and the Legislative Analysis Staff. Senator Davis mentioned, "DOT and guests will be offered time to make comments during this meeting. "Senator Tom McInnis sent forth an amendment on House Bill 307. Senator McInnis asked the Legislative Staff to offer explanations. Senator Davis recognized Howard Marsilio, Legislative Analysis Division, and he offered comments. Mr. Marsilio explained the amendments noting changes in Sections 4, 5 and 6 of House Bill 307. Senator Mike Woodard made the motion to offer acceptance of the amendment. Senator Toby Fitch asked, "A three wheel golf cart does would not fit this bill, correct?" Howard Marsilio, Legislative Analysis Division, answered, "This would not fall into this category." Justin DeLancy, NC DOT, stated, "No opposition." The Amendment of House Bill 307 was accepted unanimously by ayes."

Senator Jim Davis recognized Senator Norman Sanderson who presented House Bill 307 on behalf of Senator Brent Jackson. Two slides with photos of the vehicle were shown. (See attachment one) Senator Sanderson briefly explained the Bill. Senator Sanderson stated, "A lot of farmers use these vehicles."

Senator Toby Fitch made the motion to accept. Senator Jim Davis said, "Hold on to that motion."

Senator Joyce Waddell asked, "Is this the same thing as a pick-up truck? Does one need to possess a driver's license?" Senator Sanderson said, "Yes, a driver's license is needed."

Senator Kirk deViere asked, "Is there a requirement or are there guidelines for engine size or horsepower? Howard Marsilio, Legislative Analysis Division, answered, "As amended, the current language and definition that was adopted by the committee would put a cubic centimeter displacement so this would only fall into definition if it has 2400 cubits or greater."

Senator Jim Davis asked if any committee members had further questions and if they were okay with it. There were no comments by the committee members. Then Senator Davis asked the DOT members if they were okay with this. Again, there were no comments.

Senator Jim Davis recognized Senator Toby Fitch for a motion to House Bill 307 favorable as amended, rolled into a new PCS, unfavorable to the original Bill. The motion was accepted by ayes as favorable to the Bill as amended, rolled into a new PCS, unfavorable to the original Bill."

Senator Jim Perry was recognized to introduce Senate Bill 739 by Senator Jim Davis. Senator Perry provided a short video to help the body understand technology.

Senator Rick Gunn stated he would like to send forth an amendment.

Senator Jim Perry said, "This amendment is a product of communication with DOT. As we continue to provide local legislation, new motor vehicle language is being added. Appropriate language changes are occurring."

A motion to accept the amendment was offered by Senator Mike Woodard.

Senator Michael Garrett asked Senator Jim Perry, "Does House Bill 739 prohibit local government from having legislation over their jurisdiction?" Senator Perry responded, "What this adds in can be shut off. For the first two years, they have additional provisions such as hours. They can regulate where they operate and what hours they operate in addition to saying no we do not want."

Senator Joyce Waddell asked a question concerning section 7 of House Bill 739. Senator Waddell asked, "In response to education to the public on safety concern over $5,000; how will that be distributed? Senator Jim Perry responded, "Continuing conversation is how." Senator Waddell then asked, "If we move forward who would get the funds?" Senator Perry responded, "If we move forward with signage and other means, the people would be informed where operation is occurring. This will continue to evolve as it moves."

Senator Jim Davis asked if there were any questions by the members. There were no questions.

Senator Jim Davis recognized Senator Mike Woodard who made the motion to accept the amendment for a motion to House Bill 739 favorable as amended, rolled into a new PCS, unfavorable to the original Bill. The motion was accepted by ayes as favorable to the Bill as amended, rolled into a new PCS, unfavorable to the original Bill.

Senator Jim Davis asked for a vote by ayes and nays. The ayes moved to accept the amendment. The amendment was accepted as favorable to the Bill as amended, rolled into a new PCS, unfavorable to the original Bill."

Senator Perry ended by thanking the members for their support.

Senator Jim Davis asked if there were any questions by the members. There were no questions. Senator Jim Davis asked if there were any questions by the audience. There were no questions.

Justin DeLancey, NC DOT, stated, "Thank you to the Bill Sponsor and Industry partners. There is excitement to have this technology in our state."

Seeing there were no other questions, Senator Jim Davis, asked for vote by ayes and nayes. The ayes moved to accept the amendment as favorable to the Bill as amended, rolled into a new PCS, unfavorable to the original Bill."

There being no more business, Senator Jim Davis adjourned the meeting at 12:20 PM.

Senator Jim Davis, Chair
Presiding

Penny Jordan, Committee Clerk

SENATE BILL 739:
Personal Delivery Device/PDD/Delivery Robots.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 10, 2020
Introduced by:	Sens. Perry, Searcy, Sawyer	**Prepared by:**	Wendy Ray Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 739 would authorize the use of personal delivery devices by businesses in pedestrian areas and on portions of highways and would regulate their use.

[This summary is an analysis of the second edition of the bill if amended by S739-ASU-70.]

BACKGROUND AND CURRENT LAW: Personal delivery devices, or delivery robots, are electrically powered, autonomous devices designed to travel at moderate speeds on sidewalks and along roadsides to deliver small shipments to customers at their homes and businesses. They are not currently specifically authorized or in use in North Carolina. At least 10 other states and the District of Columbia have passed legislation authorizing operation of personal delivery devices (Arizona, Florida, Idaho, Ohio, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin). Most authorize use of personal delivery devices in pedestrian areas only. Four also allow use on the sides of highways. The laws generally provide that a personal delivery device has the same rights and duties of a pedestrian.

Under North Carolina law, personal delivery devices would fall under the definition of a motor vehicle and could not legally be operated on highways. Vehicles intended to be operated on highways are required to be registered. Operating an unregistered vehicle on a highway is punishable as a Class 2 misdemeanor. Motor vehicles are also prohibited from operating on sidewalks. Violation of that prohibition is an infraction.

A pedestrian in North Carolina is subject to pedestrian-control and traffic-control signals. Where signals are not in place, vehicles must yield the right-of-way to pedestrians crossing highways in marked crosswalks or unmarked crosswalks at intersections. Outside of those areas, pedestrians are required to yield the right-of-way to vehicles on the highway. However, all drivers of vehicles on the highway are required to exercise due care to avoid colliding with pedestrians on the highway. Violation of these provisions related to pedestrians is an infraction.

BILL ANALYSIS: Senate Bill 739 would authorize the operation of personal delivery devices by businesses in pedestrian areas and on portions of highways in North Carolina. A device would be required to operate as a pedestrian, with all rights and duties of a pedestrian, subject to additional requirements and restrictions specified in the bill. Except as authorized, operation of personal delivery devices in pedestrian areas and on highways would be prohibited.

Personal delivery devices not vehicles. The bill would remove personal delivery devices from the definition of vehicle in Chapter 20, making provisions in that chapter regulating the operation of vehicles inapplicable to personal delivery devices.

Karen Cochrane-Brown
Director

S739-SMSU-140 E2 -V-1

Legislative Analysis
Division
919-733-2578

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

SENATE BILL 739
Commerce and Insurance Committee Substitute Adopted 5/27/20

Short Title: Personal Delivery Device/PDD/Delivery Robots. (Public)

Sponsors:

Referred to:

May 18, 2020

A BILL TO BE ENTITLED

AN ACT TO DEFINE AND REGULATE PERSONAL DELIVERY DEVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"**§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(28a) Personal delivery device. – An electrically powered device intended for transporting cargo that is equipped with automated driving technology that enables device operation with or without the remote support and supervision of a human and that does not exceed (i) a weight of 500 pounds, excluding cargo, (ii) a length of 40 inches, and (iii) a width of 30 inches.

~~(28a)~~(28b) Plug-in electric vehicle. – A four-wheeled motor vehicle that meets each of the following requirements:

...

(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles and electric assisted bicycles shall be deemed vehicles and every rider of a bicycle or an electric assisted bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include (i) an electric personal assistive mobility device as defined in subdivision (7b) of this ~~section.~~ section or (ii) a personal delivery device as defined by this section. Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

...."

SECTION 2. Chapter 20 of the General Statutes is amended by adding a new Article to read:

"Article 10B.

"Personal Delivery Devices.

"**§ 20-280.20. Definitions.**

The following definitions apply to this Article:

(1) Agent. – A director, officer, employee, or other person authorized to act on behalf of a business entity.

(2) Business entity. – A legal entity, including a corporation, limited liability company, partnership, or sole proprietorship, that is formed for the purpose of making a profit.

(3) Pedestrian area. – A sidewalk, crosswalk, school crosswalk, school crossing zone, or safety zone.

(4) Personal delivery device. – As defined in G.S. 20-4.01.

"**§ 20-280.21. Personal delivery devices authorized.**

(a) A business entity may operate a personal delivery device if the business entity is authorized to conduct business in this State in accordance with Chapters 55, 57D, 59, and 55D of the General Statutes and may only operate pursuant to the provisions of this Article.

(b) Except as provided in subsection (a) of this section, it is unlawful for any person to operate, or cause the operation of, a personal delivery device.

"**§ 20-280.22. Personal delivery device operation.**

A business entity shall not operate a personal delivery device unless the business entity complies with all of the following:

(1) The personal delivery device is monitored by a human that is an agent of the business entity and the human is able to exercise remote control over the navigation and operation of the personal delivery device. For the purposes of this section, "agent" means a person who is not less than 16 years of age and who is charged by an entity with the responsibility of monitoring and operating a personal delivery device.

(2) The personal delivery device is operated in a manner that complies with the provisions of this Chapter applicable to (i) pedestrians, when the device is operating in a pedestrian area, and (ii) bicycles, when the device is operating on a highway or bicycle lane.

(3) The personal delivery device shall yield the right-of-way to all vehicles and pedestrians.

(4) The personal delivery device shall not unreasonably interfere with any vehicle or pedestrian.

(5) The personal delivery device shall not transport materials regulated under the Hazardous Materials Transportation Act (49 U.S.C. §§ 5101 – 5128) that require placarding pursuant to subpart F of 49 C.F.R. Part 172 (49 C.F.R. §§ 172.500 – 172.560).

(6) The personal delivery device is only operated in pedestrian areas, at speeds not to exceed 10 miles per hour, and on highways, at speeds not to exceed 35 miles per hour.

"**§ 20-280.23. Personal delivery device equipment.**

A business entity shall not operate a personal delivery device unless the personal delivery device is equipped with all of the following:

(1) A marker that clearly states the name and contact information of the owner and a unique identification number.

(2) A braking system that enables the device to come to a controlled stop.

(3) When operated at night, the lights on the front and rear of the personal delivery device are visible and recognizable under normal atmospheric conditions on all sides of the personal delivery device from 1 to 500 feet from the personal delivery device when directly in front of a motor vehicle projecting lawful low-beam headlights.

"**§ 20-280.24. Local regulation.**

(a) Following an opportunity for public input from business entities, a local government may reasonably regulate the operation of personal delivery devices on a highway or pedestrian area for reasons relating to public health, safety, or welfare; provided, however, that a local government may not outright ban operation of personal delivery devices.

(b) This section does not affect the authority of a law enforcement officer or local government to enforce the laws of this State relating to the operation of a personal delivery device.

"**§ 20-280.25. Insurance.**

A business entity that operates a personal delivery device under this Article shall maintain an insurance policy that includes general liability coverage of not less than one hundred thousand dollars ($100,000) per claim for damages arising from the operation of the personal delivery device.

"**§ 20-280.26. Liability.**

(a) A business entity shall be legally responsible for the operation of a personal delivery device, unless an agent of the business entity operates the personal delivery device in a manner that is outside the scope of the agent's authority.

(b) In the absence of criminal intent, willful misconduct, or gross negligence, a person that requests a delivery or service by means of a personal delivery device operated by a business entity shall be immune from criminal and civil liability."

SECTION 3. There is appropriated from the General Fund to the Secretary of State the sum of five thousand dollars ($5,000) for the 2019-2020 fiscal year in nonrecurring funds for the purpose of implementing this act.

SECTION 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 739

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

S739-ASU-70 [v.2]

Amends Title [NO]
Second Edition

Date _____,2020

Senator Gunn

moves to amend the bill on page 2, line 1, through page 3, line 29, by rewriting the lines to read:

"**SECTION 2.** Article 3 of Chapter 20 of the General Statutes is amended by adding a new Part to read:

"Part 11D. Personal Delivery Devices.

"**§ 20-175.7. Definitions.**

The following definitions apply to this Part:

(1) Agent. – A director, officer, employee, or other person authorized to act on behalf of a business entity.

(2) Business entity. – A corporation, limited liability company, partnership, sole proprietorship, or other legal entity authorized to conduct business under the laws of this State.

(3) Operator. – An agent who is 16 years of age or older and is charged with the responsibility of monitoring and operating a personal delivery device.

(4) Pedestrian area. – A sidewalk, crosswalk, school crosswalk, school crossing zone, or safety zone.

(5) Personal delivery device. – As defined in G.S. 20-4.01.

"**§ 20-175.8. Personal delivery devices authorized; operation; equipment.**

(a) A business entity may operate a personal delivery device in a pedestrian area or on a highway, with the rights and duties applicable to a pedestrian under this Chapter, subject to the requirements and restrictions of this Part. Except as authorized in this Part, no person may operate a personal delivery device in a pedestrian area or on a highway in this State.

(b) Operation of a personal delivery device shall comply with all of the following:

(1) The personal delivery device shall be monitored by an operator who is able to exercise remote control over the navigation and operation of the personal delivery device.

(2) The personal delivery device may not be operated in a pedestrian area at a speed greater than 10 miles per hour.

(3) The personal delivery device may not be operated on a highway except as necessary to cross a highway or along a highway if a sidewalk is not provided or accessible. When operating along a highway under this subdivision, the following additional restrictions apply:

a. The personal delivery device shall be operated on the shoulder or as close as practicable to the extreme right of the highway in the direction of authorized traffic movement and shall yield the right-of-way to all vehicles.

b. The personal delivery device may not be operated on a highway at a speed greater than 20 miles per hour.

c. The personal delivery device may not be operated on a highway with a speed limit greater than 35 miles per hour.

(4) The personal delivery device shall obey all traffic and pedestrian control devices and signs.

(5) The personal delivery device shall yield the right-of-way to all human pedestrians.

(6) The personal delivery device shall not unreasonably interfere with any vehicle or pedestrian.

(7) The personal delivery device shall not transport materials regulated under the Hazardous Materials Transportation Act (49 U.S.C. §§ 5101 – 5128) that require placarding pursuant to subpart F of 49 C.F.R. Part 172 (49 C.F.R. §§ 172.500 – 172.560).

(c) A personal delivery device shall be equipped with all of the following:

(1) A marker that clearly states the name and contact information of the owner and a unique identification number.

(2) A braking system that enables the device to come to a controlled stop.

(3) When operated at night, lights on the front and rear of the personal delivery device that are visible and recognizable under normal atmospheric conditions from at least 500 feet on all sides of the personal delivery device.

(d) A violation of this section is an infraction.

"**§ 20-175.9. Local regulation.**

For the purpose of assuring the safety of persons using highways and sidewalks, a local government having jurisdiction over public streets, sidewalks, alleys, bridges, and other ways of public passage may by ordinance regulate time and place of the operation of personal delivery devices, but shall not prohibit their use.

"**§ 20-175.10. Insurance.**

A business entity that operates a personal delivery device under this Part shall maintain an insurance policy that includes general liability coverage of not less than one hundred thousand dollars ($100,000) per claim for damages arising from the operation of the personal delivery device."

SECTION 3.(a) G.S. 20-175.9, as enacted by Section 2 of this act, reads as rewritten:

"**§ 20-175.9. Local regulation.**

For the purpose of assuring the safety of persons using highways and sidewalks, a local government having jurisdiction over public streets, sidewalks, alleys, bridges, and other ways of public passage may by ordinance ~~regulate the time and place of the operation of personal delivery devices, but shall not prohibit their use.~~prohibit operation of personal delivery devices within its jurisdiction if the local government determines that the prohibition is necessary."

SECTION 3.(b) This section becomes effective December 1, 2022. Any ordinance regulating time and place of operation of personal delivery devices adopted by a local government in accordance with G.S. 20-175.9 before the effective date of this section shall remain in effect until repealed by that local government.

SECTION 4. G.S. 20-146.2(a)(4) reads as rewritten:

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

SECTION 5. G.S. 20-183.2(b)(9) reads as rewritten:

"(9) It is not a plug-in electric vehicle as defined in ~~G.S. 20-4.01(28a).~~G.S. 20-4.01(28b)."

SECTION 6. G.S. 20-286(10) is amended by adding a new sub-subdivision to read:

"c. The term "motor vehicle" does not include an electrically powered device that is equipped with automated driving technology that enables device operation with or without remote support and supervision of a human, and to which all of the following apply: (i) the device does not exceed a weight of 750 pounds, excluding cargo; (ii) the device does not exceed a length of 40 inches when not linked with other devices; and (iii) the device does not exceed a width of 36 inches. An electrically powered device that is equipped with automated driving technology that enables device operation with or without remote support and supervision of a human and that exceeds any of the dimensions set out in this sub-sub-division is included in the term "motor vehicle" under this Article, and the device is subject to the provisions of Article 18 of this Chapter if it falls within the definition of "fully autonomous vehicle" under G.S. 20-400(3)."

SECTION 7. There is appropriated from the General Fund to the Department of Public Safety the sum of five thousand dollars ($5,000) for the 2020-2021 fiscal year in nonrecurring funds for the purpose of educating the public on safely interacting with personal delivery devices operating in vehicular and pedestrian traffic, as authorized by this act.

SECTION 8. Except as otherwise provided, this act becomes effective December 1, 2020, and applies to offenses committed on or after that date."

SIGNED _____
Amendment Sponsor

SIGNED _____
~~Committee~~ Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S D

SENATE BILL 739
Commerce and Insurance Committee Substitute Adopted 5/27/20
PROPOSED COMMITTEE SUBSTITUTE S739-PCS45479-SUa-53

Short Title: Personal Delivery Device/PDD/Delivery Robots. (Public)

Sponsors:

Referred to:

May 18, 2020

A BILL TO BE ENTITLED

AN ACT TO DEFINE AND REGULATE PERSONAL DELIVERY DEVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"**§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(28a) Personal delivery device. – An electrically powered device intended for transporting cargo that is equipped with automated driving technology that enables device operation with or without the remote support and supervision of a human and that does not exceed (i) a weight of 500 pounds, excluding cargo, (ii) a length of 40 inches, and (iii) a width of 30 inches.

~~(28a)~~(28b) Plug-in electric vehicle. – A four-wheeled motor vehicle that meets each of the following requirements:

...

(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles and electric assisted bicycles shall be deemed vehicles and every rider of a bicycle or an electric assisted bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include (i) an electric personal assistive mobility device as defined in subdivision (7b) of this ~~section.~~ section or (ii) a personal delivery device as defined by this section. Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

...."

SECTION 2. Article 3 of Chapter 20 of the General Statutes is amended by adding a new Part to read:

"Part 11D. Personal Delivery Devices.

"**§ 20-175.7. Definitions.**

The following definitions apply to this Part:

(1) Agent. – A director, officer, employee, or other person authorized to act on behalf of a business entity.

(2) Business entity. – A corporation, limited liability company, partnership, sole proprietorship, or other legal entity authorized to conduct business under the laws of this State.

(3) Operator. – An agent who is 16 years of age or older and is charged with the responsibility of monitoring and operating a personal delivery device.

(4) Pedestrian area. – A sidewalk, crosswalk, school crosswalk, school crossing zone, or safety zone.

(5) Personal delivery device. – As defined in G.S. 20-4.01.

"**§ 20-175.8. Personal delivery devices authorized; operation; equipment.**

(a) A business entity may operate a personal delivery device in a pedestrian area or on a highway, with the rights and duties applicable to a pedestrian under this Chapter, subject to the requirements and restrictions of this Part. Except as authorized in this Part, no person may operate a personal delivery device in a pedestrian area or on a highway in this State.

(b) Operation of a personal delivery device shall comply with all of the following:

(1) The personal delivery device shall be monitored by an operator who is able to exercise remote control over the navigation and operation of the personal delivery device.

(2) The personal delivery device may not be operated in a pedestrian area at a speed greater than 10 miles per hour.

(3) The personal delivery device may not be operated on a highway except as necessary to cross a highway or along a highway if a sidewalk is not provided or accessible. When operating along a highway under this subdivision, the following additional restrictions apply:

a. The personal delivery device shall be operated on the shoulder or as close as practicable to the extreme right of the highway in the direction of authorized traffic movement and shall yield the right-of-way to all vehicles.

b. The personal delivery device may not be operated on a highway at a speed greater than 20 miles per hour.

c. The personal delivery device may not be operated on a highway with a speed limit greater than 35 miles per hour.

(4) The personal delivery device shall obey all traffic and pedestrian control devices and signs.

(5) The personal delivery device shall yield the right-of-way to all human pedestrians.

(6) The personal delivery device shall not unreasonably interfere with any vehicle or pedestrian.

(7) The personal delivery device shall not transport materials regulated under the Hazardous Materials Transportation Act (49 U.S.C. §§ 5101 – 5128) that require placarding pursuant to Subpart F of 49 C.F.R. Part 172 (49 C.F.R. §§ 172.500 – 172.560).

(c) A personal delivery device shall be equipped with all of the following:

(1) A marker that clearly states the name and contact information of the owner and a unique identification number.

(2) A braking system that enables the device to come to a controlled stop.
(3) When operated at night, lights on the front and rear of the personal delivery device that are visible and recognizable under normal atmospheric conditions from at least 500 feet on all sides of the personal delivery device.

(d) A violation of this section is an infraction.

"**§ 20-175.9. Local regulation.**

For the purpose of assuring the safety of persons using highways and sidewalks, a local government having jurisdiction over public streets, sidewalks, alleys, bridges, and other ways of public passage may by ordinance regulate time and place of the operation of personal delivery devices, but shall not prohibit their use.

"**§ 20-175.10. Insurance.**

A business entity that operates a personal delivery device under this Part shall maintain an insurance policy that includes general liability coverage of not less than one hundred thousand dollars ($100,000) per claim for damages arising from the operation of the personal delivery device."

SECTION 3.(a) G.S. 20-175.9, as enacted by Section 2 of this act, reads as rewritten:

"**§ 20-175.9. Local regulation.**

For the purpose of assuring the safety of persons using highways and sidewalks, a local government having jurisdiction over public streets, sidewalks, alleys, bridges, and other ways of public passage may by ordinance ~~regulate the time and place of the operation of personal delivery devices, but shall not prohibit their use.~~prohibit operation of personal delivery devices within its jurisdiction if the local government determines that the prohibition is necessary."

SECTION 3.(b) This section becomes effective December 1, 2022. Any ordinance regulating time and place of operation of personal delivery devices adopted by a local government in accordance with G.S. 20-175.9 before the effective date of this section shall remain in effect until repealed by that local government.

SECTION 4. G.S. 20-146.2(a)(4) reads as rewritten:

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

SECTION 5. G.S. 20-183.2(b)(9) reads as rewritten:

"(9) It is not a plug-in electric vehicle as defined in ~~G.S. 20-4.01(28a).~~G.S. 20-4.01(28b)."

SECTION 6. G.S. 20-286(10) is amended by adding a new sub-subdivision to read:

"c. The term "motor vehicle" does not include an electrically powered device that is equipped with automated driving technology that enables device operation with or without remote support and supervision of a human, and to which all of the following apply: (i) the device does not exceed a weight of 750 pounds, excluding cargo, (ii) the device does not exceed a length of 40 inches when not linked with other devices, and (iii) the device does not exceed a width of 36 inches. An electrically powered device that is equipped with automated driving technology that enables device operation with or without remote support and supervision of a human and that exceeds any of the dimensions set out in this sub-subdivision is included in the term "motor vehicle" under this Article, and the device is subject to the provisions of Article 18 of this Chapter if it falls within the definition of "fully autonomous vehicle" under G.S. 20-400(3)."

SECTION 7. There is appropriated from the General Fund to the Department of Public Safety the sum of five thousand dollars ($5,000) for the 2020-2021 fiscal year in

nonrecurring funds for the purpose of educating the public on safely interacting with personal delivery devices operating in vehicular and pedestrian traffic, as authorized by this act.

SECTION 8. Except as otherwise provided, this act becomes effective December 1, 2020, and applies to offenses committed on or after that date.

HOUSE BILL 307:
Mod. Utility Vehicle Classification.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 10, 2020
Introduced by:	Reps. Dixon, Brisson, Humphrey, R. Turner	**Prepared by:**	Howard Marsilio Committee Counsel
Analysis of:	Third Edition		

OVERVIEW: House Bill 307 would amend the motor vehicle laws of this State to create a definition for a modified utility vehicle, set the registration fee, and allow for the operation of a modified utility vehicle on roadways with certain restrictions.

CURRENT LAW: Under current law, a modified utility vehicle is not specifically defined as a category of motor vehicle under Chapter 20. Currently, a modified utility vehicle is designed for off-road use and may not be registered and operated on highways in this State.

BILL ANALYSIS: This act would define a modified utility vehicle as a passenger vehicle, for the purposes of motor vehicle laws, as follows:

- A motor vehicle that is:
  - designed for off-road use; and
  - manufactured with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number.

The modified utility vehicle category would not include an all-terrain vehicle, golf cart, utility vehicle, or a riding lawn mower.

