1999

HOUSE TRANSPORTATION COMMITTEE

MINUTES

NORTH CAROLINA HOUSE OF REPRESENTATIVES

TRANSPORTATION COMMITTEE

1999 SESSION

NORTH CAROLINA GENERAL ASSEMBLY

CHAIRS

Representative Charles F. Buchanan
Representative Drew P. Saunders

STAFF ATTORNEY

Giles Perry

COMMITTEE ASSISTANTS

Glenda Jones
Ruth Fish

HOUSE COMMITTEE ON TRANSPORTATION
1999-2000 SESSION

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
BUCHANAN, Charles, Chair	Glenda Jones Committee Assistant	733-5825	536 LOB	41
SAUNDERS, Drew, Chair	Ruth Fish Committee Assistant	733-5776	1219	82
MOORE, Richard, Vice-Chair	Susan Burleson	733-5746	1220	15
ADAMS, Alma	Troy Williams	733-5902	542	67
ALLRED, Cary	Jean Allred	733-5607	609	65
BAKER, Rex	Dawn Ellis	733-5787	608	86
BRIDGEMAN, John	Joyce Langdon	715-3007	419A	94
BROWN, John	Ann Kidd	733-5935	1111	25
CHURCH, Walt	Joyce Fuller	733-5805	1311	33
CLARY, Debbie	Mary Jamison	733-5654	1211	97
COLE, Nelson	Suzanne Smith	733-5779	1218	45
CRAWFORD, Jim	Linda Winstead	733-5824	1301	24
CULP, Arlie	Waneta Lord	733-5865	1010	50
EARLE, Beverly	Ann Raeford	733-5747	535	95
EDDINS, Rick	Doris Monroe	733-5800	1319	74
GIBSON, Pryor	Bonnie Trivette	733-4948	1204	108
GILLESPIE, Mitch	Bonnie Jones	733-5987	1201	116
HILL, Dewey	Ginny McCann	733-5830	1309	21
HOLMES, George	Glenda Jacobs	733-5771	2119	29

KINNEY, Ted	Eryn Gee	733-5758	2123	22
MCCOMAS, Danny	Jayne Walton	733-5786	606	111
MCLAWHORN, Marian	Shelby Jeffreys	715-3017	417B	104
NYE, Edd	Jo Bobbitt	733-5477	639	1
RAYFIELD, John	Gail Musser	733-5823	1305	114
SETZER, Mitchell	Debbie Puckett	733-5886	1015	117
SHERRILL, Wilma	Rosa Kelley	715-4466	602	37
SUTTON, Ron	Juanita Coley	733-5752	1321	71
TEAGUE, Jr.	Linda Hines	733-5530	1017	118
THOMAS, Scott	Dianne Dagenhart		404	103
WAINWRIGHT, William	Denise Smith	733-5898	614	8
WARWICK, Nurham	Carolyn Honeycutt	715-3003	419C	14

House Transportation Committee Members
1999-2000 Session



Chairman – Charles F. Buchanan



Chairman – Drew P. Saunders



Vice Chairman – Richard L. Moore

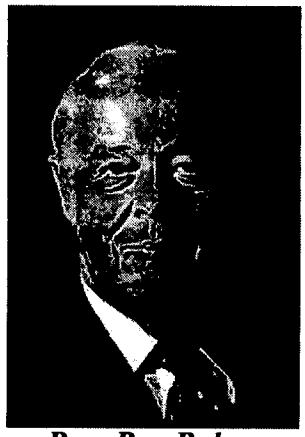
Committee Members



Rep. Alma S. Adams



Rep. Cary Allred



Rep. Rex Baker



Rep. John D. Bridgeman



Rep. John W. Brown



Rep. Walter Church



Rep. Debbie A. Clary



Rep. Nelson Cole



Rep. James W. Crawford



Rep. Arlie F. Culp



Rep. Beverly Earle



Rep. Rick L. Eddins



Rep. Pryor Gibson



Rep. Mitch Gillespie



Rep. Dewey L. Hill



Rep. George M. Holmes



Rep. Ted Kinney



Rep. Daniel L. McComas



Rep. Marian N. McLawhorn



Rep. Edd Nye



Rep. John M. Rayfield



Rep. Mitchell S. Setzer



Rep. Wilma M. Sherrill



Rep. Ronnie Sutton



Rep. W. B. Teague, Jr.