This act would require modified utility vehicle registration and specify that the registration fee for a modified utility vehicle is the same as a private passenger vehicle of 15 passengers or less ($36). This act would also require that a modified utility vehicle that is offered for rent would pay the same registration fee as a U-drive-it automobile ($66).

This act would place restrictions and requirements on the operation of a modified utility vehicle, which would include that:

- Modified utility vehicles are only allowed to operate on streets and highways where the posted speed limit is 55 mph or less.
- Modified utility vehicles are equipped with certain equipment similar to that of a low-speed vehicle or mini-truck.
- Modified utility vehicles are registered and insured.
- Modified utility vehicles abide by DOT roadway prohibitions in the interest of safety.

EFFECTIVE DATE: This act would become effective October 1, 2020.

Karen Cochrane-Brown
Director

H307-SMBG-176 E3 -V-1

Legislative Analysis Division
919-733-2578

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

HOUSE BILL 307

Committee Substitute Favorable 3/19/19
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/28/20

Short Title: Mod. Utility Vehicle Classification. (Public)

Sponsors:

Referred to:

March 11, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE LAWS OF THE STATE TO REGULATE MODIFIED UTILITY VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(27) is amended by adding a new sub-subdivision to read:

"g2. Modified utility vehicle. – A motor vehicle that is (i) designed for off-road use and (ii) manufactured with equipment required by G.S. 20-121.1(2). "Modified utility vehicle" does not include an all-terrain vehicle, golf cart, or utility vehicle, as defined in this section, or a riding lawn mower."

SECTION 2. G.S. 20-87(12) reads as rewritten:

"(12) Low-Speed ~~Vehicles and Mini-Trucks.~~ Vehicles, Mini-Trucks, and Modified Utility Vehicles. – The fee for a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle is the same as the fee for private passenger vehicles of not more than 15 passengers. However, the fee for any low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle that is offered for rent shall be the same as the fee for a U-drive-it automobile."

SECTION 3. G.S. 20-121.1 reads as rewritten:

"**§ 20-121.1. Operation of a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle on certain roadways.**

The operation of a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle is authorized with the following restrictions:

(1) A low-speed vehicle may be operated only on streets and highways where the posted speed limit is 35 miles per hour or less. A modified utility vehicle may be operated only on streets and highways where the posted speed limit is 55 miles per hour or less. A mini-truck may be operated only on streets and highways where the posted speed limit is 55 miles per hour or less. This does not prohibit a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle from crossing a road or street at an intersection where the road or street being crossed has a posted speed limit of more than 35 miles per hour.

(2) A low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle shall be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields,

windshield wipers, speedometer, seat belts, and a vehicle identification number. Any such required equipment shall be maintained in proper working order.

(3) A low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle shall be registered and insured in accordance with G.S. 20-50 and G.S. 20-309.

(4) The Department of Transportation may prohibit the operation of low-speed ~~vehicles or mini-trucks~~ vehicles, mini-trucks, or modified utility vehicles on any road or highway if it determines that the prohibition is necessary in the interest of safety.

(5) Low-speed vehicles must comply with the safety standards in 49 C.F.R. § 571.500.

(6) Regardless of age, a mini-truck shall not qualify as an antique vehicle or historic vehicle as described in G.S. 20-79.4(b)."

SECTION 4. This act becomes effective October 1, 2020.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 307

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H307-ABW-1 [v.4]

Amends Title [NO]
Third Edition

Date _____,2020

Senator M. St. Innis

moves to amend the bill on page 1, lines 6 – 10, by rewriting the lines to read:

""g2. Modified utility vehicle. – A motor vehicle that is (i) manufactured for off-road use with equipment required by G.S. 20-121.1(2), except a vehicle identification number, and (ii) has four wheels, an engine displacement greater than 2,400 cubic centimeters, an overall length of 142 inches or greater, an overall width of 58 inches or greater, an overall height of 70 inches or greater, a maximum speed capability of 40 miles per hour or greater, and does not require an operator or passenger to straddle a seat. "Modified utility vehicle" does not include an all-terrain vehicle, golf cart, or utility vehicle, as defined in this section, or a riding lawn mower."";

and on page 1, lines 25 – 27, by rewriting the lines to read:

" posted speed limit is 35 miles per hour or less. A mini-truck or modified utility vehicle may be operated only on streets and";

and on page 2, line 3, by adding the following at the end of the line:

" If a modified utility vehicle does not have a vehicle identification number, upon application by the owner, the Division shall assign a vehicle identification number to the modified utility vehicle prior to registration.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 307
Committee Substitute Favorable 3/19/19
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/28/20
PROPOSED SENATE COMMITTEE SUBSTITUTE H307-PCS30598-BG-65

Short Title: Mod. Utility Vehicle Classification. (Public)

Sponsors:

Referred to:

March 11, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE LAWS OF THE STATE TO REGULATE MODIFIED UTILITY VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(27) is amended by adding a new sub-subdivision to read:

"g2. Modified utility vehicle. – A motor vehicle that (i) is manufactured for off-road use with equipment required by G.S. 20-121.1(2), except a vehicle identification number, and (ii) has four wheels, an engine displacement greater than 2,400 cubic centimeters, an overall length of 142 inches or greater, an overall width of 58 inches or greater, an overall height of 70 inches or greater, a maximum speed capability of 40 miles per hour or greater, and does not require an operator or passenger to straddle a seat. "Modified utility vehicle" does not include an all-terrain vehicle, golf cart, or utility vehicle, as defined in this section, or a riding lawn mower."

SECTION 2. G.S. 20-87(12) reads as rewritten:

"(12) Low-Speed ~~Vehicles and Mini-Trucks.~~ Vehicles, Mini-Trucks, and Modified Utility Vehicles. – The fee for a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle is the same as the fee for private passenger vehicles of not more than 15 passengers. However, the fee for any low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle that is offered for rent shall be the same as the fee for a U-drive-it automobile."

SECTION 3. G.S. 20-121.1 reads as rewritten:

"**§ 20-121.1. Operation of a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle on certain roadways.**

The operation of a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle is authorized with the following restrictions:

(1) A low-speed vehicle may be operated only on streets and highways where the posted speed limit is 35 miles per hour or less. A mini-truck or modified utility vehicle may be operated only on streets and highways where the posted speed limit is 55 miles per hour or less. This does not prohibit a low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle from crossing a

road or street at an intersection where the road or street being crossed has a posted speed limit of more than 35 miles per hour.

(2) A low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle shall be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number. Any such required equipment shall be maintained in proper working order. If a modified utility vehicle does not have a vehicle identification number, upon application by the owner, the Division shall assign a vehicle identification number to the modified utility vehicle prior to registration.

(3) A low-speed ~~vehicle or mini-truck~~ vehicle, mini-truck, or modified utility vehicle shall be registered and insured in accordance with G.S. 20-50 and G.S. 20-309.

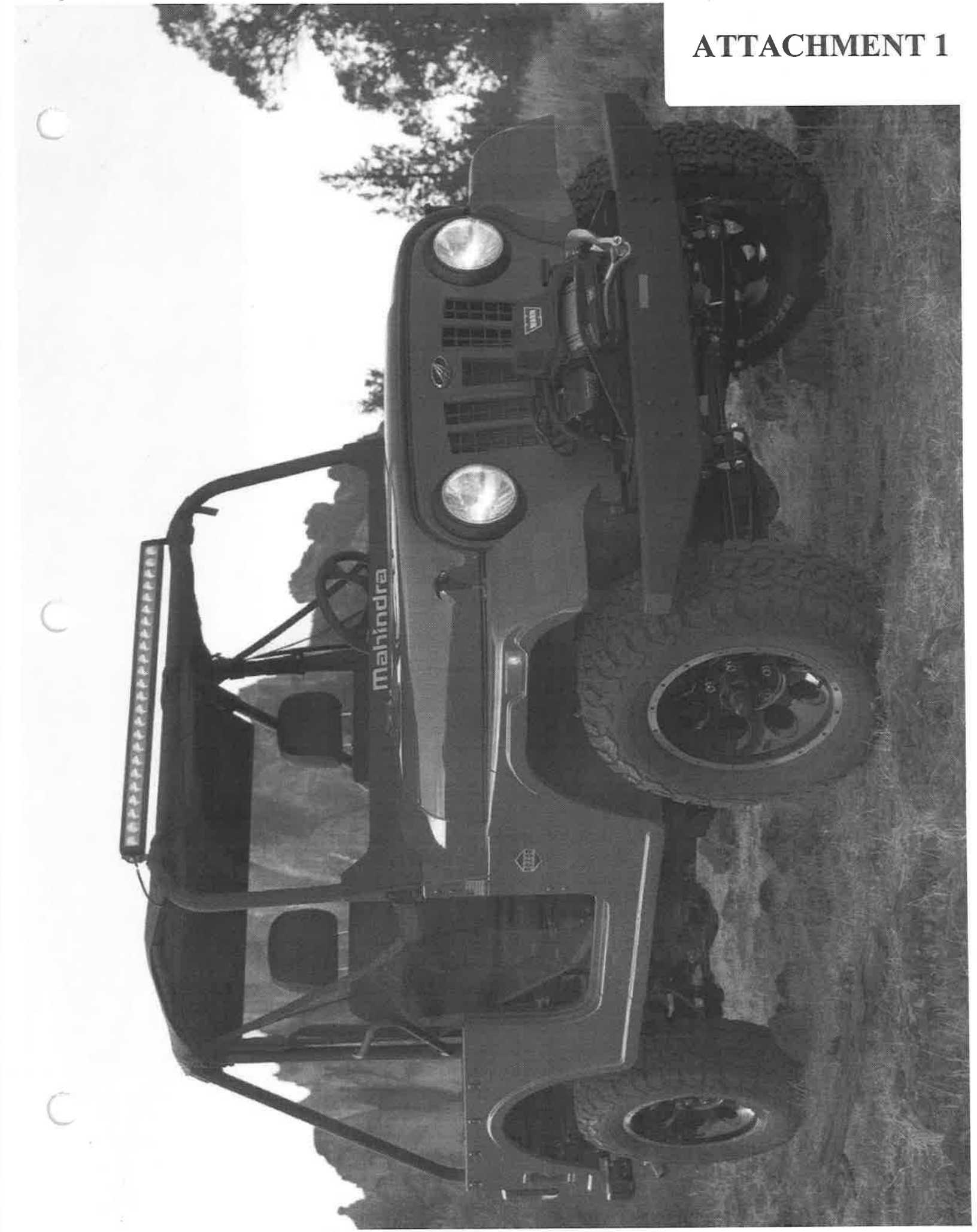
(4) The Department of Transportation may prohibit the operation of low-speed ~~vehicles or mini-trucks~~ vehicles, mini-trucks, or modified utility vehicles on any road or highway if it determines that the prohibition is necessary in the interest of safety.

(5) Low-speed vehicles must comply with the safety standards in 49 C.F.R. § 571.500.

(6) Regardless of age, a mini-truck shall not qualify as an antique vehicle or historic vehicle as described in G.S. 20-79.4(b)."

SECTION 4. This act becomes effective October 1, 2020.

ATTACHMENT 1





NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee

On

Transportation

June 10, 2020 – 12:00 PM

Room 1027/1128

Senate Sergeant at Arms:

TERRY BARNHARDT

LINDA MATTHEWS

CHRIS MOORE

JOHN ENLOE

Visitor Sign-in Sheets

Senate Committee on Transportation

June 10, 2020 1:00 PM Room 1027/1128

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
	RAINC 2PAs NCMTA
Sarah Ball	BCA
Kaitlin Rothacker	BCA
Ken Melton	KMA
	NCAAA
Justin Delaney	NCDOT
Fuller, Monica	NCDOT
Liza M	City Dd
John Easterling	KTS
Dana Ferrell	NA
Erin Wynia	NCLM

Visitor Sign-in Sheets

Senate Committee on Transportation

June 9, 2020 1:00 PM Room 1027/1128

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Andrew Cox	UNC
LaTonda Forbes	CJ&W

Speaker Sign-in Sheets

Senate Committee on Transportation

June 10, 2020 1:00 PM Room 1027/1128

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Justin Delaney	NCDOT

Principal Clerk
Reading Clerk

Updated #1:

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 17, 2020	12:00 PM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 77	DOT 2020-2021 FY Budget/Governance.	Representative Torbett Representative Presnell Representative Iler Representative Shepard
HB 1168	Murphy Branch Corridor Reduction.	Representative Corbin Representative McNeely

Senator Tom McInnis will preside.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 17, 2020	12:00 PM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 1168	Murphy Branch Corridor Reduction.	Representative Corbin Representative McNeely

Senator Tom McInnis will preside.

The committee will consider HB 77, Electric Standup Scooters upon receipt from Senate Appropriations/Base Budget.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Wednesday, June 17, 2020, 12:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 77	DOT 2020-2021 FY Budget/Governance.	Representative Torbett Representative Presnell Representative Iler Representative Shepard
HB 1168	Murphy Branch Corridor Reduction.	Representative Corbin Representative McNeely

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

TRANSPORTATION COMMITTEE REPORT
Senator J. Davis, Co-Chair
Senator McInnis, Co-Chair

Wednesday, June 17, 2020

Senator McInnis,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB 77 **(SCS#1)** DOT 2020-2021 FY Budget/Governance.

Draft Number:	H77-PCS40666-SUxfra-54
Sequential Referral:	Finance
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Jim Davis will handle HB 77



NORTH CAROLINA GENERAL ASSEMBLY
SENATE

TRANSPORTATION COMMITTEE REPORT
Senator J. Davis, Co-Chair
Senator McInnis, Co-Chair

Wednesday, June 17, 2020

Senator McInnis,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **1168 (CS#1)** Murphy Branch Corridor Reduction.

Draft Number:	H1168-PCS40668-BD-39
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Jim Davis will handle HB 1168



Senate Committee on Transportation
Wednesday, June 17, 2020 at 12:00 PM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Transportation met at 12:00 PM on June 17, 2020 in Room 1027/1128 of the Legislative Building. Ten members were present.

Senator Tom McInnis, presided. He thanked the Sergeant-At-Arms for their dedicated service.

HB 77 DOT 2020-2021 FY Budget/Governance. (Representatives Torbett, Presnell, Iler, Shepard)

Senator McInnis and recognized Wendy Graf Ray, Legislative Analysis Division, to distribute Amendment H77-AMW-43 [v.5]. He called upon Lisa Hollowell, Fiscal Research Division, who explained the amendment clarifies the motor fuel excise tax being implemented in the next calendar year will only apply to the next calendar year and the following year will be based on the formula that is in the law, but for the calculation under this section.

Senator McInnis recognized Senator Rabon for a motion to approve the amendment. It was accepted.

Senator McInnis recognized Senator Rabon to explain Amendment H77-AMW-44 [v.3] incorporated best practices whenever possible to promote pollinators and indigenous plants so insects can populate so that birds up the chain can do the same. He is convinced to save pollinators and birds in this nation and around the world will be done one backyard at a time. Senator McInnis recognized Senator Mike Woodard for a motion to approve the amendment. All were in favor.

Senator McInnis brought the bill before the committee as amended before handing the Chair over to Senator Jim Davis. Senator Jim Davis then recognized Senator McInnis to explain the financial part of the DOT bill. This bill is a major piece of legislation to come forward with major policy changes for governance changes to create a different environment with more transparency and more diligence while looking at paperwork and finances and all the things that go along with the management of DOT. Parts 1, 2 and 3 of the bill are where the cuts have been made to balance the DOT budget. There are no general fund appropriations that have been authorized or issued to balance this budget. Part 4 also contains items that are aimed at increasing funding, or availability for funding, while staying within the transportation's own funding mechanism. This includes essentially extending out the previous bond accessibility that DOT was not able to hit this fiscal year of $400 million and bundling that with next year's $300 million Build NC Bond. This will allow DOT to have access to $700 million in the NC build bonds for the next fiscal year. It will also increase the GARVEE reserve debt service from 15 to 20% in an attempt to draw down more federal dollars that can be used on the GARVEE project. Also, we're attempting to free up some bond money that is currently not expanded within the GARVEE and the Build NC Bond programs. All these actions are aimed at helping capital approach. In addition, in an effort to assist the programs within the highway fund, such as

maintenance, operations, contract resurfacing bridge programs and more, we're adjusting the motor fuel formula for the next three years. The change will be made permanent in the third year. Additionally, Part Three is an attempt to help clarify and strengthen the previously passed legislation regarding emergency expenses. We are extending out the deadline for the $300 million previously given money from previously budgeted to DOT pending a change of the Federal guides to allow them to be used. Senator Davis handed the Chairmanship back to Senator McInnis. Senator McInnis recognized Senator Davis to explain the governance for Part Five.

Senator Jim Davis explained this is the governance piece aimed at improving department's financial oversight and assistance with their finances, oversight transparency, reporting accountability and much more both internally within the Department of Transportation and externally with other agencies. This includes restructuring the DOT board to make it more responsible and to oversee DOT finances. We are changing the appointments on the board. The governor will be able to appoint 14 members to the 20 member board, one from each one of the 14 divisions, and the Pro-Tem will have three at-large appointments and the speaker will have three at-large appointments. Also, in Part Five this establishes a position within OSBM to solely focus on and assist the DOT in a variety of areas, but specifically focused on finances and forecasting. If you read the McKinsey report and the auditor's report on the DOT, it was an area of weakness that we need to make stronger. The spend plan in which the department operates under for the year will now have to be approved by the department's new responsible board along with a new transportation position at OSBM. And the director of OSBM DOT will create a uniform system for their highway divisions to operate under and report to a central office. We are providing a push position to the treasurer's office to help handle and assist with the Department of Transportation bonds. We're requesting that the auditor perform an annual performance audit on the department and report to the General Assembly how they the DOT is doing in regards to implementing the legislation among other items. This part contains other reporting changes and access to transparency to strengthen and allow more individuals to see how the department is being operated. To re-emphasize, all of these actions improve the Department of Transportation in the system with carrying out its duties to the people in our state. This has been done in a bipartisan manner. Senator Blue appointed Senator Woodard to assist drafting the legislation.

Senator McInnis turned the chairmanship over to Senator Britt in the event of questions. There were no questions from the committee or public. Senator Rabon was recognized to send forth a motion for a favorable report to HB 77 as amended, rolled into a new PCS, unfavorable to the original bill. It was approved unanimously.

HB 1168 Murphy Branch Corridor Reduction. (Representatives Corbin, McNeely)

Senator Davis recognized Representative Corbin to explain the amendment which is the bill. Both citizens of Cherokee County and the Attorney General's office, worked in collaboration with the North Carolina Railway Association to assist in the creation of this amendment. This uniformly reduces DOT's right-of-way interest in the approximate 12 mile portion of the Murphy Branch Quarter to 25 feet on each side of what is currently 100 feet on each side. The tracks have not been in use for over 25 years. Because of the various methods of obtaining the

right-of-way dating back to 1880, there are inconsistency in the deeds. Old documentation, dating back to the 1880's, defines a 100 foot right-of-way and some do not use the hundred foot right-of-way. There are currently 227 encroachments on the right-of-way. Including some people's homes, barns, and other structures. This bill reduces that 227 number down to 20, also making provisions for the remaining landowners to work with the state on their particular pieces of property. There is no known opposition to this bill, this is also not opposed by the rail division or DOT. It passed unanimously through State and Local Government and Rules Committees and passed unanimously on the House floor.

Senator McInnis asked for all in favor of the amendment. It passed unanimously. Senator McInnis brought back the bill as amended, putting forth a motion for a favorable report to HB 1168 as amended, rolled into a new PCS, unfavorable to the original bill. It was approved unanimously.

The meeting adjourned at 12:16 PM.

Senator Tom McInnis, Chair
Presiding

Lynn Taylor, Committee Clerk

HOUSE BILL 77:
DOT 2020-2021 FY Budget/Governance.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 17, 2020
Introduced by:	Reps. Torbett, Presnell, Iler, Shepard	**Prepared by:**	Howard Marsilio Committee Counsel Joshua Freeman Staff Attorney
Analysis of:	Third Edition		

OVERVIEW: House Bill 77 would adjust the Department of Transportation's FY 2020/21 Certified Budget, and implement various financial governance provisions, including the restructuring of the Board of Transportation.

CURRENT LAW/BILL ANALYSIS:

Part 1

Part 1 appropriates funds to the Department of Transportation (DOT) for the 2020-2021 fiscal year, as adjusted by the General Assembly.

Part 2

Part 2 contains the current operations and availability schedules for the Highway Fund and Highway Trust Fund, as adjusted by this act for the 2020-2021 fiscal year.

Part 3

Part 3 contains the adjustments to the programs and fund codes of the Department for the 2020-2021 fiscal year.

Part 4

Part 4 contains the following: (4.1) four year schedule of anticipated revenue for the Highway Fund and Highway Trust Fund; (4.2) motor fuel excise tax rate adjustment for the 2021-2022 calendar year; (4.3) authorization for the State Treasurer to issue $700 million in Build NC Bonds for Department use on currently existing projects; (4.4) directs the Department to use any unexpended Build NC Series 2019A Bond proceeds on currently existing projects; (4.5) increases the maximum annual debt service on GARVEE bonds from 15% to 20% and requires the Department to maintain a reserve with the funds necessary to make the next GARVEE debt service payment; (4.6) revises the motor fuels tax distribution formula between Highway Fund and Highway Trust Fund; (4.7) requires the Secretary of Transportation to notify the Governor when anticipated costs from major disasters will exceed funds in the Emergency Reserve and urges the Governor to convene a special session to appropriate additional funds to the Department for disaster costs; (4.8) clarifies that if funds allocated for snow, ice, and other emergencies are depleted, Department must reduce the budget of listed categories by the same percentage; (4.9) extension of the period the CARES Act funds are allocated to Department, in case federal government revises guidelines on use of these funds; (4.10) revises Department's Cash Watch Weekly Report and

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

Balance Sheet Report; (4.11) repeal of prior fiscal year limited expansion of Powell Bill funds and revises calculation for 2020-2021 fiscal year funds; (4.12) repeals 2020-2021 fiscal year allocation of funds for Capital, Repairs, and Renovations; (4.13) authorizes $1.5 million dollars for DMV information technology upgrades related to headquarters move; (4.14) allocates Commercial Airport Funds and extends period funds allocated to airports in the 2019-2021 biennium may be used before reversion; (4.15) requires the Rail Division to develop and submit a management plan for rolling stock and dispose of idle and specified assets; (4.16) authorizes lease of Hatteras/Ocracoke Ferry for 2020 summer season; and (4.17) requires the Department to allocate funds to the NC Ports Authority on a quarterly basis.

Part 5

Section 5.1 would amend current law as it relates to the membership, powers and duties, and requirements of the Board of Transportation. The section would terminate the current membership of the Board July 30, 2020, and reconstitute and increase the membership of the Board to 20 voting members beginning July 31, 2020. The Governor would appoint 14 Highway Division members, with at least three of another political party, and the President Pro Tem and Speaker would appoint three at-large members each. The Secretary of Transportation and a person elected by the Executive Committee of the Local Government Commission would be ex officio non-voting members. This section would also make various changes to the Board's duties and powers that relate to transportation finance and provide that the Board's primary duty is to serve as fiduciaries and ensure the solvency of the Highway Fund and Highway Trust Fund.

Section 5.2 would modify the cash balance requirement of the Department to clarify its capability to enter into project contract commitments for transportation projects leading up to and when below the available cash balance requirement of 7.5% of the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund.

Section 5.3 would create a statutory monthly, and year end, Department reporting requirement to address various financial aspects of the Department and require that the Department update its Performance Dashboard to include certain information.

Section 5.4 would create a definition for a Spend Plan for the Department and procedures for submission and approval, or a report of objections, from the Board of Transportation, the Director of Transportation Budget at the Office of State Budget and Management (OSBM), and the State Budget Director for the Department's Spend Plan or for modifications to the Spend Plan.

Section 5.5 would require the Department to transfer one vacant FTE to the OSBM to reclassify as a Director of Transportation Budget within OSBM and specify that position's duties and involvement with monitoring and assisting the Department with cash management and required financial reporting.

Section 5.6 would require the Department to develop and establish a uniform financial management personnel structure for Highway Division offices for the purposes of financial management and require the Department to develop uniform procedures and training.

Section 5.7 would require the Department to transfer one vacant FTE to the Department of the State Treasurer to reclassify as a Financial Analyst position focused on reviewing and monitoring the Department's bond program, and activities which utilize bond proceeds, and assisting the Department of the State Treasurer in fulfilling various compliance duties.

Section 5.8 would require Department, in consultation with the Director of Transportation Budget at the OSBM, to create, develop, modify, and implement Department forecasting methodology, best practices, and accuracy standards for the forecasting of spending.

Section 5.9 would require the Office of the State Auditor to conduct an annual performance audit of the Department and to include budget adherence, cash management, project delivery and other items deemed appropriate, and produce an annual report.

Section 5.10 would amend the law that relates to the Department's allocation formula for primary and secondary road maintenance to require biennial development of the formula, to consider reallocation of funds based on Highway Division expenditures, and to specify quarterly allotments to Division offices based on the Spend Plan.

Section 5.11 would require the Department to produce and submit a detailed report to the Joint Legislative Transportation Oversight Committee and the Office of the State Auditor on the Department's use of federal Advance Construction authorizations, and would require the State Auditor to conduct a performance audit of the Department's report.