Rep. Scott Thomas



Rep. William L. Wainwright



Rep. Nurham Warwick

ATTENDANCE

HOUSE COMMITTEE ON TRANSPORTATION

(Name of Committee)

DATES	7/7														
BUCHANAN, Charles, Chair	✓														
SAUNDERS, Drew, Chair															
MOORE, Richard, Vice Chair															
ADAMS, Alma	✓														
ALLRED, Cary															
BAKER, Rex	✓														
BRIDGEMAN, John	✓														
BROWN, John	✓														
CHURCH, Walt	✓														
CLARY, Debbie															
COLE, Nelson															
CRAWFORD, Jim	✓														
CULP, Arlie															
EARLE, Beverly															
EDDINS, Rick	✓														
GIBSON, Pryor	✓														
GILLESPIE, Mitch															
HILL, Dewey	✓														
HOLMES, George															
KINNEY, Ted															
McCOMAS, Danny	✓														
McLAWHORN, Marian	✓														
NYE, Edd															
RAYFIELD, John	✓														
SETZER, Mitchell	✓														
SHERRILL, Wilma	✓														

ATTENDANCE

HOUSE COMMITTEE ON TRANSPORTATION – Page 2

(Name of Committee)

DATES	7/7														
SUTTON, Ron	✓														
TEAGUE, Jr.	✓														
THOMAS, Scott	✓														
WAINWRIGHT, William															
WARWICK, Nurham															

ATTENDANCE

HOUSE COMMITTEE ON TRANSPORTATION

(Name of Committee)

DATES	3/3	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/28	5/12	5/19	5/26	6/9	6/23	6/30
BUCHANAN, Charles, Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
SAUNDERS, Drew, Chair	✓	✓	✓	✓		✓	✓	✓		✓	✓		✓		
MOORE, Richard, Vice Chair	✓	✓	✓		✓	✓		✓							
ADAMS, Alma				✓		✓		✓			✓		✓		
ALLRED, Cary	✓	✓	✓							✓		✓			
BAKER, Rex	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
BRIDGEMAN, John	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BROWN, John	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
CHURCH, Walt	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	
CLARY, Debbie						✓		✓			✓	✓	✓		
COLE, Nelson	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓	✓
CRAWFORD, Jim			✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
CULP, Arlie	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
EARLE, Beverly															
EDDINS, Rick	✓	✓				✓	✓	✓		✓	✓	✓	✓		
GIBSON, Pryor	✓	✓	✓	✓	✓			✓			✓	✓		✓	
GILLESPIE, Mitch	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✗	✓
HILL, Dewey	✓	✓	✓	✓	✓	✓	✓	✓		✗	✓	✓		✓	✓
HOLMES, George	✓	✓	✓		✓	✓	✓	✓			✓		✓	✓	
KINNEY, Ted								✓							
McCOMAS, Danny	✓	✓	✓	✓	✓			✓		✓	✓	✓	✓		✓
McLAWHORN, Marian	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
NYE, Edd			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
RAYFIELD, John		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
SETZER, Mitchell	✓	✓	✓					✓		✓	✓	✓	✓	✓	✓
SHERRILL, Wilma	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓

ATTENDANCE

HOUSE COMMITTEE ON TRANSPORTATION – Page 2

(Name of Committee)

DATES	3/3	3/10	3/17	3/24	3/31	4/7	4/14	4/21	4/28	5/12	5/19	5/26	6/9	6/23	6/30
SUTTON, Ron		✓	✓	✓			✓	✓		✓	✓	✓		✓	✓
TEAGUE, Jr.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	
THOMAS, Scott		✓	✓	✓		✓		✓		✓	✓	✓	✓		✓
WAINWRIGHT, William			✓	✓	✓			✓			✓		✓		
WARWICK, Nurham	✓							✓		✓	✓		✓		