Part 6

Part 6 contains boilerplate language governing enactment of the Department of Transportation budget and also authorization to Office of State Budget and Management (OSBM) to adjust the Department of Transportation General Maintenance Reserve to account for any change in employee benefit costs as a result of the enactment of certain pending legislation.

Part 7

EFFECTIVE DATE: Except as otherwise provided, this act becomes effective July 1, 2020.

HOUSE BILL 77
Committee Substitute Favorable 2/26/19
Senate Appropriations/Base Budget Committee Substitute Adopted 6/17/20

Short Title: DOT 2020-2021 FY Budget/Governance. (Public)

Sponsors:

Referred to:

February 14, 2019

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE DEPARTMENT OF TRANSPORTATION CERTIFIED BUDGET FOR THE 2020-2021 FISCAL YEAR AND TO IMPLEMENT GOVERNANCE MEASURES AND OTHER MODIFICATIONS RELATED TO THE OPERATIONS OF THE DEPARTMENT.

The General Assembly of North Carolina enacts:

PART I. BUDGET APPROPRIATIONS FOR THE 2020-2021 FISCAL YEAR

SECTION 1.1.(a) All budget codes listed in the DOT Certified Budget for the 2020-2021 fiscal year are appropriated up to the amounts specified, as adjusted by the General Assembly in this act. For purposes of this act, the term "DOT Certified Budget" means the Department of Transportation certified budget for the 2019-2021 biennium published by the Office of State Budget and Management and dated January 31, 2020.

SECTION 1.1.(b) If any provision of S.L. 2019-231 and this act conflict, this act shall control. Except as provided in this section and otherwise where expressly repealed or amended by this act, the provisions of any other legislation enacted during the 2019 Regular Session of the General Assembly expressly appropriating funds to an agency, a department, or an institution covered under this act shall remain in effect.

PART II. HIGHWAY FUND AND HIGHWAY TRUST FUND

CURRENT OPERATIONS/HIGHWAY FUND

SECTION 2.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated in Section 2.1 of S.L. 2019-231 are adjusted for the fiscal year ending June 30, 2021, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2020-2021 fiscal year.

Current Operations – Highway Fund	**FY 2020-2021**
Department of Transportation	
Administration	$0
Division of Highways	
Administration	$0
Construction	(8,500,000)

Maintenance	$70,777,925
Governor's Highway Safety Program	$0
OSHA Program	$0
State Aid to Municipalities	(17,795,301)
Intermodal Divisions	
Ferry	$0
Public Transportation, Bicycle, and Pedestrian	(76,192,980)
Aviation	(13,745,222)
Rail	(12,200,000)
Division of Motor Vehicles	(794,048)
Compensation, Benefits, Reserves, Transfers, and Other	(3,542,874)
Capital Improvements	(7,707,500)
Total Highway Fund Appropriations	**$2,333,400,000**

HIGHWAY FUND AVAILABILITY

SECTION 2.2. The Highway Fund availability set out in Section 2.2 of S.L. 2019-231 applies to the 2019-2020 fiscal year only. The Highway Fund availability used in developing the 2020-2021 fiscal year budget is shown below:

Highway Fund Availability	**FY 2020-2021**
Consensus Forecast	$2,127,600,000
Motor Fuels Tax Rate Floor	$16,200,000
Motor Fuels Tax Revenue Distribution	$189,600,000
Total Highway Fund Availability	**$2,333,400,000**

CURRENT OPERATIONS/HIGHWAY TRUST FUND

SECTION 2.3. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated in Section 2.4 of S.L. 2019-231 are adjusted for the fiscal year ending June 30, 2021, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2020-2021 fiscal year.

Current Operations – Highway Trust Fund	**FY 2020-2021**
Program Administration	$0
Bonds	$0
Turnpike Authority	$0
State Ports Authority	$0
FHWA State Match	$0
Strategic Prioritization Funding Plan for Transportation Investments	(425,900,000)
Transfer to Visitor Center	$0
Total Highway Trust Fund Appropriations	**$1,230,900,000**

HIGHWAY TRUST FUND AVAILABILITY

SECTION 2.4. The Highway Trust Fund availability set out in Section 2.4 of S.L. 2019-231 applies to the 2019-2020 fiscal year only. The Highway Trust Fund availability used in developing the 2020-2021 fiscal year budget is shown below:

Highway Trust Fund Availability	**FY 2020-2021**
Consensus Forecast	$1,419,000,000
Motor Fuels Tax Rate Floor	$3,800,000
Motor Fuels Tax Revenue Distribution	(191,900,000)
Total Highway Trust Fund Availability	**$1,230,900,000**

PART III. ADJUSTMENTS TO THE 2020-2021 DOT CERTIFIED BUDGET

USE OF HIGHWAY FUND APPROPRIATIONS

SECTION 3.1. Of the funds appropriated in this act to the Department of Transportation from the Highway Fund, the sum of one hundred twelve million two hundred twenty-one thousand three dollars ($112,221,003) for the 2020-2021 fiscal year shall be used as follows:

(1) General Maintenance Reserve (Fund Code: 0934) – $84,165,752 in nonrecurring funds. The revised net appropriation is $517,382,234.

(2) Contract Resurfacing (Fund Code: 7824) – $28,055,251 in nonrecurring funds. The revised net appropriation is $563,737,731.

HIGHWAY FUND REDUCTIONS

SECTION 3.2. Of the funds appropriated in this act to the Department of Transportation from the Highway Fund, the sum of one hundred eighty-one million nine hundred twenty-one thousand three dollars ($181,921,003) for the 2020-2021 fiscal year shall be reduced as follows:

(1) Mobility Modernization Program (Fund Code: 7844) – $41,443,078 in nonrecurring funds. The revised net appropriation is $0.

(2) Powell Bill Program (Fund Code: 7836) – $7,375,000 in recurring funds and $10,420,301 in nonrecurring funds. The revised net appropriation is $137,079,699.

(3) State Secondary System (Fund Code: 7812) – $8,500,000 in nonrecurring funds. The revised net appropriation is $3,500,000.

(4) Commercial Airport Funds (Fund Code: 7830) – $8,878,022 in nonrecurring funds. The revised net appropriation for this grant program is $66,121,978.

(5) State Aid to General Aviation Airports (Fund Code: 7830) – $4,867,200 in nonrecurring funds. The revised net appropriation for this grant program is $45,832,800.

(6) Amtrak Payment Cap (Fund Code: 7829) – $1,200,000 in nonrecurring funds due to CARES Act cap on Amtrak payments for State-supported routes. The revised net appropriation for contract services in this fund code is $9,897,200.

(7) Freight Rail & Rail Crossing Safety Improvement (FRRCSI) Program (Fund Code: 7829) – $11,000,000 in nonrecurring funds for the FRRCSI grant program. The revised net appropriation is $10,800,000.

(8) Public Transportation – Lynx Blue Line Extension (Fund Code: 7831) – $25,000,000 in nonrecurring funds. Reimbursements to Charlotte Area Transit System (CATS) during the 2020-2021 fiscal year will come from unexpended appropriations.

(9) Public Transportation – State Maintenance Assistance Program (SMAP) (Fund Code: 7831) – $32,528,557 in nonrecurring funds. The revised net appropriation for this program is $0.

(10) Public Transportation – Rural Operating Assistance Program (ROAP) (Fund Code: 7831) – $18,664,423 in nonrecurring funds. The revised net appropriation for this program is $0.

(11) DMV Headquarters Lease (Fund Code: 7050) – $794,048 in nonrecurring funds based upon the lease agreement schedule. The revised net appropriation for the lease is $1,705,952.

(12) Capital Repairs (Fund Code: 7826) – $7,707,500 in nonrecurring funds. The revised net appropriation is $0.

(13) Department Vacant Positions – $3,542,874 in recurring funds. This reduction is for the elimination of the following vacant positions:

	Position Description	Position Number
a.	Marine Field Maintenance Superintendent	60029775
b.	Administrative Specialist I	60029763
c.	Engineer III	60029761
d.	Engineer III	60029758
e.	Engineer III	60027691
f.	Engineering Manager I	60027656
g.	Engineer I	60027541
h.	Administrative Officer I	60025145
i.	Engineer III	60025070
j.	HR Technician I	60023288
k.	Executive Assistant I	60023276
l.	Engineering Manager I	60022808
m.	Administrative Associate II	60022310
n.	Agency HR Consultant II	60022309
o.	Engineering Manager I	60021737
p.	Administrative Associate II	60021294
q.	Administrative Specialist I	60021100
r.	Executive Assistant I	60019741
s.	Administrative Associate II	60019631
t.	Administrative Associate II	60019010
u.	Executive Assistant I	60017554
v.	Administrative Associate II	60016967
w.	Administrative Associate II	60016696
x.	Administrative Specialist I	60016599
y.	Administrative Specialist I	60016460
z.	Engineer I	60016454
aa.	Administrative Associate II	60016453
bb.	Administrative Associate II	60016068
cc.	Administrative Specialist II	60015790
dd.	Aircraft Maintenance Supervisor	60015606
ee.	Maintenance/Construction Technician II	60015522
ff.	Auditor I	60015502
gg.	Maintenance/Construction Supervisor III	60015485
hh.	Administrative Specialist II	60015480
ii.	Auditor III	60015440
jj.	Auditor I	60015437
kk.	Auditor III	60015433

ll.	Auditor III	60015427
mm.	Auditor III	60015204
nn.	Agency HR Consultant III	60015079
oo.	Public Information Manager	60014954

HIGHWAY TRUST FUND REDUCTIONS

SECTION 3.3. Of the funds appropriated in this act to the Department of Transportation from the Highway Trust Fund, the sum of four hundred twenty-five million nine hundred thousand ($425,900,000) for the 2020-2021 fiscal year shall be reduced as follows:

(1) Strategic Transportation Initiative (Fund Code: 9075) – $425,900,000 in nonrecurring funds. The revised net appropriation is $1,039,408,940.

PART IV. DEPARTMENT OF TRANSPORTATION

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1.(a) Subsections (b) and (c) of Section 4.1 of S.L. 2019-231 are repealed.

SECTION 4.1.(b) The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

For Fiscal Year 2021-2022	$2,472.1 million
For Fiscal Year 2022-2023	$2,452.8 million
For Fiscal Year 2023-2024	$2,509.9 million
For Fiscal Year 2024-2025	$2,587.8 million

SECTION 4.1.(c) The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

For Fiscal Year 2021-2022	$1,390.6 million
For Fiscal Year 2022-2023	$1,574.6 million
For Fiscal Year 2023-2024	$1,621.9 million
For Fiscal Year 2024-2025	$1,661.7 million

SECTION 4.1.(d) Beginning the 2021-2022 fiscal year, the Department of Transportation, in collaboration with the Office of State Budget and Management, shall develop a five-year revenue forecast. The five-year revenue forecast developed under this subsection shall be used (i) to develop the five-year cash flow estimates included in the biennial budgets, (ii) to develop the Strategic Transportation Improvement Program, and (iii) by the Department of the State Treasurer to compute transportation debt capacity.

MOTOR FUEL EXCISE TAX FLOOR

SECTION 4.2. Notwithstanding the rate calculated pursuant to G.S. 105-449.80(a), for the period that begins on January 1, 2021, and ends on December 31, 2021, the motor fuel excise tax rate shall be the greater of thirty-six and one-tenth cents (36.1¢) per gallon or the rate calculated pursuant to G.S. 105-449.80(a). For the period beginning January 1, 2022, the motor fuel tax rate shall be calculated pursuant to the formula set out in G.S. 105-449.80(a), using as the amount for the preceding calendar year, the 2021 calendar year tax rate as calculated under this section.

BUILD NC BOND ADDITIONAL ISSUE

SECTION 4.3.(a) Notwithstanding G.S. 142-97(2)c. and G.S. 142-97(4), for the 2020-2021 fiscal year, the Department of the State Treasurer is authorized to issue Build NC Bonds in the amount of seven hundred million dollars ($700,000,000), if the issuance plan is in compliance with appropriate credit, control, and disclosure requirements.

SECTION 4.3.(b) Notwithstanding the project tier distribution requirements in subdivision (2a) of G.S. 142-82 and Section 2 of S.L. 2018-16, the Department of Transportation shall use the net proceeds of Build NC Bonds issued pursuant to subsection (a) of this section on currently existing projects.

SECTION 4.3.(c) For purposes of this section, the term "currently existing project" means a project that is, as of June 1, 2020, in the process of design or construction.

SECTION 4.3.(d) Nothing in this section shall be construed as modifying the Build NC Bonds limit set forth in G.S. 142-97(3).

SECTION 4.3.(e) Section 1.1 of S.L. 2019-251 is repealed.

UNEXPENDED BUILD NC BONDS

SECTION 4.4. To the extent authorized by law and any applicable contract, the Department of Transportation shall use any unexpended net proceeds from the Build NC Series 2019A Bonds on currently existing projects. The Department of State Treasurer and the Department of Transportation shall take all steps necessary to implement this section. For purposes of this section, the term "currently existing project" means a project that is, as of June 1, 2020, in the process of design or construction.

INCREASE MAXIMUM GARVEE DEBT SERVICE/USE GARVEE RESERVE FUNDS

SECTION 4.5.(a) G.S. 136-18(12b) reads as rewritten:

"(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt-financing instruments to finance federal-aid highway projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall be issued by the State Treasurer on behalf of the Department and shall be issued pursuant to an order adopted by the Council of State under G.S. 159-88. The State Treasurer shall develop and adopt appropriate debt instruments, consistent with the terms of the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this subdivision. Prior to issuance of any "GARVEE" or other eligible debt instrument using federal funds to pay a portion of principal, interest, and related bond issuance costs, the State Treasurer shall determine (i) that the total outstanding principal of the debt does not exceed the total amount of federal transportation funds authorized to the State in the prior federal fiscal year; or (ii) that the maximum annual principal and interest of the debt does not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the expected average annual federal revenue shown for the period in the most recently adopted Transportation Improvement Program. Notes issued under the provisions of this subdivision shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof, or a pledge of the full faith and credit of the State or of any political subdivision thereof, but shall be payable solely from the funds and revenues pledged therefor. All the notes shall contain on their face a statement to the effect that the State of North Carolina is not obligated to pay the principal or the interest on the notes, except from the federal transportation fund revenues as shall be provided by the documents governing the revenue note issuance, and that neither the faith and credit nor the taxing power of the State of North Carolina or of any of its political subdivisions is pledged to the payment of the principal or interest on the notes. The issuance of notes under this Part does not directly or indirectly or contingently obligate the State or any of its political subdivisions to levy or

to pledge any form of taxation whatever or to make any appropriation for their payment."

SECTION 4.5.(b) The Department of Transportation shall maintain a GARVEE/Federal Repayment Reserve in the amount equivalent to the next debt service payment owed on all GARVEE bonds. To the extent authorized by law and any applicable contract, the Department shall use the remaining amount of unexpended GARVEE/Federal Repayment Reserve funds to pay for currently existing projects. For purposes of this section, the term "currently existing project" means a project that is, as of June 1, 2020, in the process of design or construction.

MODIFY FUEL TAX DISTRIBUTION

SECTION 4.6.(a) Effective July 1, 2020, and applicable to excise tax revenue collected by the Department on or after that date, G.S. 105-449.125(b) reads as rewritten:

"(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining excise tax revenue collected under this Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) ~~Seventy-one percent (71%)~~ Eighty-one percent (81%) to the Highway Fund.

(2) ~~Twenty-nine percent (29%)~~ Nineteen percent (19%) to the Highway Trust Fund."

SECTION 4.6.(b) Effective July 1, 2021, and applicable to excise tax revenue collected by the Department on or after that date, G.S. 105-449.125(b), as amended by subsection (a) of this section, reads as rewritten:

"(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining excise tax revenue collected under this Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) ~~Eighty-one percent (81%)~~ Eighty percent (80%) to the Highway Fund.

(2) ~~Nineteen percent (19%)~~ Twenty percent (20%) to the Highway Trust Fund."

SECTION 4.6.(c) Effective July 1, 2022, and applicable to excise tax revenue collected by the Department on or after that date, G.S. 105-449.125(b), as amended by subsection (b) of this section, reads as rewritten:

"(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining excise tax revenue collected under this Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) ~~Eighty percent (80%)~~ Seventy-five percent (75%) to the Highway Fund.

(2) ~~Twenty percent (20%)~~ Twenty-five percent (25%) to the Highway Trust Fund."

TRANSPORTATION EMERGENCY RESERVE/EXTRA SESSION

SECTION 4.7.(a) G.S. 136-44.2E(c), as enacted by S.L. 2019-251, reads as rewritten:

"(c) Access to Funds. – The Department may only use funds in the Emergency Reserve after the President of the United States issues a declaration under the Stafford Act (42 U.S.C. §§ 5121 – 5207) that a major disaster exists in the State. The Secretary of Transportation shall ensure all funds in the Emergency Reserve are accessed and used pursuant to this section. The Secretary shall also ensure the funds in the Emergency Reserve are used in a manner that does not jeopardize federal reimbursements for disaster-related expenses."

SECTION 4.7.(b) G.S. 136-44.2E, as enacted by S.L. 2019-251, is amended by adding a new subsection to read:

"(f) Notification of Governor; Reimbursement. – The Secretary shall notify the Governor within 24 hours of determining that anticipated emergency expenses by the Department under this section will exceed the funds in the Emergency Reserve. Upon

notification, the Governor shall immediately proceed under G.S. 166A-19.20(e). Federal reimbursements for funds expended in relation to a major disaster, declared in accord with subsection (c) of this section, shall be used to reimburse expenditures from the following accounts in order of priority:

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

SECTION 4.7.(c) G.S. 166A-19.20 is amended by adding a new subsection to read:

"(e) Extra Session; Emergency Transportation Expenditures. – The General Assembly considers a determination by the Secretary of Transportation under G.S. 136-44.2E(f) that anticipated emergency expenses will exceed the funds in the Transportation Emergency Reserve within the meaning of the term "extraordinary occasions," and therefore the Governor is authorized to convene the General Assembly in Extra Session under Section 5(7) of Article III of the North Carolina Constitution. The General Assembly strongly urges the Governor to convene the General Assembly in Extra Session within 14 days of notice by the Secretary under G.S. 136-44.2E(f) for the purpose of appropriating funds from the Savings Reserve to the Emergency Reserve to address the transportation needs of the State necessitated by a major disaster."

CLARIFY BUDGET REDUCTION FOR UNANTICIPATED EXPENDITURES

SECTION 4.8. Subsection (d1) of G.S. 143C-6-11, as enacted by S.L. 2019-251, reads as rewritten:

"(d1) Unanticipated Expenditures; Adjustment of Budget. – In any fiscal year, when all funds allocated for snow and ice removal, and emergencies are depleted, the Department ~~may,~~ shall, in coordination with the Office of State Budget and Management (OSBM), reduce by the same percentage the budget for every departmental division, grant-in-aid, and category of expenditures, excluding salaries, to pay for any unanticipated expenditures from snow and ice removal, and emergencies. Within 30 days of an adjustment made pursuant to this subsection, the Department shall submit a report to the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division."

EXTEND DEADLINE/FEDERAL GUIDANCE ON USE OF COVID-19 FUNDS

SECTION 4.9.(a) Subdivision (4) of Section 3.3 of S.L. 2020-4 reads as rewritten:

"(4) $300,000,000 to OSBM to allocate to the General Maintenance Reserve in the Highway Fund for the Department of Transportation; provided that OSBM shall not transfer these allocated funds to the Department for use until the guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," dated April 22, 2020, are revised by the United States Department of the Treasury to authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, or a subsequent act of Congress authorizes the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency. 30 days prior to the transfer of funds pursuant to this subsection, OSBM shall submit a report to the Joint Legislative Commission on Governmental Operations. On or before April 1, 2021, the Department shall submit a report on the status of utilizing these funds and a revenue update to the Joint Legislative Transportation Oversight Committee (JLTOC) and the Fiscal Research Division. The Governor may not use the funds described in this subdivision to make budget adjustments under G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c). Notwithstanding Section 3.2 of this act, if, ~~by June 15, 2020,~~ by September 1,

2020, the guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," dated April 22, 2020, are not revised by the United States Department of the Treasury to authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, or a subsequent act of Congress does not authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, the State Controller shall transfer the funds described in this subdivision to the Reserve and the funds shall remain unspent until appropriated by an act of the General Assembly."

SECTION 4.9.(b) This section becomes effective June 15, 2020.

CASH WATCH/BALANCE SHEET REPORT

SECTION 4.10.(a) Subsection (n) of G.S. 143C-6-11, as enacted by S.L. 2019-251, reads as rewritten:

"(n) Cash Watch Weekly Report. – The Department of Transportation shall publish for public review a weekly report of the Department's cash position, which shall be entitled "NCDOT Cash Watch Numbers." The report shall be issued as a press release to all interested parties, posted on the Department's Web site, and submitted to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division. In addition to any cash flow category the Department determines is beneficial to include, the report shall contain the following:

(1) ~~Beginning Combined Cash Balance Total~~Total Cash and Bond Proceeds
   ~~a. Highway Fund Total~~
   ~~b. Highway Trust Fund Total~~
(2) ~~Less Disbursements~~Add Receipts
   ~~a. Payroll~~
   ~~b. Debt Service~~
   ~~c. STI Construction Costs~~
   ~~d. General Operating Costs~~
   ~~e. Map Act Claims/Settlements~~
   ~~f. State Aid Payments~~
   ~~g. Disaster Related Costs~~
   ~~h. Other~~
(3) ~~Ending Combined Cash Balance Total~~Less Disbursements
   a. ~~Highway Fund Total~~Payroll
   b. ~~Highway Trust Fund Total~~Debt Service
   c. STI Construction Costs
   d. General Operating Costs
   e. Map Act Claims/Settlements
   f. State Aid Payments
   g. Disaster-Related Costs
   h. Other
(4) Reserved Cash
   a. ~~Statutory Cash Balance~~GARVEE/Federal Repayment Reserve
   b. ~~GARVEE/Federal Repayment Reserve~~Transportation Emergency Reserve
   c. ~~Transportation Emergency Reserve~~Trustee Accounts – Build NC proceeds
   d. ~~Other Reserves~~Trustee Accounts – GARVEE
   e. ~~Trustee Accounts – Build NC proceeds~~Trustee Accounts – Other Bonds

f. ~~Trustee Accounts - GARVEE~~
g. ~~Trustee Accounts - Other Bonds~~
(5) Unreserved Cash Balance Total
a. Highway Fund Total
b. Highway Trust Fund Total
c. Statutory Cash Requirement"

SECTION 4.10.(b) Subsection (o) of G.S. 143C-6-11, as enacted by S.L. 2019-251, reads as rewritten:

"(o) Balance Sheet Report. – By the ~~third~~ fifteenth day of each month, the Department of Transportation shall submit a balance sheet report of all assets, debits, liabilities, and fund balances with an explanation of significant changes from the prior month to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division."

POWELL BILL FUNDS

SECTION 4.11.(a) Section 5.4 of S.L. 2019-250 is repealed.

SECTION 4.11.(b) For the 2020-2021 fiscal year, municipalities with a population of 400,000 or more shall only receive two-thirds of the 2019-2020 fiscal year allocation of Powell Bill Program funds, as reported in the Department's "2019 North Carolina State Street Aid Allocations to Municipalities" dated January 2020. The remaining Powell Bill Program funds shall be allocated to municipalities with a population of less than 400,000 in accordance with the requirements of G.S. 136-41.1(a).

CAPITAL, REPAIRS, AND RENOVATIONS

SECTION 4.12. The 2020-2021 fiscal year allocation of funds for capital, repairs, and renovations in Section 4.2 of S.L. 2019-231 is repealed.

DMV/FUNDS FOR HEADQUARTERS INFORMATION TECHNOLOGY EXPENSES

SECTION 4.13. Of the funds appropriated in this act to the Department of Transportation, excluding funds appropriated to the Division of Motor Vehicles, up to one million five hundred thousand dollars ($1,500,000) shall be used for information technology expenses related to the Division of Motor Vehicle's headquarters relocation.

AIRPORT FUNDS

SECTION 4.14.(a) Notwithstanding subsection (c) of G.S. 63-74, for the 2020-2021 fiscal year, the Commercial Airport Funds in subdivision (3) of Section 3.2 of this act shall be allocated as follows:

(1)	Albert J. Ellis	$1,812,481
(2)	Asheville Regional	$3,541,082
(3)	Charlotte/Douglas International	$29,133,306
(4)	Concord-Padgett Regional	$2,240,445
(5)	Fayetteville Regional/Grannis Field	$2,685,707
(6)	Piedmont Triad International	$8,805,486
(7)	Raleigh-Durham International	$17,903,471

SECTION 4.14.(b) Notwithstanding the provisions of subsection (b) of Section 4.7 of S.L. 2019-231 and subsection (d) of G.S. 63-74, for the 2019-2021 fiscal biennium, the Department of Transportation shall disburse funds to a compliant airport on a quarterly schedule agreed to by the Department and the airport receiving funds, and an airport shall not have to return the funds to the Department unless the funds are in the possession or control of the airport and not expended or encumbered by August 31, 2021.

RAIL DIVISION EQUIPMENT MANAGEMENT PLAN

SECTION 4.15.(a) By November 1, 2020, the Department of Transportation, Rail Division, shall submit to the Joint Legislative Transportation Oversight Committee (JLTOC), the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division a fleet management plan for Rail Division equipment. The plan shall include the current inventory of rolling stock, a program for fleet acquisition, tracking, safety, maintenance, repair, disposal, and any anticipated changes in service to State-supported passenger rail programs over the next 10 years, along with the following information:

(1) Division inventory of rolling stock: name or identifier, description, specifications, usage status of active or idle, age, date obtained, cost and source of funds to obtain, location, estimated remaining service life, annual cost, and future intended use.

(2) Ten year acquisition plan for rolling stock: description, estimated cost, estimated future maintenance costs, intended funding sources, intended use or purpose, anticipated acquisition timeline, and if item is expansion (new service) or replacement for current inventory.

(3) Intended use of federal grants awarded by September 1, 2020, on fleet management: description of grant, date awarded, decision to accept or reject award, intended use of federal funds, required State match amount, and source of State matching funds.

SECTION 4.15.(b) No later than December 31, 2020, the Rail Division shall offer for sale as surplus property idle equipment that will not be rehabilitated for future use or transferred to the Department of Natural and Cultural Resources. Notwithstanding Article 3A of Chapter 143 of the General Statutes and any other provision to the contrary, the net proceeds of the sale of property pursuant to this section shall be credited to the Rail Equipment Overhaul Fund (Fund Code: 7845).

SECTION 4.15.(c) No later than June 30, 2021, the Rail Division shall (i) relocate the caboose currently located on the P&N Corridor in the City of Gastonia and marked RNCX 400500 to the North Carolina Transportation Museum and (ii) transfer to the Department of Natural and Cultural Resources any ownership interest in the caboose and the Atlantic Coast Line #501 locomotive currently located at the North Carolina Transportation Museum.

HATTERAS/OCRACOKE FERRY LEASE

SECTION 4.16. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, G.S. 136-28.1, and any other provision of law to the contrary, and pending completion of a successful route verification, the Department of Transportation, Ferry Division, shall lease a passenger ferry vessel for operation between Hatteras and Ocracoke. The term of the lease shall end no later than September 10, 2020. Of the contingency funds appropriated in this act to the Department, the sum of up to one million one hundred forty-six thousand one hundred seventy-nine dollars ($1,146,179) shall be used by the Division to lease and operate the ferry.

QUARTERLY DISTRIBUTION OF FUNDS TO PORTS AUTHORITY

SECTION 4.17. For the 2019-2021 fiscal biennium, the Department of Transportation shall distribute funds allocated to the NC Ports Authority on a quarterly basis.

PART V. GOVERNANCE

BOARD OF TRANSPORTATION RESTRUCTURE

SECTION 5.1.(a) G.S. 143B-350 reads as rewritten:

"**§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

(a) Board of Transportation. – There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole. The diversity and size of the State require that regional differences be considered by Board members as they develop transportation policy and projects for the benefit of the citizens of the State. The Board shall carry out its duties consistent with the fiduciary responsibility to ensure the solvency of the State Highway Fund and Highway Trust Fund.

(b) Membership of the Board. –

(1) Number, appointment. – The Board of Transportation shall have ~~19~~ 20 voting members. Voting members shall be appointed as provided in subdivisions (2) and (3) of this subsection for terms of office beginning July 31 of the year of initial appointment, and every four years thereafter. Fourteen of the members shall be division members appointed by the Governor. ~~Five shall be at-large members appointed by the Governor.~~ At least three division members of the Board shall be registered voters of a political party other than the political party of the Governor. Six members shall be at-large members, with three members appointed by the President Pro Tempore of the Senate and three members appointed by the Speaker of the House of Representatives. The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board. ~~No more than two members of the Board may reside in the same highway division.~~One person elected by the Executive Committee of the Local Government Commission shall serve as an ex officio nonvoting member of the Board.

(2) Division members. – One member shall be appointed from and be a resident of each of the 14 highway divisions. ~~The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the region they represent.~~ Division members shall regularly consult with and consider the views of local government units and Transportation Advisory Committees in the region they represent. The Governor shall appoint one member from each of the fourteen divisions as follows:

a. Division 1, beginning in 2020.
b. Division 2, beginning in 2022.
c. Division 3, beginning in 2020.
d. Division 4, beginning in 2022.
e. Division 5, beginning in 2022.
f. Division 6, beginning in 2020.
g. Division 7, beginning in 2022.
h. Division 8, beginning in 2022.
i. Division 9, beginning in 2020.
j. Division 10, beginning in 2022.
k. Division 11, beginning in 2022.
l. Division 12, beginning in 2020.
m. Division 13, beginning in 2022.
n. Division 14, beginning in 2020.

(3) At-large members. – ~~Five members shall be appointed by the Governor from the State at large. At-large members appointed pursuant to this subdivision shall develop transportation policy and address transportation problems with a statewide perspective. At-large members appointed under this subdivision shall possess the following qualifications:~~

~~a. One at-large member shall be a person with expertise in environmental issues affecting the State;~~
~~b. One at-large member shall be a person familiar with the State ports and aviation issues;~~
~~c. One at-large member shall be a person residing in a rural area of the State with broad knowledge of and experience in transportation issues affecting rural areas;~~
~~d. One at-large member shall be a person residing in an urban area with broad knowledge of and expertise in mass transit;~~
~~e. One at-large member shall be a person with broad knowledge of and expertise in government-related finance and accounting.~~

Six at-large members shall be appointed as follows:

a. Two members appointed by the President Pro Tempore of the Senate, beginning in 2020.
b. One member appointed by the President Pro Tempore of the Senate, beginning in 2022.
c. Two members appointed by the Speaker of the House of Representatives, beginning in 2020.
d. One member appointed by the Speaker of the House of Representatives, beginning in 2022.

(4) Local Government Commission member. – The Executive Committee of the Local Government Commission shall elect a person with broad knowledge of and expertise in government-related finance and accounting to be an ex officio, nonvoting member of the Board. This member shall serve on the Board of Transportation Audit Committee.

(5) Criteria. – All Board members shall have professional backgrounds related to transportation, budgeting, accounting, or financing to properly and effectively oversee the financial actions and accountability of the Department of Transportation for its operations and the projects it manages.

(c) Staggered Terms. – The terms of all Board members serving on the Board prior to ~~January 15, 2001, shall expire on January 14, 2001.~~ July 31, 2020, shall expire on July 30, 2020. A new board of ~~19~~ 20 voting members shall be appointed with terms beginning on ~~January 15, 2001. The Board shall serve the following terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at-large members filling the positions designated in sub-subdivisions (b)(3)a., b., and e. of this section shall serve four-year terms beginning on January 15, 2001, and four-year terms thereafter; and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at-large members filling the positions designated in sub-subdivisions (b)(3)c. and d. of this section shall serve two-year terms beginning January 15, 2001, and four-year terms thereafter.~~ July 31, 2020.

(d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve until their successors are appointed. The ~~Governor~~ appointing authority may appoint a member to serve out the unexpired term of any Board member. The ~~Governor~~ appointing authority may remove any member of the Board appointed by that appointing authority for any cause the ~~Governor~~ appointing authority finds sufficient. The ~~Governor~~ appointing authority shall remove any member of the Board upon conviction of a felony, conviction of any offense involving a violation of the Board member's official duties, or for a violation of the provisions of subsections (i), (j), and (k) of this section or any other code of ethics applicable to members of the Board as determined by the ~~Governor~~ appointing authority or the ~~Governor's~~ appointing authority's designee.

(e) Organization and Meetings of the Board. – Within ~~60~~ 30 days after ~~January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor,~~ July

31, 2020, the Governor ~~or his designee~~ shall call the Board into session. The Board shall select a chair and vice-chair from among its membership for two-year terms. The Board may select a chair or vice-chair for one additional two-year term. The Board of Transportation shall meet ~~once in each 60 days~~ at least once a month at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the ~~chairman~~ chair or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) Duties and Powers of the Board. – The primary duty of the Board of Transportation shall be to serve as fiduciaries of the State Highway Fund and Highway Trust Fund and ensure the solvency of those funds when carrying out the Board's duties and powers. The Board of Transportation has the following duties and powers:

(1) To formulate policies and ~~priorities for all modes of transportation under the Department of Transportation.~~priorities, accountability and performance metrics for all modes, divisions, and central office of the Department of Transportation, including personnel within those divisions, and to hold those modes, divisions, and personnel accountable to those metrics.

(1a) To review and take action on each Spend Plan developed by the Department of Transportation as required by G.S. 143C-6-11.1. An approved Spend Plan must be fiscally responsible while accomplishing transportation goals across the State.

(1b) To ensure that the Department of Transportation is operating within the approved Spend Plan.

(1c) To review and approve the Department's use of bonds, including for federally funded projects.

(2) To advise the Secretary on matters to ~~achieve the maximum public benefit in the performance of the functions assigned to the Department.~~increase the performance, efficiency, and effectiveness of the day-to-day operations of the Department of Transportation.

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of ~~transportation taking into consideration the social, economic and environmental impacts of the various alternatives.~~transportation.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost. This schedule is designated the Transportation Improvement Program. The Board shall publish the schedule in a format that is easily reproducible for distribution and make copies available for distribution in accordance with the process established for public records in Chapter 132 of the General Statutes.

(4a) To approve a schedule of State highway maintenance projects and their anticipated cost. This schedule is designated the Highway Maintenance Improvement Program and is established in G.S. 136-44.3A. The Board shall publish the schedule on the Department's Web site by April 1 of each year. The document that contains the Highway Maintenance Improvement Program shall include the anticipated funding sources for the improvement projects included in the Highway Maintenance Improvement Program, a list of any changes made from the previous year's Highway Maintenance Improvement Program, and the reasons for the changes.

~~(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it.~~

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department.

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available.

(8) To approve all highway construction programs.

(9) To approve all highway construction projects and construction plans for the construction of projects.

(10) To review all statewide maintenance functions.

(11) To award all highway construction contracts.

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain.

(12a) To approve partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, with priority given to highways, roads, streets, and bridges.

(13) Repealed by Session Laws 2010-165, s. 13, effective August 2, 2010.

(f1) Local Government Participation. – The ability of a local government to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of Transportation shall prepare an estimate of the operational costs and capital costs associated with the addition of the aircraft or ferry and shall report those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental Operations.

(g) Delegation of Board Duties. – The Board of Transportation shall delegate to the Secretary of Transportation the authority under subdivisions (1) and (2) of this subsection, and may delegate the authority under subdivision (3) of this subsection:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(g1) Limitation on Board Duties. – The Board of Transportation shall not make decisions on individual contracts, projects, or personnel matters.

~~(h) Consultation of Board Members. – Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.~~

(i) Disclosure of Contributions. – ~~Any person serving on the Board of Transportation or as Secretary of Transportation on December 1, 1998, shall disclose on that date any contributions the person or the person's immediate family made to the political campaign of the appointing Governor in the two years preceding December 1, 1998.~~ A person appointed to the Board of Transportation and a person appointed as Secretary of Transportation on or after ~~December 1,~~

~~1998,~~ July 31, 2020, shall disclose at the time the appointment of the person is officially made public any contributions the person or the person's immediate family made to the political campaign of the appointing ~~Governor~~ authority in the two years preceding the date of appointment. The term "immediate family", as used in this subsection, means a person's spouse, children, parents, brothers, and sisters. Disclosure forms shall be filed with the State Ethics Commission as a supplemental filing to the Statement of Economic Interest filed under Article 3 of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(j) Disclosure of Campaign Fund-Raising. – A person appointed to the Board of Transportation on or after January 1, 2001, and a person appointed as Secretary of Transportation on or after January 1, 2001, shall disclose at the time the appointment of the person is officially made public any contributions the person personally acquired in the two years prior to appointment for: any political campaign for a statewide or legislative elected office in North Carolina; any political party executive committee or political committee acting on behalf of a candidate for statewide or legislative office. Disclosure forms shall be filed with the State Ethics Commission as a supplemental filing to the Statement of Economic Interest filed under Article 3 of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics applicable to members of the Board, including the Secretary. Any code of ethics adopted by the Board shall be supplemental to the provisions of Chapter 138A of the General Statutes. A code of ethics adopted pursuant to this subsection shall include a prohibition against a member taking action as a Board member when a conflict of interest, or the appearance of a conflict of interest, exists. The ethics policy adopted pursuant to this subsection shall specify that a conflict of interest exists when the use of the Board member's position, or any official action taken by the Board member, would result in financial benefit, direct or indirect, to the Board member, a member of the Board member's immediate family, or an individual with whom, or business with which, the Board member is associated. The ethics policy adopted pursuant to this subsection shall specify that an appearance of a conflict of interest exists when a reasonable person would conclude from the circumstances that the Board member's ability to protect the public interest, or perform public duties, would be compromised by personal interest, even in the absence of an actual conflict of interest. The performance of usual and customary duties associated with the public position or the advancement of public policy goals or constituent services, without compensation, shall not constitute the use of the Board member's position for financial benefit. The conflict of interest provision of the ethics policy adopted pursuant to this subsection shall not apply to financial or other benefits derived by a Board member that the Board member would enjoy to an extent no greater than that which other citizens of the State would or could enjoy.

(*l*) Additional Requirements for Disclosure Statements. – All disclosure statements required under subsections (i), (j), and (k) of this section must be sworn written statements.

(m) Ethics and Board Duties Education. – The Board shall institute by January 1, 1999, and conduct annually an education program on ethics and on the duties and responsibilities of Board members. The training session shall be comprehensive in nature, conducted in conjunction with the State Ethics Commission, and shall include input from the School of Government at the University of North Carolina at Chapel Hill, the Attorney General's Office, the University of North Carolina Highway Safety Research Center, and senior career employees of the various divisions of the Department. This program shall include an initial orientation for new members of the Board and continuing education programs for Board members at least once each year.

~~(n) Review of Appointments by the Joint Legislative Transportation Oversight Committee. The Governor shall submit the names of all proposed Board of Transportation~~

~~appointees, along with the disclosure statements required under subsections (i), (j), and (k) of this section, to the Joint Legislative Transportation Oversight Committee prior to Board members' taking office. The Committee shall have 30 days to review and submit comments to the Governor on the proposed appointees before they take office. The Governor shall consider the views expressed by the Committee concerning the appointees to the Board. If the Committee does not review or submit comments to the Governor on the proposed Board appointees within the 30 days, the Governor may proceed to appoint the proposed members to the Board.~~

(o) Additional Ethics Requirements. – Board members shall sign a sworn statement that they will abide by the disclosure, ethics, and education requirements of this section and of Chapter 138A of the General Statutes. Following the convening of each Board of Transportation meeting, and prior to the conduct of business, each Board member shall sign a sworn statement that the member has no financial, professional, or other interest in any project being considered on the meeting agenda. To the extent the Board member has such an interest, the chair and member shall take all appropriate steps to ensure that the interest is properly evaluated and addressed in accordance with law and that the member is not permitted to act on any matter in which the member has a disqualifying conflict of interest.

(p) Reports. – Notwithstanding any other provision of law, any report required to be submitted by the Board to the General Assembly or a committee thereof is due by the 15th day of the month that the report is due."

SECTION 5.1.(b) Notwithstanding the requirements of G.S. 143B-350(b)(1), as amended by this act, the following voting members shall be appointed to the Board of Transportation for a two-year term beginning July 31, 2020:

(1) Division members. – The Governor shall appoint one member from each of the following eight divisions:
   a. Division 2.
   b. Division 4.
   c. Division 5.
   d. Division 7.
   e. Division 8.
   f. Division 10.
   g. Division 11.
   h. Division 13.

(2) At-large members. – The President Pro Tempore of the Senate shall appoint one at-large member, and the Speaker of the House of Representatives shall appoint one at-large member.

All members appointed as provided in this subsection shall be subject to all other provisions of G.S. 143B-350, as amended by this act.

SECTION 5.1.(c) This section becomes effective July 31, 2020.

CASH FLOOR CONTRACTING LIMITATION CLARIFICATION

SECTION 5.2. G.S. 143C-6-11(f) reads as rewritten:

"(f) Seven and One Half Percent (7.5%) Cash Balance Required. – The Department of Transportation shall maintain an available cash balance at the end of each month equal to at least seven and one half percent (7.5%) of the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund. In projecting cash balances in future years, the Department shall use the estimated cash flow as specified in the Current Operations Appropriation Act. No further transportation project contract commitment may be entered into that would cause the cash position to fall below this requirement. In the event this cash position is not maintained, no further transportation project contract commitments may be entered into until the cash balance has been regained. Provided the Department may modify or supplement transportation contract commitments for existing transportation projects that (i) result in a

savings from the total estimated project cost of the existing commitment, based on a cost-savings analysis, or (ii) relate to the needs of an existing transportation project to continue. Any federal funds on hand shall not be considered as cash for the purposes of this subsection."

MONTHLY FINANCIAL STATEMENT REPORT

SECTION 5.3.(a) G.S. 143C-6-11, as amended by Section 2.1 of S.L. 2019-251, is amended by adding two new subsections to read:

"(p) 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:

(1) Revenues received by the Highway Fund and Highway Trust Fund for the month, broken down into category, and in relation to the revenue estimate for category used for the current fiscal year budget.

(2) Expenditures by fund code for the month, and in relation to the current fiscal year certified budget and the Department's Spend Plan.

(3) Expenditures by Highway Division for the month, and in relation to the current fiscal year allocation of funds for maintenance activities made by the Department pursuant to G.S. 136-44.6.

(4) Expenditures by Highway Division from the Reserve for General Maintenance in the Highway Fund (GMR) for the month, broken down into category, and in relation to the current budget year allocation of funds for each category.

(5) Expenditures by Highway Division on capital and Strategic Transportation Investment (STI) projects, and in relation to the current budget year allocation of funds for capital and STI projects.

(6) Projected revenues and Spend Plan of the Department for the next 18 months, noting any changes.

(7) Accounts payable, including the number of contracts, invoices paid, and payments pending. The report shall also include the number of days between an invoice being submitted and being approved and the number of days between approval and payment. The Department shall also report the number of contracts breached and invoices the Department could not pay in full, including the age of those invoices and the status of any negotiated resolutions.

(q) Year-End Report. – At the end of each fiscal year, no later than July 15, the Department 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 year-end summary of information required in the monthly financial statement report under subdivisions (1) through (5) of subsection (p) of this section for the previous fiscal year, including a comparison to the Department's Spend Plan for that period."

SECTION 5.3.(b) In order for the public to access up-to-date information on projected revenue and Spend Plan status of the Department, the Department shall adjust its performance dashboard available on the Department of Transportation's Web site to include and track information required by G.S. 143C-6-11(p)(6) as enacted by this act. Dashboard enhancements required under this subsection shall be completed by October 1, 2020.

DEPARTMENT OF TRANSPORTATION SPEND PLAN

SECTION 5.4. Part 2 of Article 6 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"**§ 143C-6-11.1. Department of Transportation Spend Plan.**

(a) The Department of Transportation shall develop a comprehensive cash-spending plan, known as the "Spend Plan," to spend money from any source, including federal funds and bond proceeds, for programs, functions, activities or objects, by the Department.

(b) The Department shall present the Spend Plan to the Board of Transportation, the Director of Transportation Budget at the Office of State Budget and Management, and the State Budget Director for approval.

(c) The Board of Transportation, the Director of Transportation Budget at the Office of State Budget and Management, and the State Budget Director shall either approve the Spend Plan or report any objections to the Spend Plan with specificity and reasons for the objections in writing to the Chairs of the Senate Appropriations Committee on the Department of Transportation, the Chairs of the House of Representatives Appropriations Committee on Transportation, and the Fiscal Research Division if the General Assembly is in session, or to the Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division if the General Assembly is not in session. Upon receipt of the Spend Plan, approval or a report must be completed within 30 days.

(d) Any modifications to the Spend Plan or expenditures outside of the Spend Plan shall be submitted for approval as provided in subsection (b) of this section prior to implementation."

DIRECTOR OF TRANSPORTATION BUDGET POSITION

SECTION 5.5.(a) The Department of Transportation shall transfer one vacant FTE position and funds to the Office of State Budget and Management to be reclassified into the position of Director of Transportation Budget. The Director of Transportation Budget shall report directly to the State Budget Officer, and the duties for this position shall include monitoring and assisting the Department of Transportation in developing the Department budget and Spend Plan, monitoring the Department's finances and spending, assessing risks to Department finances, making revenue projections, and ensuring the Department budget is faithfully executed consistent with the State Budget Act.

SECTION 5.5.(b) The Department of Transportation shall give full access to all data and full access to, and training on, all financial systems utilized by the Department necessary for the Director of Transportation Budget to perform the position's responsibilities.

SECTION 5.5.(c) The Director of Transportation Budget shall work in consultation with the Department to prepare and submit the reports required by G.S. 143C-6-11(p), as enacted by this act.

HIGHWAY DIVISION FINANCIAL PERSONNEL STRUCTURING

SECTION 5.6.(a) The Department of Transportation shall develop and establish a uniform financial management personnel structure within all Highway Division offices. Each position shall have clear responsibilities for financial management of accounts payable, accounts receivable, contract oversight, and budgets. Each Highway Division office is required to maintain personnel competent in Department cash management practices and Division project management as it relates to project spending.

SECTION 5.6.(b) The Department of Transportation shall develop and establish uniform report formats and policies and procedures that calculate spending and track cash management in a consistent manner among Highway Divisions. The Department shall provide training on all forms, systems, and policies developed by the Department pursuant to this section.

SECTION 5.6.(c) The Department is authorized to reclassify positions as required to establish the uniform financial management personnel structure required by this section.

SECTION 5.6.(d) The Department shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the development and establishment of, or plan to establish and develop, the uniform financial management personnel structure by October 31, 2020. The report shall also include a description of required positions

and responsibilities of the FTEs needed to establish the personnel structure required by this section for each Highway Division and all personnel actions taken to fulfill the requirements of this section, including associated costs. The information shall be provided for each Highway Division.

ADDITIONAL BOND DISCLOSURE PERSONNEL

SECTION 5.7. The Department of Transportation shall transfer one vacant FTE position to the Department of the State Treasurer. The Department of the State Treasurer shall reclassify the vacant position into a Financial Analyst position focused on bond disclosure within the State and Local Government Finance Division to review and monitor the Department of Transportation's bond program and activities which utilize bond proceeds, including monitoring the spending and approval of projects using bond proceeds, reviewing general compliance for repayment and debt service, and assisting the Department of the State Treasurer in fulfilling its duties and responsibilities for bond disclosures and compliance as required by the United States Securities Exchange Commission and other applicable State or federal laws.

TRANSPORTATION FORECASTING METHODOLOGY

SECTION 5.8.(a) The Department of Transportation, in consultation with the Director of Transportation Budget at the Office of State Budget and Management, shall create, develop, modify, and implement Department forecasting methodology, best practices, and accuracy standards for the forecasting of spending.

SECTION 5.8.(b) By December 31, 2020, the Department of Transportation shall report to the Board of Transportation, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division of the General Assembly on implementation of this section.

ANNUAL PERFORMANCE AUDIT OF DEPARTMENT OF TRANSPORTATION

SECTION 5.9.(a) Beginning the 2019-2020 fiscal year, the Office of the State Auditor shall conduct a performance audit of the Department of Transportation every year. The performance audit shall include an examination of the following:

(1) Budget adherence by department, division, and highway division.
(2) Timeliness of federal reimbursement requests and timeliness of the Department's responses to any federal requests for additional information or action.
(3) Department controls and oversight of divisions and highway divisions as to cash management, project coordination and delivery, and budget adherence.
(4) Efficacy of communication and coordination within the Department.
(5) Efficacy of cash management by the Department.
(6) Other items the State Auditor deems relevant to study, including implementation of the provisions of this act.

SECTION 5.9.(b) The State Auditor shall submit a report of the performance audit to the Joint Legislative Commission on Governmental Operations, Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. The Department of Transportation shall give the State Auditor full access to all employees and data necessary to complete the audit and the report. The State Auditor shall submit the annual report required by this subsection by the fifteenth day of January beginning in 2021.

HIGHWAY DIVISION FUND ALLOCATION PLANS

SECTION 5.10. G.S. 136-44.6 reads as rewritten:

"**§ 136-44.6. Uniformly applicable formula for the allocation of funds for primary and secondary road maintenance.**

The Department of Transportation, in consultation with its Division Engineers, shall develop biennially a uniformly applicable formula for the allocation of funds ~~from the Reserve for General Maintenance~~ in the Highway Fund for maintenance on primary and secondary roads in each Highway Division. The formula shall take into consideration the number of paved and unpaved miles of state-maintained secondary roads in each Highway Division and such other factors as experience may dictate. In developing the allocation formula, the Department of Transportation shall allocate funding to Highway Divisions and create a plan of action to reallocate funds among Highway Divisions based upon expenditures of the first three quarters. Each Division Engineer shall have discretion in using funds allocated under this section to his or her Highway Division for maintenance activities. Allotments shall be made available to Highway Divisions on a quarterly basis, based upon the Spend Plan developed by the Department. The Department shall create a plan for reallocation to maximize use of funds with the fiscal year. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

AUDIT DOT USE OF ADVANCE CONSTRUCTION

SECTION 5.11.(a) No later than 90 days from the effective date of this act the Department of Transportation shall submit a detailed report to the Joint Legislative Transportation Oversight Committee, the Fiscal Research Division, and the Office of the State Auditor on its use of federal Advance Construction authorizations, including the benefits and risks associated with the practice. The report shall also include:

(1) A report showing the Advance Construction Balances by funding source for five years.

(2) A listing of projects currently utilizing Advance Construction with details such as the initial Advance Construction amount, contract amount, amount of expenditures for which Advance Construction has been converted allowing reimbursement by Federal Highway Administration or other sources and a schedule for Advance Construction that is planned to be converted where future reimbursement is anticipated, and the anticipated conversion and reimbursement schedule.

(3) A listing of projects where it is anticipated Advance Construction will be used in the future with details such as anticipated Advance Construction amount and conversion and reimbursement schedule.

(4) A listing of projects currently utilizing GARVEE bond funding with details such as total amount of bonds, amount of principal and interest repaid, and schedule of remaining principal and interest payments.

SECTION 5.11.(b) The Office of the State Auditor shall conduct a performance audit of the Department's report required by subsection (a) of this section and, no later than March 31, 2021, shall submit a report containing the results of the performance audit and recommendations to the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division. The Department of Transportation shall give the State Auditor full access to all employees and data necessary to complete the audit and the report.

PART VI. MISCELLANEOUS

SECTION 6.1. The budget enacted by the General Assembly is for the maintenance of the Department of Transportation for the 2020-2021 fiscal year as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget certified the amount appropriated to the Department of Transportation for the 2019-2021 fiscal biennium in the DOT Certified Budget. The adjustments made by the General Assembly to the DOT Certified Budget for the 2020-2021 fiscal year are set out in this act.

SECTION 6.2. The budget enacted by the General Assembly for the Department of Transportation shall also be interpreted in accordance with the special provisions in this act and other appropriate legislation. In the event that there is a conflict between the line-item budget certified by the Director of the Budget for the Department of Transportation and the budget enacted by the General Assembly for the Department of Transportation, the budget enacted by the General Assembly shall prevail.

SECTION 6.3. If House Bill 1136, House Bill 1218, or Senate Bill 818 of the 2019 Regular Session become law, the Office of State Budget and Management shall, no later than August 15, 2020, adjust the Department of Transportation, General Maintenance Reserve, for the 2020-2021 fiscal year to account for any change in employee benefit costs.

PART VII. EFFECTIVE DATE

SECTION 7.1. Except as otherwise provided, this act becomes effective July 1, 2020.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 77

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H77-AMW-44 [v.3]

Amends Title [NO]
Third Edition

Date 6/17 ,2020

Senator Rabon

moves to amend the bill on page 10, lines 22-23, by inserting between those lines the following:

"**POWELL BILL PREFERENCE FOR PLANTS NATIVE TO NORTH CAROLINA**

SECTION 4.11A. G.S. 136-41.3(a) reads as rewritten:

"(a) Uses of Funds. – Except as otherwise provided in this subsection, the funds allocated to cities and towns under the provisions of G.S. 136-41.1 and G.S. 136-41.2 shall be expended by said cities and towns primarily for the resurfacing of streets within the corporate limits of the municipality but may also be used for the purposes of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of bikeways, greenways, or sidewalks. Cities and towns shall strongly prefer the use of seeds and plants the U.S. Department of Agriculture has classified as native to North Carolina when the use of funds under this subsection includes landscaping. The funds allocated to cities and towns under the provisions of G.S. 136-41.1 and G.S. 136-41.2 shall not be expended for the construction of a sidewalk into which is built a mailbox, utility pole, fire hydrant, or other similar obstruction that would impede the clear passage of pedestrians on the sidewalk."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 77

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H77-AMW-43 [v.5]

Amends Title [NO]
Third Edition

Date _____, 2020

Senator J. Davis

moves to amend the bill on page 5, lines 38-44, by deleting those lines, and substituting the following:

"**SECTION 4.2.** Notwithstanding the rate calculated pursuant to G.S. 105-449.80(a), for the period that begins on January 1, 2021, and ends on December 31, 2021, the motor fuel excise tax rate shall be the greater of thirty-six and one tenth cents (36.1¢) per gallon or the rate calculated pursuant to G.S. 105-449.80(a). For the period beginning January 1, 2022, the motor fuel tax rate shall be calculated pursuant to the formula set out in G.S. 105-449.80(a) using as the amount for the preceding calendar year, the amount that the motor fuel tax rate would have been for the period beginning on January 1, 2021, and ending on December 31, 2021, but for the calculation under this section.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 77
Committee Substitute Favorable 2/26/19
Senate Appropriations/Base Budget Committee Substitute Adopted 6/17/20
PROPOSED SENATE COMMITTEE SUBSTITUTE H77-PCS40666-SUxfra-54

Short Title: DOT 2020-2021 FY Budget/Governance. (Public)

Sponsors:

Referred to:

February 14, 2019

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE DEPARTMENT OF TRANSPORTATION CERTIFIED BUDGET FOR THE 2020-2021 FISCAL YEAR AND TO IMPLEMENT GOVERNANCE MEASURES AND OTHER MODIFICATIONS RELATED TO THE OPERATIONS OF THE DEPARTMENT.

The General Assembly of North Carolina enacts:

PART I. BUDGET APPROPRIATIONS FOR THE 2020-2021 FISCAL YEAR

SECTION 1.1.(a) All budget codes listed in the DOT Certified Budget for the 2020-2021 fiscal year are appropriated up to the amounts specified, as adjusted by the General Assembly in this act. For purposes of this act, the term "DOT Certified Budget" means the Department of Transportation certified budget for the 2019-2021 biennium published by the Office of State Budget and Management and dated January 31, 2020.

SECTION 1.1.(b) If any provision of S.L. 2019-231 and this act conflict, this act shall control. Except as provided in this section and otherwise where expressly repealed or amended by this act, the provisions of any other legislation enacted during the 2019 Regular Session of the General Assembly expressly appropriating funds to an agency, a department, or an institution covered under this act shall remain in effect.

PART II. HIGHWAY FUND AND HIGHWAY TRUST FUND

CURRENT OPERATIONS/HIGHWAY FUND

SECTION 2.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated in Section 2.1 of S.L. 2019-231 are adjusted for the fiscal year ending June 30, 2021, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2020-2021 fiscal year.

Current Operations – Highway Fund	**FY 2020-2021**
Department of Transportation	
Administration	$0
Division of Highways	
Administration	$0

Construction	(8,500,000)
Maintenance	$70,777,925
Governor's Highway Safety Program	$0
OSHA Program	$0
State Aid to Municipalities	(17,795,301)
Intermodal Divisions	
Ferry	$0
Public Transportation, Bicycle, and Pedestrian	(76,192,980)
Aviation	(13,745,222)
Rail	(12,200,000)
Division of Motor Vehicles	(794,048)
Compensation, Benefits, Reserves, Transfers, and Other	(3,542,874)
Capital Improvements	(7,707,500)
Total Highway Fund Appropriations	**$2,333,400,000**

HIGHWAY FUND AVAILABILITY

SECTION 2.2. The Highway Fund availability set out in Section 2.2 of S.L. 2019-231 applies to the 2019-2020 fiscal year only. The Highway Fund availability used in developing the 2020-2021 fiscal year budget is shown below:

Highway Fund Availability	**FY 2020-2021**
Consensus Forecast	$2,127,600,000
Motor Fuels Tax Rate Floor	$16,200,000
Motor Fuels Tax Revenue Distribution	$189,600,000
Total Highway Fund Availability	**$2,333,400,000**

CURRENT OPERATIONS/HIGHWAY TRUST FUND

SECTION 2.3. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated in Section 2.4 of S.L. 2019-231 are adjusted for the fiscal year ending June 30, 2021, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2020-2021 fiscal year.

Current Operations – Highway Trust Fund	**FY 2020-2021**
Program Administration	$0
Bonds	$0
Turnpike Authority	$0
State Ports Authority	$0
FHWA State Match	$0
Strategic Prioritization Funding Plan for Transportation Investments	(425,900,000)
Transfer to Visitor Center	$0
Total Highway Trust Fund Appropriations	**$1,230,900,000**

HIGHWAY TRUST FUND AVAILABILITY

SECTION 2.4. The Highway Trust Fund availability set out in Section 2.4 of S.L. 2019-231 applies to the 2019-2020 fiscal year only. The Highway Trust Fund availability used in developing the 2020-2021 fiscal year budget is shown below:

Highway Trust Fund Availability	**FY 2020-2021**
Consensus Forecast	$1,419,000,000
Motor Fuels Tax Rate Floor	$3,800,000
Motor Fuels Tax Revenue Distribution	(191,900,000)
Total Highway Trust Fund Availability	**$1,230,900,000**

PART III. ADJUSTMENTS TO THE 2020-2021 DOT CERTIFIED BUDGET

USE OF HIGHWAY FUND APPROPRIATIONS

SECTION 3.1. Of the funds appropriated in this act to the Department of Transportation from the Highway Fund, the sum of one hundred twelve million two hundred twenty-one thousand three dollars ($112,221,003) for the 2020-2021 fiscal year shall be used as follows:

(1) General Maintenance Reserve (Fund Code: 0934) – $84,165,752 in nonrecurring funds. The revised net appropriation is $517,382,234.

(2) Contract Resurfacing (Fund Code: 7824) – $28,055,251 in nonrecurring funds. The revised net appropriation is $563,737,731.

HIGHWAY FUND REDUCTIONS

SECTION 3.2. Of the funds appropriated in this act to the Department of Transportation from the Highway Fund, the sum of one hundred eighty-one million nine hundred twenty-one thousand three dollars ($181,921,003) for the 2020-2021 fiscal year shall be reduced as follows:

(1) Mobility Modernization Program (Fund Code: 7844) – $41,443,078 in nonrecurring funds. The revised net appropriation is $0.

(2) Powell Bill Program (Fund Code: 7836) – $7,375,000 in recurring funds and $10,420,301 in nonrecurring funds. The revised net appropriation is $137,079,699.

(3) State Secondary System (Fund Code: 7812) – $8,500,000 in nonrecurring funds. The revised net appropriation is $3,500,000.

(4) Commercial Airport Funds (Fund Code: 7830) – $8,878,022 in nonrecurring funds. The revised net appropriation for this grant program is $66,121,978.

(5) State Aid to General Aviation Airports (Fund Code: 7830) – $4,867,200 in nonrecurring funds. The revised net appropriation for this grant program is $45,832,800.

(6) Amtrak Payment Cap (Fund Code: 7829) – $1,200,000 in nonrecurring funds due to CARES Act cap on Amtrak payments for State-supported routes. The revised net appropriation for contract services in this fund code is $9,897,200.

(7) Freight Rail & Rail Crossing Safety Improvement (FRRCSI) Program (Fund Code: 7829) – $11,000,000 in nonrecurring funds for the FRRCSI grant program. The revised net appropriation is $10,800,000.

(8) Public Transportation – Lynx Blue Line Extension (Fund Code: 7831) – $25,000,000 in nonrecurring funds. Reimbursements to Charlotte Area

Transit System (CATS) during the 2020-2021 fiscal year will come from unexpended appropriations.

(9) Public Transportation – State Maintenance Assistance Program (SMAP) (Fund Code: 7831) – $32,528,557 in nonrecurring funds. The revised net appropriation for this program is $0.

(10) Public Transportation – Rural Operating Assistance Program (ROAP) (Fund Code: 7831) – $18,664,423 in nonrecurring funds. The revised net appropriation for this program is $0.

(11) DMV Headquarters Lease (Fund Code: 7050) – $794,048 in nonrecurring funds based upon the lease agreement schedule. The revised net appropriation for the lease is $1,705,952.

(12) Capital Repairs (Fund Code: 7826) – $7,707,500 in nonrecurring funds. The revised net appropriation is $0.

(13) Department Vacant Positions – $3,542,874 in recurring funds. This reduction is for the elimination of the following vacant positions:

	Position Description	Position Number
a.	Marine Field Maintenance Superintendent	60029775
b.	Administrative Specialist I	60029763
c.	Engineer III	60029761
d.	Engineer III	60029758
e.	Engineer III	60027691
f.	Engineering Manager I	60027656
g.	Engineer I	60027541
h.	Administrative Officer I	60025145
i.	Engineer III	60025070
j.	HR Technician I	60023288
k.	Executive Assistant I	60023276
l.	Engineering Manager I	60022808
m.	Administrative Associate II	60022310
n.	Agency HR Consultant II	60022309
o.	Engineering Manager I	60021737
p.	Administrative Associate II	60021294
q.	Administrative Specialist I	60021100
r.	Executive Assistant I	60019741
s.	Administrative Associate II	60019631
t.	Administrative Associate II	60019010
u.	Executive Assistant I	60017554
v.	Administrative Associate II	60016967
w.	Administrative Associate II	60016696
x.	Administrative Specialist I	60016599
y.	Administrative Specialist I	60016460
z.	Engineer I	60016454
aa.	Administrative Associate II	60016453
bb.	Administrative Associate II	60016068
cc.	Administrative Specialist II	60015790
dd.	Aircraft Maintenance Supervisor	60015606
ee.	Maintenance/Construction Technician II	60015522
ff.	Auditor I	60015502
gg.	Maintenance/Construction Supervisor III	60015485
hh.	Administrative Specialist II	60015480
ii.	Auditor III	60015440

jj.	Auditor I	60015437
kk.	Auditor III	60015433
ll.	Auditor III	60015427
mm.	Auditor III	60015204
nn.	Agency HR Consultant III	60015079
oo.	Public Information Manager	60014954

HIGHWAY TRUST FUND REDUCTIONS

SECTION 3.3. Of the funds appropriated in this act to the Department of Transportation from the Highway Trust Fund, the sum of four hundred twenty-five million nine hundred thousand ($425,900,000) for the 2020-2021 fiscal year shall be reduced as follows:

(1) Strategic Transportation Initiative (Fund Code: 9075) – $425,900,000 in nonrecurring funds. The revised net appropriation is $1,039,408,940.

PART IV. DEPARTMENT OF TRANSPORTATION

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1.(a) Subsections (b) and (c) of Section 4.1 of S.L. 2019-231 are repealed.

SECTION 4.1.(b) The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

For Fiscal Year 2021-2022	$2,472.1 million
For Fiscal Year 2022-2023	$2,452.8 million
For Fiscal Year 2023-2024	$2,509.9 million
For Fiscal Year 2024-2025	$2,587.8 million

SECTION 4.1.(c) The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

For Fiscal Year 2021-2022	$1,390.6 million
For Fiscal Year 2022-2023	$1,574.6 million
For Fiscal Year 2023-2024	$1,621.9 million
For Fiscal Year 2024-2025	$1,661.7 million

SECTION 4.1.(d) Beginning the 2021-2022 fiscal year, the Department of Transportation, in collaboration with the Office of State Budget and Management, shall develop a five-year revenue forecast. The five-year revenue forecast developed under this subsection shall be used (i) to develop the five-year cash flow estimates included in the biennial budgets, (ii) to develop the Strategic Transportation Improvement Program, and (iii) by the Department of the State Treasurer to compute transportation debt capacity.

MOTOR FUEL EXCISE TAX FLOOR

SECTION 4.2. Notwithstanding the rate calculated pursuant to G.S. 105-449.80(a), for the period that begins on January 1, 2021, and ends on December 31, 2021, the motor fuel excise tax rate shall be the greater of thirty-six and one-tenth cents (36.1¢) per gallon or the rate calculated pursuant to G.S. 105-449.80(a). For the period beginning January 1, 2022, the motor fuel tax rate shall be calculated pursuant to the formula set out in G.S. 105-449.80(a) using as the amount for the preceding calendar year the amount that the motor fuel tax rate would have been for the period beginning on January 1, 2021, and ending on December 31, 2021, but for the calculation under this section.

BUILD NC BOND ADDITIONAL ISSUE

SECTION 4.3.(a) Notwithstanding G.S. 142-97(2)c. and G.S. 142-97(4), for the 2020-2021 fiscal year, the Department of the State Treasurer is authorized to issue Build NC

Bonds in the amount of seven hundred million dollars ($700,000,000), if the issuance plan is in compliance with appropriate credit, control, and disclosure requirements.

SECTION 4.3.(b) Notwithstanding the project tier distribution requirements in subdivision (2a) of G.S. 142-82 and Section 2 of S.L. 2018-16, the Department of Transportation shall use the net proceeds of Build NC Bonds issued pursuant to subsection (a) of this section on currently existing projects.

SECTION 4.3.(c) For purposes of this section, the term "currently existing project" means a project that is, as of June 1, 2020, in the process of design or construction.

SECTION 4.3.(d) Nothing in this section shall be construed as modifying the Build NC Bonds limit set forth in G.S. 142-97(3).

SECTION 4.3.(e) Section 1.1 of S.L. 2019-251 is repealed.

UNEXPENDED BUILD NC BONDS

SECTION 4.4. To the extent authorized by law and any applicable contract, the Department of Transportation shall use any unexpended net proceeds from the Build NC Series 2019A Bonds on currently existing projects. The Department of State Treasurer and the Department of Transportation shall take all steps necessary to implement this section. For purposes of this section, the term "currently existing project" means a project that is, as of June 1, 2020, in the process of design or construction.

INCREASE MAXIMUM GARVEE DEBT SERVICE/USE GARVEE RESERVE FUNDS

SECTION 4.5.(a) G.S. 136-18(12b) reads as rewritten:

"(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt-financing instruments to finance federal-aid highway projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall be issued by the State Treasurer on behalf of the Department and shall be issued pursuant to an order adopted by the Council of State under G.S. 159-88. The State Treasurer shall develop and adopt appropriate debt instruments, consistent with the terms of the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this subdivision. Prior to issuance of any "GARVEE" or other eligible debt instrument using federal funds to pay a portion of principal, interest, and related bond issuance costs, the State Treasurer shall determine (i) that the total outstanding principal of the debt does not exceed the total amount of federal transportation funds authorized to the State in the prior federal fiscal year; or (ii) that the maximum annual principal and interest of the debt does not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the expected average annual federal revenue shown for the period in the most recently adopted Transportation Improvement Program. Notes issued under the provisions of this subdivision shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof, or a pledge of the full faith and credit of the State or of any political subdivision thereof, but shall be payable solely from the funds and revenues pledged therefor. All the notes shall contain on their face a statement to the effect that the State of North Carolina is not obligated to pay the principal or the interest on the notes, except from the federal transportation fund revenues as shall be provided by the documents governing the revenue note issuance, and that neither the faith and credit nor the taxing power of the State of North Carolina or of any of its political subdivisions is pledged to the payment of the principal or interest on

the notes. The issuance of notes under this Part does not directly or indirectly or contingently obligate the State or any of its political subdivisions to levy or to pledge any form of taxation whatever or to make any appropriation for their payment."

SECTION 4.5.(b) The Department of Transportation shall maintain a GARVEE/Federal Repayment Reserve in the amount equivalent to the next debt service payment owed on all GARVEE bonds. To the extent authorized by law and any applicable contract, the Department shall use the remaining amount of unexpended GARVEE/Federal Repayment Reserve funds to pay for currently existing projects. For purposes of this section, the term "currently existing project" means a project that is, as of June 1, 2020, in the process of design or construction.

MODIFY FUEL TAX DISTRIBUTION

SECTION 4.6.(a) Effective July 1, 2020, and applicable to excise tax revenue collected by the Department on or after that date, G.S. 105-449.125(b) reads as rewritten:

"(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining excise tax revenue collected under this Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) ~~Seventy-one percent (71%)~~ Eighty-one percent (81%) to the Highway Fund.

(2) ~~Twenty-nine percent (29%)~~ Nineteen percent (19%) to the Highway Trust Fund."

SECTION 4.6.(b) Effective July 1, 2021, and applicable to excise tax revenue collected by the Department on or after that date, G.S. 105-449.125(b), as amended by subsection (a) of this section, reads as rewritten:

"(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining excise tax revenue collected under this Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) ~~Eighty one percent (81%)~~ Eighty percent (80%) to the Highway Fund.

(2) ~~Nineteen percent (19%)~~ Twenty percent (20%) to the Highway Trust Fund."

SECTION 4.6.(c) Effective July 1, 2022, and applicable to excise tax revenue collected by the Department on or after that date, G.S. 105-449.125(b), as amended by subsection (b) of this section, reads as rewritten:

"(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining excise tax revenue collected under this Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) ~~Eighty percent (80%)~~ Seventy-five percent (75%) to the Highway Fund.

(2) ~~Twenty percent (20%)~~ Twenty-five percent (25%) to the Highway Trust Fund."

TRANSPORTATION EMERGENCY RESERVE/EXTRA SESSION

SECTION 4.7.(a) G.S. 136-44.2E(c), as enacted by S.L. 2019-251, reads as rewritten:

"(c) Access to Funds. – The Department may only use funds in the Emergency Reserve after the President of the United States issues a declaration under the Stafford Act (42 U.S.C. §§ 5121 – 5207) that a major disaster exists in the State. The Secretary of Transportation shall ensure all funds in the Emergency Reserve are accessed and used pursuant to this section. The Secretary shall also ensure the funds in the Emergency Reserve are used in a manner that does not jeopardize federal reimbursements for disaster-related expenses."

SECTION 4.7.(b) G.S. 136-44.2E, as enacted by S.L. 2019-251, is amended by adding a new subsection to read:

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

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

SECTION 4.7.(c) G.S. 166A-19.20 is amended by adding a new subsection to read:

"(e) Extra Session; Emergency Transportation Expenditures. – The General Assembly considers a determination by the Secretary of Transportation under G.S. 136-44.2E(f) that anticipated emergency expenses will exceed the funds in the Transportation Emergency Reserve within the meaning of the term "extraordinary occasions," and therefore the Governor is authorized to convene the General Assembly in Extra Session under Section 5(7) of Article III of the North Carolina Constitution. The General Assembly strongly urges the Governor to convene the General Assembly in Extra Session within 14 days of notice by the Secretary under G.S. 136-44.2E(f) for the purpose of appropriating funds from the Savings Reserve to the Emergency Reserve to address the transportation needs of the State necessitated by a major disaster."

CLARIFY BUDGET REDUCTION FOR UNANTICIPATED EXPENDITURES

SECTION 4.8. Subsection (d1) of G.S. 143C-6-11, as enacted by S.L. 2019-251, reads as rewritten:

"(d1) Unanticipated Expenditures; Adjustment of Budget. – In any fiscal year, when all funds allocated for snow and ice removal, and emergencies are depleted, the Department ~~may,~~ shall, in coordination with the Office of State Budget and Management (OSBM), reduce by the same percentage the budget for every departmental division, grant-in-aid, and category of expenditures, excluding salaries, to pay for any unanticipated expenditures from snow and ice removal, and emergencies. Within 30 days of an adjustment made pursuant to this subsection, the Department shall submit a report to the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division."

EXTEND DEADLINE/FEDERAL GUIDANCE ON USE OF COVID-19 FUNDS

SECTION 4.9.(a) Subdivision (4) of Section 3.3 of S.L. 2020-4 reads as rewritten:

"(4) $300,000,000 to OSBM to allocate to the General Maintenance Reserve in the Highway Fund for the Department of Transportation; provided that OSBM shall not transfer these allocated funds to the Department for use until the guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," dated April 22, 2020, are revised by the United States Department of the Treasury to authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, or a subsequent act of Congress authorizes the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency. 30 days prior to the transfer of funds pursuant to this subsection, OSBM shall submit a report to the Joint Legislative Commission on Governmental Operations. On or before April 1, 2021, the Department shall submit a report on the status of utilizing these funds and a revenue update to the Joint Legislative Transportation Oversight Committee (JLTOC) and the Fiscal Research Division. The Governor may not

use the funds described in this subdivision to make budget adjustments under G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c). Notwithstanding Section 3.2 of this act, if, ~~by June 15, 2020,~~ by September 1, 2020, the guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," dated April 22, 2020, are not revised by the United States Department of the Treasury to authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, or a subsequent act of Congress does not authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, the State Controller shall transfer the funds described in this subdivision to the Reserve and the funds shall remain unspent until appropriated by an act of the General Assembly."

SECTION 4.9.(b) This section becomes effective June 15, 2020.

CASH WATCH/BALANCE SHEET REPORT

SECTION 4.10.(a) Subsection (n) of G.S. 143C-6-11, as enacted by S.L. 2019-251, reads as rewritten:

"(n) Cash Watch Weekly Report. – The Department of Transportation shall publish for public review a weekly report of the Department's cash position, which shall be entitled "NCDOT Cash Watch Numbers." The report shall be issued as a press release to all interested parties, posted on the Department's Web site, and submitted to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division. In addition to any cash flow category the Department determines is beneficial to include, the report shall contain the following:

(1) ~~Beginning Combined Cash Balance Total~~Total Cash and Bond Proceeds
  ~~a. Highway Fund Total~~
  ~~b. Highway Trust Fund Total~~
(2) ~~Less Disbursements~~Add Receipts
  ~~a. Payroll~~
  ~~b. Debt Service~~
  ~~c. STI Construction Costs~~
  ~~d. General Operating Costs~~
  ~~e. Map Act Claims/Settlements~~
  ~~f. State Aid Payments~~
  ~~g. Disaster Related Costs~~
  ~~h. Other~~
(3) ~~Ending Combined Cash Balance Total~~Less Disbursements
  a. ~~Highway Fund Total~~Payroll
  b. ~~Highway Trust Fund Total~~Debt Service
  c. STI Construction Costs
  d. General Operating Costs
  e. Map Act Claims/Settlements
  f. State Aid Payments
  g. Disaster-Related Costs
  h. Other
(4) Reserved Cash
  a. ~~Statutory Cash Balance~~GARVEE/Federal Repayment Reserve
  b. ~~GARVEE/Federal Repayment Reserve~~Transportation Emergency Reserve
  c. ~~Transportation Emergency Reserve~~Trustee Accounts – Build NC proceeds

d. ~~Other Reserves~~Trustee Accounts – GARVEE
e. ~~Trustee Accounts – Build NC proceeds~~Trustee Accounts – Other Bonds
f. ~~Trustee Accounts – GARVEE~~
g. ~~Trustee Accounts – Other Bonds~~

(5) Unreserved Cash Balance Total
a. Highway Fund Total
b. Highway Trust Fund Total
c. Statutory Cash Requirement"

SECTION 4.10.(b) Subsection (o) of G.S. 143C-6-11, as enacted by S.L. 2019-251, reads as rewritten:

"(o) Balance Sheet Report. – By the ~~third~~ fifteenth day of each month, the Department of Transportation shall submit a balance sheet report of all assets, debits, liabilities, and fund balances with an explanation of significant changes from the prior month to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division."

POWELL BILL FUNDS

SECTION 4.11.(a) Section 5.4 of S.L. 2019-250 is repealed.

SECTION 4.11.(b) For the 2020-2021 fiscal year, municipalities with a population of 400,000 or more shall only receive two-thirds of the 2019-2020 fiscal year allocation of Powell Bill Program funds, as reported in the Department's "2019 North Carolina State Street Aid Allocations to Municipalities" dated January 2020. The remaining Powell Bill Program funds shall be allocated to municipalities with a population of less than 400,000 in accordance with the requirements of G.S. 136-41.1(a).

POWELL BILL PREFERENCE FOR PLANTS NATIVE TO NORTH CAROLINA

SECTION 4.11A. G.S. 136-41.3(a) reads as rewritten:

"(a) Uses of Funds. – Except as otherwise provided in this subsection, the funds allocated to cities and towns under the provisions of G.S. 136-41.1 and G.S. 136-41.2 shall be expended by said cities and towns primarily for the resurfacing of streets within the corporate limits of the municipality but may also be used for the purposes of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of bikeways, greenways, or sidewalks. Cities and towns shall strongly prefer the use of seeds and plants the U.S. Department of Agriculture has classified as native to North Carolina when the use of funds under this subsection includes landscaping. The funds allocated to cities and towns under the provisions of G.S. 136-41.1 and G.S. 136-41.2 shall not be expended for the construction of a sidewalk into which is built a mailbox, utility pole, fire hydrant, or other similar obstruction that would impede the clear passage of pedestrians on the sidewalk."

CAPITAL, REPAIRS, AND RENOVATIONS

SECTION 4.12. The 2020-2021 fiscal year allocation of funds for capital, repairs, and renovations in Section 4.2 of S.L. 2019-231 is repealed.

DMV/FUNDS FOR HEADQUARTERS INFORMATION TECHNOLOGY EXPENSES

SECTION 4.13. Of the funds appropriated in this act to the Department of Transportation, excluding funds appropriated to the Division of Motor Vehicles, up to one million five hundred thousand dollars ($1,500,000) shall be used for information technology expenses related to the Division of Motor Vehicle's headquarters relocation.

AIRPORT FUNDS

SECTION 4.14.(a) Notwithstanding subsection (c) of G.S. 63-74, for the 2020-2021 fiscal year, the Commercial Airport Funds in subdivision (3) of Section 3.2 of this act shall be allocated as follows:

(1)	Albert J. Ellis	$1,812,481
(2)	Asheville Regional	$3,541,082
(3)	Charlotte/Douglas International	$29,133,306
(4)	Concord-Padgett Regional	$2,240,445
(5)	Fayetteville Regional/Grannis Field	$2,685,707
(6)	Piedmont Triad International	$8,805,486
(7)	Raleigh-Durham International	$17,903,471

SECTION 4.14.(b) Notwithstanding the provisions of subsection (b) of Section 4.7 of S.L. 2019-231 and subsection (d) of G.S. 63-74, for the 2019-2021 fiscal biennium, the Department of Transportation shall disburse funds to a compliant airport on a quarterly schedule agreed to by the Department and the airport receiving funds, and an airport shall not have to return the funds to the Department unless the funds are in the possession or control of the airport and not expended or encumbered by August 31, 2021.

RAIL DIVISION EQUIPMENT MANAGEMENT PLAN

SECTION 4.15.(a) By November 1, 2020, the Department of Transportation, Rail Division, shall submit to the Joint Legislative Transportation Oversight Committee (JLTOC), the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division a fleet management plan for Rail Division equipment. The plan shall include the current inventory of rolling stock, a program for fleet acquisition, tracking, safety, maintenance, repair, disposal, and any anticipated changes in service to State-supported passenger rail programs over the next 10 years, along with the following information:

(1) Division inventory of rolling stock: name or identifier, description, specifications, usage status of active or idle, age, date obtained, cost and source of funds to obtain, location, estimated remaining service life, annual cost, and future intended use.

(2) Ten year acquisition plan for rolling stock: description, estimated cost, estimated future maintenance costs, intended funding sources, intended use or purpose, anticipated acquisition timeline, and if item is expansion (new service) or replacement for current inventory.

(3) Intended use of federal grants awarded by September 1, 2020, on fleet management: description of grant, date awarded, decision to accept or reject award, intended use of federal funds, required State match amount, and source of State matching funds.

SECTION 4.15.(b) No later than December 31, 2020, the Rail Division shall offer for sale as surplus property idle equipment that will not be rehabilitated for future use or transferred to the Department of Natural and Cultural Resources. Notwithstanding Article 3A of Chapter 143 of the General Statutes and any other provision to the contrary, the net proceeds of the sale of property pursuant to this section shall be credited to the Rail Equipment Overhaul Fund (Fund Code: 7845).

SECTION 4.15.(c) No later than June 30, 2021, the Rail Division shall (i) relocate the caboose currently located on the P&N Corridor in the City of Gastonia and marked RNCX 400500 to the North Carolina Transportation Museum and (ii) transfer to the Department of Natural and Cultural Resources any ownership interest in the caboose and the Atlantic Coast Line #501 locomotive currently located at the North Carolina Transportation Museum.

HATTERAS/OCRACOKE FERRY LEASE

SECTION 4.16. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, G.S. 136-28.1, and any other provision of law to the contrary, and pending completion of a successful route verification, the Department of Transportation, Ferry Division, shall lease a passenger ferry vessel for operation between Hatteras and Ocracoke. The term of the lease shall end no later than September 10, 2020. Of the contingency funds appropriated in this act to the Department, the sum of up to one million one hundred forty-six thousand one hundred seventy-nine dollars ($1,146,179) shall be used by the Division to lease and operate the ferry.

QUARTERLY DISTRIBUTION OF FUNDS TO PORTS AUTHORITY

SECTION 4.17. For the 2019-2021 fiscal biennium, the Department of Transportation shall distribute funds allocated to the NC Ports Authority on a quarterly basis.

PART V. GOVERNANCE

BOARD OF TRANSPORTATION RESTRUCTURE

SECTION 5.1.(a) G.S. 143B-350 reads as rewritten:

"**§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

(a) Board of Transportation. – There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole. The diversity and size of the State require that regional differences be considered by Board members as they develop transportation policy and projects for the benefit of the citizens of the State. The Board shall carry out its duties consistent with the fiduciary responsibility to ensure the solvency of the State Highway Fund and Highway Trust Fund.

(b) Membership of the Board. –

(1) Number, appointment. – The Board of Transportation shall have ~~19~~ 20 voting members. Voting members shall be appointed as provided in subdivisions (2) and (3) of this subsection for terms of office beginning July 31 of the year of initial appointment, and every four years thereafter. Fourteen of the members shall be division members appointed by the Governor. ~~Five shall be at-large members appointed by the Governor.~~ At least three division members of the Board shall be registered voters of a political party other than the political party of the Governor. Six members shall be at-large members, with three members appointed by the President Pro Tempore of the Senate and three members appointed by the Speaker of the House of Representatives. The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board. ~~No more than two members of the Board may reside in the same highway division.~~One person elected by the Executive Committee of the Local Government Commission shall serve as an ex officio nonvoting member of the Board.

(2) Division members. – One member shall be appointed from and be a resident of each of the 14 highway divisions. ~~The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the region they represent.~~ Division members shall regularly consult with and consider the views of local government units and Transportation Advisory Committees in the region they

represent. The Governor shall appoint one member from each of the fourteen divisions as follows:

a. Division 1, beginning in 2020.
b. Division 2, beginning in 2022.
c. Division 3, beginning in 2020.
d. Division 4, beginning in 2022.
e. Division 5, beginning in 2022.
f. Division 6, beginning in 2020.
g. Division 7, beginning in 2022.
h. Division 8, beginning in 2022.
i. Division 9, beginning in 2020.
j. Division 10, beginning in 2022.
k. Division 11, beginning in 2022.
l. Division 12, beginning in 2020.
m. Division 13, beginning in 2022.
n. Division 14, beginning in 2020.

(3) At-large members. – ~~Five members shall be appointed by the Governor from the State at-large. At-large members appointed pursuant to this subdivision shall develop transportation policy and address transportation problems with a statewide perspective. At-large members appointed under this subdivision shall possess the following qualifications:~~

~~a. One at-large member shall be a person with expertise in environmental issues affecting the State;~~
~~b. One at-large member shall be a person familiar with the State ports and aviation issues;~~
~~c. One at-large member shall be a person residing in a rural area of the State with broad knowledge of and experience in transportation issues affecting rural areas;~~
~~d. One at-large member shall be a person residing in an urban area with broad knowledge of and expertise in mass transit;~~
~~e. One at-large member shall be a person with broad knowledge of and expertise in government-related finance and accounting.~~

Six at-large members shall be appointed as follows:

a. Two members appointed by the President Pro Tempore of the Senate, beginning in 2020.
b. One member appointed by the President Pro Tempore of the Senate, beginning in 2022.
c. Two members appointed by the Speaker of the House of Representatives, beginning in 2020.
d. One member appointed by the Speaker of the House of Representatives, beginning in 2022.

(4) Local Government Commission member. – The Executive Committee of the Local Government Commission shall elect a person with broad knowledge of and expertise in government-related finance and accounting to be an ex officio, nonvoting member of the Board. This member shall serve on the Board of Transportation Audit Committee.

(5) Criteria. – All Board members shall have professional backgrounds related to transportation, budgeting, accounting, or financing to properly and effectively oversee the financial actions and accountability of the Department of Transportation for its operations and the projects it manages.

(c) Staggered Terms. – The terms of all Board members serving on the Board prior to ~~January 15, 2001, shall expire on January 14, 2001.~~ July 31, 2020, shall expire on July 30, 2020. A new board of ~~19~~ 20 voting members shall be appointed with terms beginning on ~~January 15, 2001. The Board shall serve the following terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at-large members filling the positions designated in sub-subdivisions (b)(3)a., b., and c. of this section shall serve four-year terms beginning on January 15, 2001, and four-year terms thereafter; and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at-large members filling the positions designated in sub-subdivisions (b)(3)c. and d. of this section shall serve two-year terms beginning January 15, 2001, and four-year terms thereafter.~~ July 31, 2020.

(d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve until their successors are appointed. The ~~Governor~~ appointing authority may appoint a member to serve out the unexpired term of any Board member. The ~~Governor~~ appointing authority may remove any member of the Board appointed by that appointing authority for any cause the ~~Governor~~ appointing authority finds sufficient. The ~~Governor~~ appointing authority shall remove any member of the Board upon conviction of a felony, conviction of any offense involving a violation of the Board member's official duties, or for a violation of the provisions of subsections (i), (j), and (k) of this section or any other code of ethics applicable to members of the Board as determined by the ~~Governor~~ appointing authority or the ~~Governor's~~ appointing authority's designee.

(e) Organization and Meetings of the Board. – Within ~~60~~ 30 days after ~~January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor,~~ July 31, 2020, the Governor ~~or his designee~~ shall call the Board into session. The Board shall select a chair and vice-chair from among its membership for two-year terms. The Board may select a chair or vice-chair for one additional two-year term. The Board of Transportation shall meet ~~once in each 60 days~~ at least once a month at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the ~~chairman~~ chair or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep minutes of its meetings, which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) Duties and Powers of the Board. – The primary duty of the Board of Transportation shall be to serve as fiduciaries of the State Highway Fund and Highway Trust Fund and ensure the solvency of those funds when carrying out the Board's duties and powers. The Board of Transportation has the following duties and powers:

(1) To formulate policies and ~~priorities for all modes of transportation under the Department of Transportation.~~ priorities, accountability and performance metrics for all modes, divisions, and central office of the Department of Transportation, including personnel within those divisions, and to hold those modes, divisions, and personnel accountable to those metrics.

(1a) To review and take action on each Spend Plan developed by the Department of Transportation as required by G.S. 143C-6-11.1. An approved Spend Plan must be fiscally responsible while accomplishing transportation goals across the State.

(1b) To ensure that the Department of Transportation is operating within the approved Spend Plan.

(1c) To review and approve the Department's use of bonds, including for federally funded projects.

(2) To advise the Secretary on matters to ~~achieve the maximum public benefit in the performance of the functions assigned to the Department.~~increase the performance, efficiency, and effectiveness of the day-to-day operations of the Department of Transportation.

(3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of ~~transportation taking into consideration the social, economic and environmental impacts of the various alternatives.~~transportation.

(4) To approve a schedule of all major transportation improvement projects and their anticipated cost. This schedule is designated the Transportation Improvement Program. The Board shall publish the schedule in a format that is easily reproducible for distribution and make copies available for distribution in accordance with the process established for public records in Chapter 132 of the General Statutes.

(4a) To approve a schedule of State highway maintenance projects and their anticipated cost. This schedule is designated the Highway Maintenance Improvement Program and is established in G.S. 136-44.3A. The Board shall publish the schedule on the Department's Web site by April 1 of each year. The document that contains the Highway Maintenance Improvement Program shall include the anticipated funding sources for the improvement projects included in the Highway Maintenance Improvement Program, a list of any changes made from the previous year's Highway Maintenance Improvement Program, and the reasons for the changes.

~~(5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it.~~

(6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department.

(7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available.

(8) To approve all highway construction programs.

(9) To approve all highway construction projects and construction plans for the construction of projects.

(10) To review all statewide maintenance functions.

(11) To award all highway construction contracts.

(12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain.

(12a) To approve partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, with priority given to highways, roads, streets, and bridges.

(13) Repealed by Session Laws 2010-165, s. 13, effective August 2, 2010.

(f1) Local Government Participation. – The ability of a local government to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of

Transportation shall prepare an estimate of the operational costs and capital costs associated with the addition of the aircraft or ferry and shall report those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental Operations.

(g) Delegation of Board Duties. – The Board of Transportation shall delegate to the Secretary of Transportation the authority under subdivisions (1) and (2) of this subsection, and may delegate the authority under subdivision (3) of this subsection:

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(g1) Limitation on Board Duties. – The Board of Transportation shall not make decisions on individual contracts, projects, or personnel matters.

~~(h) Consultation of Board Members. – Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.~~

(i) Disclosure of Contributions. – ~~Any person serving on the Board of Transportation or as Secretary of Transportation on December 1, 1998, shall disclose on that date any contributions the person or the person's immediate family made to the political campaign of the appointing Governor in the two years preceding December 1, 1998.~~ A person appointed to the Board of Transportation and a person appointed as Secretary of Transportation on or after ~~December 1, 1998,~~ July 31, 2020, shall disclose at the time the appointment of the person is officially made public any contributions the person or the person's immediate family made to the political campaign of the appointing ~~Governor~~ authority in the two years preceding the date of appointment. The term "immediate family", as used in this subsection, means a person's spouse, children, parents, brothers, and sisters. Disclosure forms shall be filed with the State Ethics Commission as a supplemental filing to the Statement of Economic Interest filed under Article 3 of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(j) Disclosure of Campaign Fund-Raising. – A person appointed to the Board of Transportation on or after January 1, 2001, and a person appointed as Secretary of Transportation on or after January 1, 2001, shall disclose at the time the appointment of the person is officially made public any contributions the person personally acquired in the two years prior to appointment for: any political campaign for a statewide or legislative elected office in North Carolina; any political party executive committee or political committee acting on behalf of a candidate for statewide or legislative office. Disclosure forms shall be filed with the State Ethics Commission as a supplemental filing to the Statement of Economic Interest filed under Article 3 of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics applicable to members of the Board, including the Secretary. Any code of ethics adopted by the Board shall be supplemental to the provisions of Chapter 138A of the General Statutes. A code of ethics adopted pursuant to this subsection shall include a prohibition against a member taking action as a Board member when a conflict of interest, or the appearance of a conflict of interest, exists. The ethics policy adopted pursuant to this subsection shall specify that a conflict of interest exists when the use of the Board member's position, or any official action taken by the Board member, would result in financial benefit, direct or indirect, to the Board member, a member of

the Board member's immediate family, or an individual with whom, or business with which, the Board member is associated. The ethics policy adopted pursuant to this subsection shall specify that an appearance of a conflict of interest exists when a reasonable person would conclude from the circumstances that the Board member's ability to protect the public interest, or perform public duties, would be compromised by personal interest, even in the absence of an actual conflict of interest. The performance of usual and customary duties associated with the public position or the advancement of public policy goals or constituent services, without compensation, shall not constitute the use of the Board member's position for financial benefit. The conflict of interest provision of the ethics policy adopted pursuant to this subsection shall not apply to financial or other benefits derived by a Board member that the Board member would enjoy to an extent no greater than that which other citizens of the State would or could enjoy.

(*l*) Additional Requirements for Disclosure Statements. – All disclosure statements required under subsections (i), (j), and (k) of this section must be sworn written statements.

(m) Ethics and Board Duties Education. – The Board shall institute by January 1, 1999, and conduct annually an education program on ethics and on the duties and responsibilities of Board members. The training session shall be comprehensive in nature, conducted in conjunction with the State Ethics Commission, and shall include input from the School of Government at the University of North Carolina at Chapel Hill, the Attorney General's Office, the University of North Carolina Highway Safety Research Center, and senior career employees of the various divisions of the Department. This program shall include an initial orientation for new members of the Board and continuing education programs for Board members at least once each year.

~~(n) Review of Appointments by the Joint Legislative Transportation Oversight Committee. – The Governor shall submit the names of all proposed Board of Transportation appointees, along with the disclosure statements required under subsections (i), (j), and (k) of this section, to the Joint Legislative Transportation Oversight Committee prior to Board members' taking office. The Committee shall have 30 days to review and submit comments to the Governor on the proposed appointees before they take office. The Governor shall consider the views expressed by the Committee concerning the appointees to the Board. If the Committee does not review or submit comments to the Governor on the proposed Board appointees within the 30 days, the Governor may proceed to appoint the proposed members to the Board.~~

(o) Additional Ethics Requirements. – Board members shall sign a sworn statement that they will abide by the disclosure, ethics, and education requirements of this section and of Chapter 138A of the General Statutes. Following the convening of each Board of Transportation meeting, and prior to the conduct of business, each Board member shall sign a sworn statement that the member has no financial, professional, or other interest in any project being considered on the meeting agenda. To the extent the Board member has such an interest, the chair and member shall take all appropriate steps to ensure that the interest is properly evaluated and addressed in accordance with law and that the member is not permitted to act on any matter in which the member has a disqualifying conflict of interest.

(p) Reports. – Notwithstanding any other provision of law, any report required to be submitted by the Board to the General Assembly or a committee thereof is due by the 15th day of the month that the report is due."

SECTION 5.1.(b) Notwithstanding the requirements of G.S. 143B-350(b)(1), as amended by this act, the following voting members shall be appointed to the Board of Transportation for a two-year term beginning July 31, 2020:

(1) Division members. – The Governor shall appoint one member from each of the following eight divisions:
   a. Division 2.
   b. Division 4.
   c. Division 5.
   d. Division 7.

e. Division 8.
f. Division 10.
g. Division 11.
h. Division 13.

(2) At-large members. – The President Pro Tempore of the Senate shall appoint one at-large member, and the Speaker of the House of Representatives shall appoint one at-large member.

All members appointed as provided in this subsection shall be subject to all other provisions of G.S. 143B-350, as amended by this act.

SECTION 5.1.(c) This section becomes effective July 31, 2020.

CASH FLOOR CONTRACTING LIMITATION CLARIFICATION

SECTION 5.2. G.S. 143C-6-11(f) reads as rewritten:

"(f) Seven and One Half Percent (7.5%) Cash Balance Required. – The Department of Transportation shall maintain an available cash balance at the end of each month equal to at least seven and one half percent (7.5%) of the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund. In projecting cash balances in future years, the Department shall use the estimated cash flow as specified in the Current Operations Appropriation Act. No further transportation project contract commitment may be entered into that would cause the cash position to fall below this requirement. In the event this cash position is not maintained, no further transportation project contract commitments may be entered into until the cash balance has been regained. Provided the Department may modify or supplement transportation contract commitments for existing transportation projects that (i) result in a savings from the total estimated project cost of the existing commitment, based on a cost-savings analysis, or (ii) relate to the needs of an existing transportation project to continue. Any federal funds on hand shall not be considered as cash for the purposes of this subsection."

MONTHLY FINANCIAL STATEMENT REPORT

SECTION 5.3.(a) G.S. 143C-6-11, as amended by Section 2.1 of S.L. 2019-251, is amended by adding two new subsections to read:

"(p) 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:

(1) Revenues received by the Highway Fund and Highway Trust Fund for the month, broken down into category, and in relation to the revenue estimate for category used for the current fiscal year budget.

(2) Expenditures by fund code for the month, and in relation to the current fiscal year certified budget and the Department's Spend Plan.

(3) Expenditures by Highway Division for the month, and in relation to the current fiscal year allocation of funds for maintenance activities made by the Department pursuant to G.S. 136-44.6.

(4) Expenditures by Highway Division from the Reserve for General Maintenance in the Highway Fund (GMR) for the month, broken down into category, and in relation to the current budget year allocation of funds for each category.

(5) Expenditures by Highway Division on capital and Strategic Transportation Investment (STI) projects, and in relation to the current budget year allocation of funds for capital and STI projects.

(6) Projected revenues and Spend Plan of the Department for the next 18 months, noting any changes.

(7) Accounts payable, including the number of contracts, invoices paid, and payments pending. The report shall also include the number of days between an invoice being submitted and being approved and the number of days between approval and payment. The Department shall also report the number of contracts breached and invoices the Department could not pay in full, including the age of those invoices and the status of any negotiated resolutions.

(q) Year-End Report. – At the end of each fiscal year, no later than July 15, the Department 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 year-end summary of information required in the monthly financial statement report under subdivisions (1) through (5) of subsection (p) of this section for the previous fiscal year, including a comparison to the Department's Spend Plan for that period."

SECTION 5.3.(b) In order for the public to access up-to-date information on projected revenue and Spend Plan status of the Department, the Department shall adjust its performance dashboard available on the Department of Transportation's Web site to include and track information required by G.S. 143C-6-11(p)(6) as enacted by this act. Dashboard enhancements required under this subsection shall be completed by October 1, 2020.

DEPARTMENT OF TRANSPORTATION SPEND PLAN

SECTION 5.4. Part 2 of Article 6 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"**§ 143C-6-11.1. Department of Transportation Spend Plan.**

(a) The Department of Transportation shall develop a comprehensive cash-spending plan, known as the "Spend Plan," to spend money from any source, including federal funds and bond proceeds, for programs, functions, activities or objects, by the Department.

(b) The Department shall present the Spend Plan to the Board of Transportation, the Director of Transportation Budget at the Office of State Budget and Management, and the State Budget Director for approval.

(c) The Board of Transportation, the Director of Transportation Budget at the Office of State Budget and Management, and the State Budget Director shall either approve the Spend Plan or report any objections to the Spend Plan with specificity and reasons for the objections in writing to the Chairs of the Senate Appropriations Committee on the Department of Transportation, the Chairs of the House of Representatives Appropriations Committee on Transportation, and the Fiscal Research Division if the General Assembly is in session, or to the Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division if the General Assembly is not in session. Upon receipt of the Spend Plan, approval or a report must be completed within 30 days.

(d) Any modifications to the Spend Plan or expenditures outside of the Spend Plan shall be submitted for approval as provided in subsection (b) of this section prior to implementation."

DIRECTOR OF TRANSPORTATION BUDGET POSITION

SECTION 5.5.(a) The Department of Transportation shall transfer one vacant FTE position and funds to the Office of State Budget and Management to be reclassified into the position of Director of Transportation Budget. The Director of Transportation Budget shall report directly to the State Budget Officer, and the duties for this position shall include monitoring and assisting the Department of Transportation in developing the Department budget and Spend Plan, monitoring the Department's finances and spending, assessing risks to Department finances, making revenue projections, and ensuring the Department budget is faithfully executed consistent with the State Budget Act.

SECTION 5.5.(b) The Department of Transportation shall give full access to all data and full access to, and training on, all financial systems utilized by the Department necessary for the Director of Transportation Budget to perform the position's responsibilities.

SECTION 5.5.(c) The Director of Transportation Budget shall work in consultation with the Department to prepare and submit the reports required by G.S. 143C-6-11(p), as enacted by this act.

HIGHWAY DIVISION FINANCIAL PERSONNEL STRUCTURING

SECTION 5.6.(a) The Department of Transportation shall develop and establish a uniform financial management personnel structure within all Highway Division offices. Each position shall have clear responsibilities for financial management of accounts payable, accounts receivable, contract oversight, and budgets. Each Highway Division office is required to maintain personnel competent in Department cash management practices and Division project management as it relates to project spending.

SECTION 5.6.(b) The Department of Transportation shall develop and establish uniform report formats and policies and procedures that calculate spending and track cash management in a consistent manner among Highway Divisions. The Department shall provide training on all forms, systems, and policies developed by the Department pursuant to this section.

SECTION 5.6.(c) The Department is authorized to reclassify positions as required to establish the uniform financial management personnel structure required by this section.

SECTION 5.6.(d) The Department shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the development and establishment of, or plan to establish and develop, the uniform financial management personnel structure by October 31, 2020. The report shall also include a description of required positions and responsibilities of the FTEs needed to establish the personnel structure required by this section for each Highway Division and all personnel actions taken to fulfill the requirements of this section, including associated costs. The information shall be provided for each Highway Division.

ADDITIONAL BOND DISCLOSURE PERSONNEL

SECTION 5.7. The Department of Transportation shall transfer one vacant FTE position to the Department of the State Treasurer. The Department of the State Treasurer shall reclassify the vacant position into a Financial Analyst position focused on bond disclosure within the State and Local Government Finance Division to review and monitor the Department of Transportation's bond program and activities which utilize bond proceeds, including monitoring the spending and approval of projects using bond proceeds, reviewing general compliance for repayment and debt service, and assisting the Department of the State Treasurer in fulfilling its duties and responsibilities for bond disclosures and compliance as required by the United States Securities Exchange Commission and other applicable State or federal laws.

TRANSPORTATION FORECASTING METHODOLOGY

SECTION 5.8.(a) The Department of Transportation, in consultation with the Director of Transportation Budget at the Office of State Budget and Management, shall create, develop, modify, and implement Department forecasting methodology, best practices, and accuracy standards for the forecasting of spending.

SECTION 5.8.(b) By December 31, 2020, the Department of Transportation shall report to the Board of Transportation, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division of the General Assembly on implementation of this section.

ANNUAL PERFORMANCE AUDIT OF DEPARTMENT OF TRANSPORTATION

SECTION 5.9.(a) Beginning the 2019-2020 fiscal year, the Office of the State Auditor shall conduct a performance audit of the Department of Transportation every year. The performance audit shall include an examination of the following:

(1) Budget adherence by department, division, and highway division.
(2) Timeliness of federal reimbursement requests and timeliness of the Department's responses to any federal requests for additional information or action.
(3) Department controls and oversight of divisions and highway divisions as to cash management, project coordination and delivery, and budget adherence.
(4) Efficacy of communication and coordination within the Department.
(5) Efficacy of cash management by the Department.
(6) Other items the State Auditor deems relevant to study, including implementation of the provisions of this act.

SECTION 5.9.(b) The State Auditor shall submit a report of the performance audit to the Joint Legislative Commission on Governmental Operations, Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. The Department of Transportation shall give the State Auditor full access to all employees and data necessary to complete the audit and the report. The State Auditor shall submit the annual report required by this subsection by the fifteenth day of January beginning in 2021.

HIGHWAY DIVISION FUND ALLOCATION PLANS

SECTION 5.10. G.S. 136-44.6 reads as rewritten:

"**§ 136-44.6. Uniformly applicable formula for the allocation of funds for primary and secondary road maintenance.**

The Department of Transportation, in consultation with its Division Engineers, shall develop biennially a uniformly applicable formula for the allocation of funds ~~from the Reserve for General Maintenance~~ in the Highway Fund for maintenance on primary and secondary roads in each Highway Division. The formula shall take into consideration the number of paved and unpaved miles of state-maintained secondary roads in each Highway Division and such other factors as experience may dictate. In developing the allocation formula, the Department of Transportation shall allocate funding to Highway Divisions and create a plan of action to reallocate funds among Highway Divisions based upon expenditures of the first three quarters. Each Division Engineer shall have discretion in using funds allocated under this section to his or her Highway Division for maintenance activities. Allotments shall be made available to Highway Divisions on a quarterly basis, based upon the Spend Plan developed by the Department. The Department shall create a plan for reallocation to maximize use of funds with the fiscal year. This section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

AUDIT DOT USE OF ADVANCE CONSTRUCTION

SECTION 5.11.(a) No later than 90 days from the effective date of this act the Department of Transportation shall submit a detailed report to the Joint Legislative Transportation Oversight Committee, the Fiscal Research Division, and the Office of the State Auditor on its use of federal Advance Construction authorizations, including the benefits and risks associated with the practice. The report shall also include:

(1) A report showing the Advance Construction Balances by funding source for five years.
(2) A listing of projects currently utilizing Advance Construction with details such as the initial Advance Construction amount, contract amount, amount of expenditures for which Advance Construction has been converted allowing reimbursement by Federal Highway Administration or other sources and a schedule for Advance Construction that is planned to be converted where

future reimbursement is anticipated, and the anticipated conversion and reimbursement schedule.

(3) A listing of projects where it is anticipated Advance Construction will be used in the future with details such as anticipated Advance Construction amount and conversion and reimbursement schedule.

(4) A listing of projects currently utilizing GARVEE bond funding with details such as total amount of bonds, amount of principal and interest repaid, and schedule of remaining principal and interest payments.

SECTION 5.11.(b) The Office of the State Auditor shall conduct a performance audit of the Department's report required by subsection (a) of this section and, no later than March 31, 2021, shall submit a report containing the results of the performance audit and recommendations to the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division. The Department of Transportation shall give the State Auditor full access to all employees and data necessary to complete the audit and the report.

PART VI. MISCELLANEOUS

SECTION 6.1. The budget enacted by the General Assembly is for the maintenance of the Department of Transportation for the 2020-2021 fiscal year as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget certified the amount appropriated to the Department of Transportation for the 2019-2021 fiscal biennium in the DOT Certified Budget. The adjustments made by the General Assembly to the DOT Certified Budget for the 2020-2021 fiscal year are set out in this act.

SECTION 6.2. The budget enacted by the General Assembly for the Department of Transportation shall also be interpreted in accordance with the special provisions in this act and other appropriate legislation. In the event that there is a conflict between the line-item budget certified by the Director of the Budget for the Department of Transportation and the budget enacted by the General Assembly for the Department of Transportation, the budget enacted by the General Assembly shall prevail.

SECTION 6.3. If House Bill 1136, House Bill 1218, or Senate Bill 818 of the 2019 Regular Session become law, the Office of State Budget and Management shall, no later than August 15, 2020, adjust the Department of Transportation, General Maintenance Reserve, for the 2020-2021 fiscal year to account for any change in employee benefit costs.

PART VII. EFFECTIVE DATE

SECTION 7.1. Except as otherwise provided, this act becomes effective July 1, 2020.

HOUSE BILL 1168:
Murphy Branch Corridor Reduction.

2019-2020 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	June 17, 2020
Introduced by:	Reps. Corbin, McNeely	**Prepared by:**	Billy R. Godwin Staff Attorney
Analysis of:	Amendment to Second Edition H1168-ABD-44		

OVERVIEW: ***The amendment to House Bill 1168 would authorize the Department of Transportation (DOT) to transfer its interests in certain portions of the Murphy Branch rail corridor in Cherokee County to adjacent property owners upon that owner's release of all claims against the State and DOT with respect to the interest conveyed and would eliminate an appropriation and add clarifying language to define Rail Corridor and the transfer process.***

CURRENT LAW: The Murphy Branch rail line was constructed in the 1880's as part of the Western North Carolina Railroad whose western terminus was the Town of Murphy. The Andrews to Murphy leg of the branch closed in 1985 and the State purchased the portion of tract between Dillsboro and Murphy.[1] Article 2D of Chapter 136 relates to railroad revitalization and the programs for railway corridor preservation. The Department of Transportation is the State agency responsible for administering all State and federal railroad revitalization programs.

BILL ANALYSIS: The amendment to House Bill 1168 would do all the following:

- Define the term "Rail Corridor" to include specified lands between the Town of Murphy and the Town of Andrews and to exclude any lands owned by the United States, its agencies, and privately owned railroads or privately owned railroad rights-of-way.
- Reduce DOT's right-of-way interests in the Rail Corridor to 25 feet on each side of the center line of the tracks and transfer the remaining portion to adjacent property owners upon the owner's release of all claims against the State and DOT with respect to that right-of-way.
- Require the owner's release of the State and DOT to be executed within two years of the act's effective date and require DOT to provide, at the owner's expense, a quitclaim deed or deed of release to be recorded within two years in the Office of the Cherokee County Register of Deeds.
- Exempt transfers under this act from Council of State or Board of Transportation approval.
- Retain a 15 foot DOT easement on each side of the tracts for tract maintenance and repair which may exist concurrent with a conservation or agricultural easement.
- Repeal a DOT authorization to enter into a lease agreement with Cherokee County and the Towns of Andrews and Murphy for interim public recreation use along part of this corridor.

EFFECTIVE DATE: The act is effective when the bill becomes law.

Staff Attorney Howard Marsilio substantially contributed to this summary.

[1] Andrews to Murphy (A2M) Rail Reactivation Study Project Report, NCDOT Rail Division, February 2015. https://www.ncdot.gov/projects/andrews-murphy/Documents/AndrewsMurphyRailReactivationStudy.pdf

Karen Cochrane-Brown
Director

H1168-SMBD-111 ABD-44 -V-3

Legislative Analysis Division
919-733-2578

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H **2**

HOUSE BILL 1168
Committee Substitute Favorable 5/28/20

Short Title: Murphy Branch Corridor Reduction. (Public)

Sponsors:

Referred to:

May 22, 2020

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE REDUCTION OF THE DEPARTMENT OF TRANSPORTATION'S INTEREST IN A CERTAIN PORTION OF THE ANDREWS TO MURPHY RAIL CORRIDOR WITHIN THE LIMITS OF CHEROKEE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Subject to applicable federal requirements, the right-of-way of the Department of Transportation's interest in the portion of the former Murphy Branch rail corridor between Andrews and Murphy in Cherokee County between Milepost 101.1 and Milepost 113.7 (Rail Corridor) is uniformly reduced to 25 feet on each side of the center line of the tracks traversing the Rail Corridor, with any interest in real property previously held by the State of North Carolina transferred without consideration to current adjacent real property owners. For purposes of this act, where there is more than one track, the State shall retain its property interest in the Rail Corridor for a distance of 25 feet from the center of each track.

SECTION 2. Within two years of the effective date of this act, any adjacent real property owner desiring record evidence of the real property so transferred may petition the Department of Transportation to provide a quitclaim deed to the real property so transferred, and the Department of Transportation shall provide a quitclaim deed, the expenses for preparation and recording of which shall be borne by the petitioning party.

SECTION 3. This act shall not apply, nor be construed to apply, to any publicly owned or privately owned rail or other transportation corridor, except the Rail Corridor. Notwithstanding any provisions of law to the contrary, the transfers of real property described herein shall not require Council of State or Board of Transportation approval.

SECTION 4. The Department of Transportation shall retain an easement for right of entry and access for maintenance and repair of the track and associated structures that is parallel to each side of the retained portion of the Rail Corridor and 15 feet in width.

SECTION 5. If the Department of Transportation determines a portion of the subject Rail Corridor is not needed for future transportation or utility purposes, the Department of Transportation shall, upon application of any person owning an underlying fee simple interest in that portion of the Rail Corridor, convey the Department of Transportation's interest in the portion of the Rail Corridor as permitted under applicable federal law.

SECTION 6. Section 35.18 of Session Law 2016-94 is repealed.

SECTION 7. One thousand dollars ($1,000) in nonrecurring funds for the 2020-2021 fiscal year is appropriated from the Highway Fund to the Department of Transportation for costs related to the implementation of this act.

SECTION 8. Section 7 of this act becomes effective July 1, 2020. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1168

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

H1168-ABD-44 [v.1]

Amends Title [YES]
Second Edition

Date _____, 2020

Senator Davis

moves to amend the bill on page 1, line 4, through page 1, line 36, by rewriting those lines to read:

"MURPHY RAIL CORRIDOR WITHIN THE BOUNDARIES OF CHEROKEE COUNTY.
The General Assembly of North Carolina enacts:

SECTION 1. For purposes of this section, the following shall apply:

(1) The term "Rail Corridor" shall mean the former Murphy Branch rail corridor consisting of the only railway located solely within the boundaries of Cherokee County and between the Town of Andrews and the Town of Murphy in Cherokee County between Milepost 101.1 and Milepost 113.7, excluding all of the following:

a. Any portion of that railway located in the Town of Murphy on land owned by the United States government or any of its agencies.

b. Any privately owned railroad or any privately owned railroad right-of-way.

(2) Where there is more than one track in the Rail Corridor, the State shall retain its property interest in the Rail Corridor for a distance of 25 feet from the center of each track.

SECTION 2.(a) Subject to applicable federal requirements, the State's interest in the right-of-way claimed by the North Carolina Department of Transportation with respect to the Rail Corridor is uniformly reduced to 25 feet on each side of the center line of the tracks traversing the Rail Corridor. Upon reduction of the right-of-way, the interest in real property previously held by the State of North Carolina is transferred to the current adjacent real property owner of record according to the land records in the Office of the Register of Deeds of Cherokee County upon that real property owner's release of all claims against the State and the Department of Transportation with respect to that right-of-way. All transfers of interest in real property by the State of North Carolina and all releases of claims against the State and the North Carolina Department of Transportation by the owners of adjacent real property must occur within two years of the effective date of this act.

SECTION 2.(b) Within 180 days of the current adjacent property owner releasing all claims against the State and the Department of Transportation, the Department of Transportation shall, at no expense to the State or to that Department, provide to that real property

owner a quitclaim deed, or if applicable a deed of release, to the real property so transferred. The quitclaim deed or deed of release shall be recorded in the Office of the Register of Deeds of Cherokee County.

SECTION 2.(c) Notwithstanding the provisions of Chapters 136 and 146 of the General Statutes or any other provision of State law, transfers in accordance with this section shall not require Council of State or Board of Transportation approval.

SECTION 3. Notwithstanding Section 2 of this act, the Department of Transportation shall retain an easement for right of entry and access for maintenance and repair of the track and associated structures that is parallel to each side of the retained portion of the Rail Corridor and 15 feet in width. No buildings or structures shall be constructed or placed within this easement nor shall trees or other permanent foliage be allowed to grow within the easement. Nothing in this section shall prevent the maintenance and repair easement established by this section from also being subject to an agricultural or conservation easement under State or federal law.

SECTION 4. Nothing in this act shall apply, nor be construed to apply, to any publicly owned or privately owned rail or other transportation corridor, except the Rail Corridor. Nothing in this act shall alter or amend, nor be construed to alter or amend, the application of the federal law with respect to railroad rights-of-way; publicly owned and privately owned rail transportation corridors are and shall remain under the jurisdiction of the Surface Transportation Board, the independent federal agency charged with regulation of various modes of surface transportation. Nothing in this act shall alter or amend, nor be construed to alter or amend, that privately owned rail transportation corridor rights-of-way in this State are managed by the respective privately owned railroad.

SECTION 5. Section 35.18 of Session Law 2016-94 is repealed.

SECTION 6. This act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 1168
Committee Substitute Favorable 5/28/20
PROPOSED SENATE COMMITTEE SUBSTITUTE H1168-PCS40668-BD-39

Short Title: Murphy Branch Corridor Reduction. (Public)

Sponsors:

Referred to:

May 22, 2020

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE REDUCTION OF THE DEPARTMENT OF TRANSPORTATION'S INTEREST IN A CERTAIN PORTION OF THE ANDREWS TO MURPHY RAIL CORRIDOR WITHIN THE BOUNDARIES OF CHEROKEE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. For purposes of this section, the following shall apply:

(1) The term "Rail Corridor" shall mean the former Murphy Branch rail corridor consisting of the only railway located solely within the boundaries of Cherokee County and between the Town of Andrews and the Town of Murphy in Cherokee County between Milepost 101.1 and Milepost 113.7, excluding all of the following:

a. Any portion of that railway located in the Town of Murphy on land owned by the United States government or any of its agencies.

b. Any privately owned railroad or any privately owned railroad right-of-way.

(2) Where there is more than one track in the Rail Corridor, the State shall retain its property interest in the Rail Corridor for a distance of 25 feet from the center of each track.

SECTION 2.(a) Subject to applicable federal requirements, the State's interest in the right-of-way claimed by the North Carolina Department of Transportation with respect to the Rail Corridor is uniformly reduced to 25 feet on each side of the center line of the tracks traversing the Rail Corridor. Upon reduction of the right-of-way, the interest in real property previously held by the State of North Carolina is transferred to the current adjacent real property owner of record according to the land records in the Office of the Register of Deeds of Cherokee County upon that real property owner's release of all claims against the State and the Department of Transportation with respect to that right-of-way. All transfers of interest in real property by the State of North Carolina and all releases of claims against the State and the North Carolina Department of Transportation by the owners of adjacent real property must occur within two years of the effective date of this act.

SECTION 2.(b) Within 180 days of the current adjacent property owner releasing all claims against the State and the Department of Transportation, the Department of Transportation shall, at no expense to the State or to that Department, provide to that real property owner a quitclaim deed, or, if applicable, a deed of release, to the real property so transferred. The quitclaim deed or deed of release shall be recorded in the Office of the Register of Deeds of Cherokee County.

SECTION 2.(c) Notwithstanding the provisions of Chapters 136 and 146 of the General Statutes or any other provision of State law, transfers in accordance with this section shall not require Council of State or Board of Transportation approval.

SECTION 3. Notwithstanding Section 2 of this act, the Department of Transportation shall retain an easement for right of entry and access for maintenance and repair of the track and associated structures that is parallel to each side of the retained portion of the Rail Corridor and 15 feet in width. No buildings or structures shall be constructed or placed within this easement nor shall trees or other permanent foliage be allowed to grow within the easement. Nothing in this section shall prevent the maintenance and repair easement established by this section from also being subject to an agricultural or conservation easement under State or federal law.

SECTION 4. Nothing in this act shall apply, nor be construed to apply, to any publicly owned or privately owned rail or other transportation corridor, except the Rail Corridor. Nothing in this act shall alter or amend, nor be construed to alter or amend, the application of the federal law with respect to railroad rights-of-way; publicly owned and privately owned rail transportation corridors are and shall remain under the jurisdiction of the Surface Transportation Board, the independent federal agency charged with regulation of various modes of surface transportation. Nothing in this act shall alter or amend, nor be construed to alter or amend, that privately owned rail transportation corridor rights-of-way in this State are managed by the respective privately owned railroad.

SECTION 5. Section 35.18 of Session Law 2016-94 is repealed.

SECTION 6. This act is effective when it becomes law.

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee

On

Transportation

June 17, 2020 – 12:00 PM

Room 1027/1128

Senate Sergeant at Arms:

LINDA MATTHEWS

SHEREE HEDRICK

CHRIS MOORE

TERRY BARNHARDT

Senate Committee on Transportation

June 17, 2020 12:00 PM

Room 1127/1128

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
	RAMC - LPA - NCMA
	RAMC
Joe McElroy	McElroy Consulting
Ken Melton	K-M-A
Fuller Monica	NCDOT
	NCMA
	NLDC
Justin Delaney	NCDOT
Chris	CSX
Lisa Martin	Cap. Hd
Johanna Reese	NCDOT
Hampton Billips	KTS

Principal Clerk
Reading Clerk

Updated #1:

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Friday	June 19, 2020	9:00 AM	643 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SR 863	Confirm Secretary of DOT.	Senator Rabon

Senator Tom McInnis will preside.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Transportation** will meet at the following time:

DAY	DATE	TIME	ROOM
Friday	June 19, 2020	9:00 AM	643 LOB

Senator Tom McInnis will preside.

Upon Referral the committee will hear SR 863: Confirm Secretary of DOT.

Senator Jim Davis, Co-Chair
Senator Tom McInnis, Co-Chair

Senate Committee on Transportation
Friday, June 19, 2020, 9:00 AM
643 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SR 863	Confirm Secretary of DOT.	Senator Rabon

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

TRANSPORTATION COMMITTEE REPORT
Senator J. Davis, Co-Chair
Senator McInnis, Co-Chair

Friday, June 19, 2020

Senator McInnis,
submits the following with recommendations as to passage:

FAVORABLE

SR **863** Confirm Secretary of DOT.

Draft Number:	None
Sequential Referral:	Select Committee on Nominations
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Tom McInnis will handle SR 863



Senate Committee on Transportation
Friday, June 19, 2020 at 9:00 AM
Room 643 of the Legislative Office Building

MINUTES

The Senate Committee on Transportation met at 9:00 AM on June 19, 2020 in Room 643 of the Legislative Office Building. Thirteen members were present.

Senator Tom McInnis presided. He welcomed the committee and recognized the Sergeant-At-Arms.

SR 863 Confirm Secretary of DOT. (Senator McInnis)

Senator McInnis welcomed Chairman of the North Carolina Highway Commission, Mike Foxx. Senator McInnis stated the purpose of today's meeting is the confirmation of the new Secretary of the North Carolina Department of Transportation. He introduced Eric Boyette, who has a long standing relationship with the transportation system of North Carolina. Secretary Boyette worked extensively with this committee, as well as the House chairs of Transportation on HB 77.

Senator McInnis recognized Senator Rabon to introduce SR 863 Confirm Secretary of DOT. Senator Rabon explained SR 863 is a resolution relating to the appointment nomination confirmation of Eric Boyette, the Secretary of the Department of Transportation. It follows general statues 143B9A, which has to do with the confirmation and appointments of secretaries. The secretary is appointed by the Governor, confirmed by the Senate, and that is what we are here to do with this resolution,

Senator McInnis recognized Secretary Boyette for remarks before opening the floor up for questions. Secretary Boyette expressed his desire to work with the committee. Despite the challenges posed by the coronavirus pandemic, he is trying to stay in touch with all involved parties, to see what direction and insights there are for DOT and to make sure they work together. If there are any questions you have for him or his staff, he will always be available.

Senator McInnis opened the floor for questions from the committee.

Senator Rabon was recognized for comments. He said we have heard a lot of negative things about the Department of Transportation, some of them may have been founded, but most of them were pretty weak. There were problems in how quickly the money was spent, and it is going be your job to build confidence in the executive branch, with this branch, and with the public. That's a pretty heavy lift. Because these are things that the general public doesn't know, I want to say this about the department: North Carolina is one of the fastest growing states, faster than New York and New Jersey, and the Department of Transportation is a state system so you have a big job ahead of you. Part of the reason your department was having problems is because of the compressed time line. The Environmental Impact Study (EIS) went from 10 years, 5 years ago, to 3 years; that is the length of time to get a project out. The Environmental Assessment (EA)

from 7 years to 2 years and the CE from 5 years to less than 1 year. That is why the projects got out so quickly and the money had to be spent. Without passage of the bill that was brought forward, those projects would have to stop. The Department of Transportation cleaned up 1,700 road outages, replaced over 450 bridges in this state and now we have less than 10% total of deficient bridges in NC, which is the first time in NC history that has been done. We resurfaced 18,000 miles of highways in the last 3 years. You are inheriting a problem of efficiency! It is very rare in government that you are told you're moving too fast. I expect under your leadership to know where we're going in the future and what our budget is.

Senator McInnis asked the Secretary if he would like to respond. Secretary Boyette clarified EIS stands for Environmental Impact Studies and EA for Environmental Assessment. They did let me learn a bit about our environment when I was back in Division 4, so I do know about those very well.

Senator McInnis recognized Senator Smith who stated she had previous discussions with Secretary Boyette that related to harnessing technology and our ability to do predictions. She asked if Secretary Boyette had analyzed the flooding created by Army Corps Engineers in lower Roanoke Valley, Bertie County in particular, and if he had any prior preparation with working on the flood releases from the Kerr Lake Dam to prevent farmers from being flooded. She asked if he had a plan about how to address changing some of our protocols so we don't have these exorbitant costs that come from flooding of the lower Roanoke Valley.

Secretary Boyette responded every division has posted detour routes and have plans already in place. DOT works with the Corps closely and can have those conversations with the corps and talk about what the effects are for the dam release. DOT is currently looking into response from recent storms in Nash County near 97 with similar issues around the Tar River, and most of our team know exactly where the flooding events happen. Some events cannot be prevented, but we know how to make sure the safety of our travelers is our first priority.

Senator McInnis recognized Senator Woodard for his comments saying this is a very different department from when Secretary Boyette left. It has new challenges in the last few years and it is good to ask a new leader what their vision of their department is as the status quo is changing.

Secretary Boyette responded he went out to the different units and conversed about things that were and were not working. Things that are not working, you've seen, and what we have talked about is actually in HB 77. The process has been started with a dashboard that includes our highway spend plan, building relationships with our connections and partners, and maintaining communication inside and out of our agency and with our partners. That's something Secretary Boyette pledged to do.

Senator McInnis recognized Senator Waddell who asked Secretary Boyette to speak about his vision for toll roads in light of the increase and growth of traffic in North Carolina.

Secretary Boyette responded that by putting projects on hold made sure expenditures were kept in line. When additional funding becomes available, those projects will go back online and continue to move forward. From an economic standpoint, the growth in our state is exceptional.

We continue to do assessments with UPO's and our RPO's around what is needed and what our road network looks like. Decrease in traffic during Covid-19 effects our funding. We will continue to look at alternatives as a team and with our Board.

Senator McInnis recognized Senator DeViere for a question. North Carolina has one of the largest military footprints in the country, and we understand the importance of our military, not only to our economy, but also the bases which are mini-cities in our state. What are your thoughts and how do you see strengthening our partnerships for North Carolina and those bases?

In his previous role as Secretary in the Department of Technology, Secretary Boyette answered partnerships are very valuable, and you have to have good partnerships outside of your agency as well as within. To succeed as a state, we have to make connections and partnerships to work together.

Senator McInnis recognized Senator Harrington who asked Secretary Boyette if he had looked through HB 77 and for his thoughts on the bill.

Secretary Boyette stated he had reviewed it. As Senator McInnis mentioned he had been out a few days because of a family member passing, but had jumped back in yesterday. There are some tweaks DOT would like to see around federal reimbursements. Also, we want to make sure it's accurate, and we also want to make sure we can receive every federal dollar we can. We are an economic catalyst for the state, and we continue to put jobs out there.

Senator McInnis recognized Chairman of the North Carolina Highway Commission, Mike Foxx. He stated he was there this morning to support our new secretary. He had the utmost confidence in him and had known Eric when he was the internal auditor. He concluded his remarks by stating Secretary Boyette has the right experience, the right skill set, and the right temperament to be a great leader for DOT at this time.

Senator McInnis recognized Senator Woodard for a motion to recommend adoption of the resolution. Senator McInnis asked all in favor to accept the motion of the resolution to please say aye. Senator McInnis declared it a unanimous vote to accept the resolution. He thanked Secretary Boyette and welcomed him aboard.

The meeting adjourned at 9:24 AM.

Senator Tom McInnis, Chair
Presiding

Lynn Taylor, Committee Clerk

FILED SENATE
Jun 18, 2020
S.R. 863
PRINCIPAL CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S **D**

SENATE SIMPLE RESOLUTION DRSR35432-LG-260

Sponsors: Senator Rabon (Primary Sponsor).

Referred to:

A SENATE RESOLUTION RELATING TO THE APPOINTMENT, NOMINATION, AND CONFIRMATION OF ERIC BOYETTE AS SECRETARY OF THE DEPARTMENT OF TRANSPORTATION.

Whereas, pursuant to G.S. 143B-9(a), the Governor shall notify the President of the Senate of the name of each person to be nominated as head of a principal State department; and

Whereas, each nomination is subject to senatorial advice and consent in conformance with Section 5(8) of Article III of the North Carolina Constitution; and

Whereas, a vacancy exists in one such position; and

Whereas, under G.S. 143B-9(a), the Governor is authorized to make an appointment to such a vacancy pending further action by the Senate; and

Whereas, the Governor has appointed Eric Boyette to serve as Secretary of the Department of Transportation pending further action by the Senate; Now, therefore,

Be it resolved by the Senate:

SECTION 1. That the Senate shall hereby consider whether to confirm Eric Boyette as Secretary of the Department of Transportation.

SECTION 2. This resolution is effective upon adoption.



STATE ETHICS COMMISSION

2020 STATEMENT OF ECONOMIC INTEREST

This entire form must be completed to fulfill your ethics filing obligation.

For Staff Use Only
Date Received:

____ Checked for completion
____Scanned _____Date
Incomplete Qs ____ ____ ____ ____
Supp. sent date _____ by _____
Supp. received date _____
Entered in database _____ by _____

Filer's Name (First, Middle, Last)				
Prefix	**First Name**	**Middle Name**	**Last Name**	**Suffix**
	Joseph	Eric	Boyette	

Current Employer	Job Title
NC Department of Transportation	Secretary

Nature or Type of Business
Government-Transportation

Reason For Filing (Complete all that apply.)	
State Government Job (Specify agency and position.)	Board/Commission (List complete names of all State boards on which you are serving or are being considered.)
Transportation, Department of - Secretary	911 Board Global Transpark Authority Ports Authority, State Turnpike Authority
Judicial Officer (Specify office.)	Legislator (Specify House or Senate.)

A. Do other immediate family members reside in your household?

☒ Yes ☐ No

On this form, "immediate family" includes your spouse (unless legally separated). It also includes members of your extended family (your and your spouse's children, grandchildren, parents, grandparents, and siblings, and the spouses of each of those persons) **who reside in your household.**

List the full name of **all adults** and **emancipated minors** in your household. Minors are children under 18. They are emancipated by marriage, enlistment in the US military, or court order for emancipation.

Full names of Adults and Emancipated Minors	Relationship	Employer	Job Title	Nature of Business
Dana Edwards Boyette	Spouse	NA	NA	NA
Jay Dylan Boyette	Child	NA	NA	NA

B. List **only the initials** of all unemancipated minors in your household below. A minor is a child under 18 years old.

List the full name of each minor child on the Confidential Form at the end.

Initials of Unemancipated Minors	Relationship	Employer	Job Title	Nature of Business
MB	Child	NA	NA	NA

Property Interests

1. As of December 31, 2019, did you or any members of your immediate family:

   A. have an ownership interest in North Carolina real estate (including your residence) with a market value of $10,000 or more?

   ☒ Yes ☐ No

Owner of Real Estate	% Ownership Interest	Location by City	Location by County
(Self plus Spouse)	100.00%	Kenly	Johnston

   B. lease or rent real estate or personal property to or from the State of North Carolina with a market value of $10,000 or more?

   ☐ Yes ☒ No

Name of Lessor	Name of Lessee (Renter)	If Real Estate, Location by City & County	If Personal Property, Describe

2. At any time during 2018 or 2019, did you or any members of your immediate family sell to or buy from the State of North Carolina personal property worth $10,000 or more?

   ☐ Yes ☒ No

Name of Purchaser	Name of Seller	Type of Property

Financial Interests

3. As of December 31, 2019, did you or any members of your immediate family own any of the following financial interests valued at $10,000 or more? **List each company individually.**

A. Stock in a publicly owned company?

☐ Yes ☒ No

►Do not list interests in a widely held investment fund (including mutual funds, regulated investment companies, or pension or deferred compensation plans) if:
1. the fund is publicly traded or its assets are widely diversified; and
2. neither you nor an immediate family member are able to control the underlying assets.

Owner of Interest	Full Name of Company or ticker symbol

B. Stock options in a company or business?

☐ Yes ☒ No

Owner of Stock Option	Full Name of Company (Do not use a ticker symbol)

C. Interests in a non-publicly owned company or business entity? These include interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations.

☐ Yes ☒ No - If "No," proceed to question 4.

Owner of Interest	Name of Company or Business Entity

C (1). For each company or business entity identified in question 3.C. (the "Primary Company"), please list the names of *any other* companies or business entities in which the Primary Company owns securities or equity interests valued at over $10,000, if known.

Non-Publicly Owned Company or Business Entity (the Primary Company)	Other Companies in which the Primary Company Owns Security or Equity Interests
None or Not Known	

C (2). If you know that any entity listed in 3.C or 3.C(1) above has any material business dealings or business contracts with the State of North Carolina, or is regulated by the State, briefly describe that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
None or Not Known	

4. As of December 31, 2019, were you or any members of your immediate family the beneficiaries of a vested trust with a value of $10,000 or more that you created, established, or controlled?

Do not list assets held in blind trusts. See 2020 SEI Helpful Tips for the definition of "Vested Trust" and "Blind Trust."

☐ Yes ☒ No

Name and Address of Trustee	Description of the Trust	Your Relationship to the Trust

5. As of December 31, 2019, did you any members of your immediate family have liabilities of $10,000 or more, excluding the mortgage on your primary personal residence? Examples include credit card debts, auto loans, student loans, personal loans and intra-family debt.

☒ Yes ☐ No

Name of Debtor	Type of Creditor (commercial Bank, credit union, individual, etc.)
(Self plus Spouse)	Credit Union

6. List each source of income (***not*** specific amounts) of more than $5,000 received by you or any members of your immediate family during 2019. Include salary, wages, state/local government retirement income, professional fees, honoraria, interest, dividends, rental income, business income, and other types required to be reported on State and federal tax returns. **Please remember to disclose your receipt of salary or wages from any governmental or private entity.**

Do ***not*** include income received from the following sources:

- ► Capital gains
- ► Federal government retirement
- ► Military retirement
- ► Social security income/SSDI

Recipient of Income	Name of Source	Type of Business/Industry	Type of Income
Joseph Eric Boyette (Self)	NC Department of Information Technology	Government	Salary

Professional and Civic Relationships

7(a). During 2019, were you or any members of your immediate family a director, officer, governing board member, employee, independent contractor, or registered lobbyist of a nonprofit corporation or organization operating in North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes?

☐ Yes ☒ No - If "No," proceed to question 8.

► Do not list State boards or entities.
► Do not list organizations of which you are a mere member.

Name of Person	Position	Name of Nonprofit Corporation or Organization	Nature or Purpose of Organization

7(b). If the nonprofit corporations or organizations listed above do business with the State of North Carolina or receive State funds, briefly describe the nature of that business, if known or with due diligence could reasonably be known.

Name of Nonprofit Corporation or Organization	Describe State Business
None or Not Known	

8. During 2019, were you or any members of your immediate family a director, officer, or governing board member of any society, organization, or advocacy group with an interest in matters over which your agency or board may have jurisdiction?

☐ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or judicial officer or you are filing as an appointee to one of those offices.

►Do not list organizations of which you are only a member and do not serve in a leadership role.

Name of Person	Name of Society, Organization, or Advocacy Group	Leadership Position (Director, Officer, Board Member)

9(a). List the name of each business with which you were associated where you or a member of your immediate family was an employee, director, officer, partner, proprietor, or member or manager as of December 31, 2019.

Name of Person	Relationship to Filer	Name of Company	Role of Person
No Business Associations			

9(b). If you know that any entity listed in 9(a) above had any material business dealings or business contracts with the State of North Carolina or was regulated by the State as of December 31, 2019, briefly describe that activity.

Name of Company or Business Entity	Description of Business Activity with the State
None or Not Known	

10. Are you a practicing attorney?

☐ Yes ☒ No ☐ Judicial Officer/State Attorney

If "Yes", check each category of legal representation in which you or the law firm with which you are affiliated has earned legal fees of more than $10,000 during 2019.

☐ Administrative	☐ Admiralty	☐ Corporate	☐ Criminal
☐ Decedent's Estates	☐ Environmental	☐ Insurance	☐ Labor
☐ Local Government	☐ Real Property	☐ Securities	☐ Tax
☐ Tort litigation (including negligence)	☐ Utilities Regulation	☐ Other category not listed	

11. During 2019, were you a licensed professional (other than an attorney) or did you provide consulting services individually or as a member of a professional association for which you charged or were paid over $10,000?

☐ Yes ☒ No

Type of Business	Nature of Services Rendered

12. Are you or your employer, or any members of your immediate family, or their employers currently:
- licensed by the State board or agency with which you are or will be associated **or**
- regulated by the State board or agency with which you are or will be associated **or**
- in a business relationship with the State board or agency with which you are or will be associated?

☐ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer or you are filing as an appointee to one of those offices.

Name of Person	Name of Employer (if applicable)	Type of Relationship (Licensing, Regulatory, Business)

13. Have you or a member of your immediate family been registered as a lobbyist or lobbyist principal within the 12 months preceding your filing of this form?

☐ Yes ☒ No

Name of Lobbyist	Lobbyist's Principal	Date of Registration	Registration Expiration

Other Disclosures

14. During 2019, after you were appointed, employed, or filed or were nominated as a candidate, did you
- receive any "gift(s)" exceeding $200 per quarter from a person or group of persons acting together,
- when both you and those person(s) were outside North Carolina,
- under circumstances that would lead a reasonable person to conclude the gifts were given for lobbying?

To answer Yes, all three conditions must apply

☐ Yes ☒ No

▶ Do not report gifts given by members of your extended family.
▶ Do not report gifts you have previously reported on the "Expense Report for Exempted Persons."

Date Item Received	Name and Address of Donor(s)	Describe Item Received	Estimated Market Value

15. During 2019, after you were appointed, employed, or filed or were nominated as a candidate, did you

- accept a "scholarship" exceeding $200 related to your public position from a person or group of persons acting together,
- when those person(s) were outside North Carolina?

To answer Yes, both conditions must apply

A "scholarship" is a grant-in-aid, either direct or indirect, to attend a conference, meeting, or similar event, including tuition, travel, lodging, meals, and other similar expenses.

☐ Yes ☒ No ☐ Judicial Officer - You are not required to complete this question if you are a judicial officer or you are filing as a judicial officer appointee.

► Do not report gifts you have previously reported on the "Expense Report for Exempted Persons."

► Legislators are not required to report scholarships paid by a nonpartisan legislative organization of which the legislator or the General Assembly is a member, participant, or affiliate.

Date of Scholarship	Name and Address of Donor(s)	Describe Event	Estimated Market Value

16. Have you been appointed or considered for appointment to a covered board by the Governor or another Council of State member?

Council of State members are:

- ► Governor
- ► Lt. Governor
- ► Secretary of State
- ► State Auditor
- ► State Treasurer
- ► Superintendent of Public Instruction
- ► Attorney General
- ► Commissioner of Agriculture
- ► Commissioner of Labor
- ► Commissioner of Insurance

☒ Yes ☐ No

If "Yes," list all contributions you made in 2019 with a cumulative total of more than $1,000 to the Council of State member who appointed you. Do not include contributions from immediate family members.

► Contributions are defined broadly in N.C.G.S. 163-278.6(6) and include "any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever."

Date	Amount	Contributed to
No Contributions		

17. Are you an appointee or prospective appointee as:	
a. the head of a principal state department (e.g., cabinet secretary) appointed by the Governor; or b. a North Carolina Supreme Court Justice, Court of Appeals, Superior or District Court Judge; or c. a member of any of the following boards: • ABC Commission • Coastal Resources Commission • State Board of Education • State Board of Elections • Division of Employment Security • Environmental Management Commission • Industrial Commission • Human Resources Commission • Rules Review Commission • Board of Transportation • Utilities Commission • Wildlife Resources Commission	☒ **Yes** ☐ **No** **If "No," proceed to question 18.**
d. If so, were you appointed or are you being considered for appointment to that position by a Council of State member?	☒ **Yes** ☐ **No** **If "No," proceed to question 18.**
Governor	
e. If so, you must indicate whether during 2019 you engaged in any of the following activities with respect to or on behalf of the candidate or campaign committee of the Council of State member who appointed you:	
i. Collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected contributions to the candidate or committee?	☐ **Yes** ☒ **No**
ii. Hosted a fundraiser at your residence or place of business?	☐ **Yes** ☒ **No**
iii. Volunteered for campaign-related activities, including phone banks, event assistance, mailings, canvassing, surveying, or any other activity that advances the campaign of a candidate?	☐ **Yes** ☒ **No**

18. Have you ever been convicted of a felony for which you have not received either: (i) a pardon; or (ii) an order of expungement?

☐ Yes ☒ No

Offense	Date of Conviction	County of Conviction	State of Conviction

19. Are you aware of any other information that *you believe* may assist the Ethics Commission in advising you concerning your compliance with the State Government Ethics Act?

☐ Yes ☒ No If yes, please provide that information below.

Affirmation

The information provided in this Statement of Economic Interest and any attachments are true, complete, and accurate to the best of my knowledge and belief.

I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments except for the Confidential Form regarding Unemancipated Children are public records.

I have read and understand the following statutes:

N.C.G.S. § 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest . . . shall be guilty of a Class 1 misdemeanor and subject to disciplinary action under G.S. 138A-45.

N.C.G.S. § 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest . . . knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

I affirm under penalty of perjury that the foregoing is true and correct.

Filed Electronically
Signature

02/27/2020
Date

Joseph Eric Boyette
Printed Name

Submit signed, original documents only. Do not fax or e-mail this form.

Joseph Eric Boyette
2605 Richardson Bass Rd.
Kenly, NC 27542
919-634-7691
jeboyette@me.com

Education
Bachelor of Science Business Administration
Barton College 1994
Wilson, NC

Experience
Secretary of the NC Department of Transportation, February 2020-Current

The Secretary for the NC Transportation Department has the responsibility to manage NC GTP, NC Ports, NC Turnpike Authority, Inspector General, as well as the following Divisions, 14 Highway, Aviation, Bicycle and Pedestrian, Ferry, Public Transportation, Rail, and Motor Vehicle. The Secretary is responsible for an average 5 billion-dollar budget. The Secretary has several boards and commissions that they are responsible for attending or chairing. Partnerships with several federal, state, and local municipalities are critical to continued success of the Department. The Department has approximately 9,000 employees.

Secretary and State Chief Information Officer of the NC Department of Information Technology, April 2017 – February 2020

The State Chief Information Officer (SCIO) and Secretary for the N.C. Department of Information Technology led the state agency responsible for all IT procurement, state cybersecurity, operational services, broadband infrastructure, solutions division, data analytics center, the N.C. 911 Board and strategic IT planning. The SCIO is responsible for all program oversight and execution of registered IT projects within the state. The SCIO also manages a complex budget of approximately 650 million dollars and around 1,200 employees.

Chief Information Officer, NC Department of Transportation, October 2015 – April 2017

The Chief Information Officer (CIO) is responsible for all technology across the Department. This position requires strategic vision and the ability to communicate with executive level peers, the General Assembly, financial staff, other cabinet level agency executives, as well as maintaining strong relationships with the vendor community. With a $90 million budget, the CIO is responsible for DOT's information security, network topography, application design, application infrastructure, project management, and application development that supports the business for all transportation modes, including

the NCDMV. In this position, the CIO manages 450 staff members and supports the department with 40 current active projects for transportation customers.

Deputy State Chief Information Officer, NC Department of Information Technology; dual role as DOT CIO and DSCIO, July 2015 – December 2015

The Deputy State Chief Information Officer (DSCIO) over the Solutions Delivery division serves in multiple roles. The position manages the existing Solutions Delivery staff that includes Project Management for DIT and agency projects and project staff, solution architecture services, business requirements analysis, Digital Commons (cabinet agency web design), application testing, and application development. In addition, this position is responsible for all staff being transitioned to DIT because of the passage of Session Law 2015-241 which requires the transitioning of Cabinet level agency IT staff to DIT. The position reports directly to the SCIO and assists with finding technical solutions for agencies, in addition to working with legislative leaders, agency executives, and the vendor community.

Director of Enterprise Services, NC Department of Transportation, February 2013 – October 2015,

This role is responsible for all Enterprise Resource Planning Modules (SAP) and Enterprise application systems used by NCDOT. In addition to managing a $22 million budget, the Director served as the liaison to the State Chief Information Officer (SCIO) for the SAP COE (Center of Excellence), helping guide the strategic direction for existing ERP, and ensuring that state resources were well leveraged. The Director created a leadership team to assist with the newly adopted SOA (Service Oriented Architecture) plan for NCDOT to expedite its adoption and now lead the current Architecture manager, ensuring that more teams adopt the SOA methodology. This position made the Director a voting member of the DOT ARB (Architectural Review Board), as well as the CAB (Change Approval Board) which was responsible for approving new application designs. The position was frequently asked for advice from all areas of the NCDOT business to assist in IT needs and planning as it relates to current practice to procurement. This role also served as the Director over Human Resource, Budget, and Procurement for DOT's IT section, where the allocated IT budget was approximately $90 million.

The Director continued serving as part of the ERP Replacement Committee that works with SCIO, the State Budget Director, the State Controller, the Secretary of DOA, and the Director of State Personnel to develop plans for the State's implementation of an ERP which will include the replacement of NCAS (North Carolina Accounting System). The SCIO also delegated responsibility for the Enterprise Grants Management Committee.

Interim Commissioner, Division of Motor Vehicles, October 2012 – February 2013
The Commissioner was responsible for the daily activities of the Division, including the title actions for over eight million vehicles and issuance and renewals of over seven million driver licenses. The Division also investigates vehicle theft, title fraud, driver license and ID card fraud, and vehicle odometer fraud. They also enforce the rules and regulations

governing vehicle dealers, vehicle safety and emissions inspection stations, vehicle towing and storage facilities, and vehicle repair businesses.

Inspector General, NC Department of Transportation, March 2011 – February 2013

In this newly formed role, the Inspector General led the development of three separate audit which included a PC forensic lab. The audit process was centralized by introducing more technology such as Auto Audit. Support for an anonymous tip line helped to significantly increase the number of reports to the State Audit Council and won the support of the Board of Transportation and department management and employees. As a result, the department received the first positive peer review in years to ensure audit standards were being followed per policy and law. The position was also responsible for monthly presentations to the Audit Subcommittee and Board of Transportation as requested by the Secretary.

Deputy Chief Information Officer, NC Department of Transportation, November 2009 – March 2011

In this role the Deputy Chief Information Officer managed all the department's IT daily operations to ensure goals and objectives of the CIO (Chief Information Officer) were carried out. The position managed DMV, Enterprise, Engineering applications as well as Database, Client/Network services, Integration, Operations, Web Services, and Application Testing teams (Operational Management area of the unit). These teams required constant communication between groups to ensure clear and coordinated direction to accomplish goals. This position often worked between the application, infrastructure, architecture, and security teams to resolve issues while creating opportunities to complete tasks after reviewing risks and policies. At the direction of the CIO, the Deputy Chief Information Officer created the first Architectural Review Board for NCDOT IT and chaired it. This role worked with new staff to start standardization of architectural standards for code application. This position worked very closely with the NCDOT business units to assist in resolving any technology issues. The DCIO also: prepared and delivered presentations to business and peer stakeholders as required by the CIO; managed personnel, software, hardware, and contract budgets; worked with ITS to resolve issues for the Agency and suggested new services; and reviewed IT personnel actions for the entire unit while making recommendations to the CIO.

Assistant Manager of Commercial Accounts, NC Department of Transportation, October 2007 - November 2009

The Assistant Manager of Commercial Accounts supported the Commercial Accounts manager in ensuring the daily functions of the unit were performing as needed. This position managed the travel and procurement card section to ensure procedures and policies were followed and targets met. In addition, this role helped review the payment audit unit to ensure Field Fiscal Manual policies and purchasing rules were being followed. The Assistant Manager reviewed and assisted other staff with procedural or policy issues as needed and made decisions to avoid delays. This unit was responsible for

the payment of $13 million per day less NCDOT staff payroll. This position assisted other units in Fiscal as requested by the Director and Assistant Director as issues arose and experience was needed. This position worked directly with the SAP Functional team to resolve issues with transactions with testing and review of configuration changes as needed.

Various Roles Throughout Highway Division 4, NC Department of Transportation Employee, 1995-2007

Division Safety Officer
This role was responsible for daily safety operations and ensuring the safe operating procedures of the Division were understood and followed. Training and accident scene resolution were critical in ensuring a positive safety program within the department.

Accounting Technician
In this role, the accounting technician was responsible for managing all inventory control, account receivables and payables as the primary role for the Division.

Computer Consultant
This role's primary goal was to maintain all desktop environments, email, and the storage server for the Division. The Division included a six-county geographical area that required dedicated planning and effort to maintain a high level of service for customers.

Accountant (Business Officer)
This role was the primary accountant for the Division, responsible for all budgeting, inventory, and cost accounting to ensure financial stability. This role supervised staff and directed the daily operations to ensure all payables and receivables were completed on time.

Traffic Services Supervisor
This position's responsibility was to ensure all traffic control devices in the Division were installed and maintained within the Maintenance on Uniform Traffic Control Devices. This included all traffic signals, road paint markings, signs, and emergency response traffic situations within the area.

Community/Awards

- 2019 Golden Gov State Executive of the Year – State Scoop
- 2019 Top 25 Doers, Dreamers, and Drivers – Government Technology
- 2016 Public Sector CIO of the Year – Triangle Business Journal
- Chairman, North Johnston High School Advisory Council
- Board Member, Kenly Volunteer Fire Department
- Deacon Kenly Original Free Will Baptist Church
- "NC Thinks" award from Governor Purdue for cost reduction solution, 2012
- Silver Beaver, Tuscarora Council, Boy Scouts of America
- District Award of Merit, Neusiok District, Boy Scouts of America
- Eagle Scout, 1989

NCGA

NORTH CAROLINA GENERAL ASSEMBLY

Senate Committee

On

Transportation

Room 643 LOB

9:00 AM

June 19, 2020

Senate Sergeant at Arms:

JOHN ENLOE

JIM HAMILTON

CHARLES MARSALIS

LINDA MATTHEWS

FRANCES PATTERSON

SIGN-UP SHEET

Senate Committee On Transportation

June 19, 2020 – Room 643 LOB, 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
[illegible]	NCRRA
Bobby Lewis	NCDOT
Greer Beaty	NCDOT
Eric Boyette	NCDOT
Johanna Reese	NCDOT
Justin Delaney	NCDOT
Andrew Cagle	WKG
Ken McMahon	KMA
LT McCrimmon	Gov
[illegible]	[illegible]
[illegible]	