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: TRANSPORTATION Valid Through 22-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 128	CANSLER	NONBETTERMENT RELOCATION COSTS	*H -RE-REF COM ON APPROP	02-23-99	05-13-99
H 133	ROGERS	EXEMPT DISABLED VETERAN VEHICLES	*S -REF TO COM ON FINANCE	02-23-99	06-24-99
H 247	WAINWRIGHT	FUNERAL PROCESSIONS	*H -PRES. TO GOV. 07-20	03-04-99	04-05-99
H 280	COLE	MOTOR VEHICLE TECH. AMENDMENTS	*H -RATIFIED	03-04-99	04-12-99
H 299=	HACKNEY	OUTDOOR ADVERTISING CONTROL ACT	H -REF TO COM ON TRANSPOR	03-04-99	
H 317	REDWINE	SAFETY CHAINS FOR TRAILERS	*H -RE-REF COM ON TRANSPOR	03-04-99	03-24-99
H 317	REDWINE	SAFETY CHAINS FOR TRAILERS	*H -RE-REF COM ON TRANSPOR	03-31-99	
H 333	HURLEY	TIP FUNDING ALLOCATIONS/LOANS - 2	H -REF TO COM ON TRANSPOR	03-04-99	
H 723	INSKO	DARK WINDOW INSPECTION FEE	*S -REF TO COM ON FINANCE	03-30-99	04-22-99
H 748	GOODWIN	HIGHWAY UTILITY NONBETTERMENT COST	H -REF TO COM ON TRANSPOR	03-31-99	
H 789	GOODWIN	HIGHWAY UTILITY NONBETTERMENT STUDY	*H -RE-REF COM ON RULES	04-01-99	06-24-99
H 937	GRAY	REGIONAL TRANSPORTATION AUTH. AMD.	*H -PRES. TO GOV. 07-20	04-06-99	04-28-99
H1029	DECKER	MUNICIPAL SECONDARY ROADS PAVED	H -RE-REF COM ON APPROP	04-14-99	04-28-99
H1085	MCMAHAN	TRANSITWAYS	*H -PRES. TO GOV. 07-15	04-15-99	04-28-99
H1191	ROGERS	NONBETTERMENT RELOCATION COSTS - 2	H -REF TO COM ON TRANSPOR	04-15-99	
H1273=	LUEBKE	FEDERAL CMAQ FUNDS USE/PUB. TRANS.	H -RE-REF COM ON ENVIRON	04-15-99	06-10-99
H1274	LUEBKE	DURHAM NORTHERN LOOP FUNDS	H -REF TO COM ON TRANSPOR	04-15-99	
H1288=	LUEBKE	ESTABLISH METROPOLITAN PLANNING BDS.	*S -REF TO COM ON TRANSPRT	04-15-99	04-28-99
H1386	MCALLISTER	LRS STUDY FERRY DIV. PRIVATIZATION	*H -RE-REF COM ON RULES	04-29-99	06-14-99
H1443=	MINER	CITY PARTICIPATION-ROAD BUILDING	H -RE-REF COM ON APPROP	04-29-99	07-07-99
S 27	KERR	REPEAL DOT BERMUDA GRASS PROHIB.	R -CH. SL 99-0029	03-16-99	03-31-99
S 51	SHAW L	HIGHWAY CONTRACT BONDING REQ'MENTS	R -CH. SL 99-0025	03-03-99	03-25-99
S 233	SHAW L	ROW PLANS/TIP FUNDING ALLOCATIONS	*S -PRES. TO GOV. 07-14	04-01-99	05-13-99
S 254=	GULLEY W	OUTDOOR ADVERTISING CONTROL ACT	S -RATIFIED	06-01-99	07-12-99
S 368	GULLEY W	PUBLIC ACCESS TO RIVERS AND STREAMS	*H -REF TO COM ON TRANSPOR	04-27-99	
S1081	ALBERTSON	RECYCLED MATERIALS ROAD MAINTENANCE	*H -REF TO COM ON TRANSPOR	05-03-99	
S1140	EAST	SURRY BILLBOARD BAN	*R -CH. SL 99-0218	04-29-99	06-09-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION
MARCH 3, 1999
ROOM 643 LOB
11:00 AM

INTRODUCTION OF MEMBERS

Representative Buchanan, Chair

INTRODUCTION OF MR. NORRIS TOLSON, SECRETARY OF NC DEPARTMENT OF TRANSPORTATION AND STAFF

Representative Saunders, Chair

PRESENTATION BY SECRETARY TOLSON

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

March 3, 1999

The House Committee on Transportation met in Room 643 of the Legislative Building on Wednesday, March 3, 1999 at 11:00 AM. Representative Charles Buchanan, Chair, welcomed members and visitors. He recognized Raymond Clark, Page from Rockingham. Chair Buchanan then turned the meeting over to Representative Drew Saunders, Chair, to preside.

Representative Saunders asked each Representative to introduce himself/herself and to identify his/her district and county. Members present were: Representatives Moore, Vice Chair, Allred, Baker, Bridgeman, Brown, Church, Cole, Culp, Eddins, Gibson, Gillespie, Hill, Holmes, McComas, McLawhorn, Setzer, Sherrill, Teague, and Warwick. Staff Counsel Giles Perry was present to assist the Committee. Representative Saunders also recognized Pages, Amber Russ from Iredell County and Christin Huisman from Wake County. The Visitor Registration Sheet is attached and made part of the minutes.

Mr. Norris Tolson, Secretary of the North Carolina Department of Transportation, was introduced to make a presentation about Truck Safety Problems and a proposed plan to deal with this concern. A copy of the Truck Safety Plan is attached. A brief question and answer period followed the presentation. Representatives will have a chance to debate the plan at a later date when a bill is introduced regarding the Truck Safety Problem.

The meeting adjourned at 11:50 AM.

Representative Drew Saunders, Chair

Representative Charles Buchanan, Chair

Ruth A. Fish

Ruth A. Fish, Committee Assistant

Secretary Norris Tolson
Truck Safety Plan
3/3/99

North Carolina got some alarming news last year.

We learned from the Federal Highway Administration that we rank eighth in the nation in fatal truck crashes and fifth in the nation in truck-related fatalities. We have to do a better job finding the unsafe trucks on our highways. We have a plan that will help save lives and prevent injuries by making trucks safer.

Commercial vehicles, as trucks are classified, are critical to our state's economy. They deliver products that we depend on and as our population and our economy grow, so does the chance that there will be more truck crashes. Gov. Jim Hunt and the Department of Transportation are committed to doing more than ever before to make trucks safer.

If you pass the legislation we are bringing to you today, we will penalize drivers for operating unsafe commercial vehicles, we will increase the fines and drivers license points issued on commercial vehicle drivers who violate the law, we will crack down on commercial vehicle drivers who possess alcoholic beverages in their vehicles, and we will increase the fine for speeding in a highway work zone. I want to point out this package does not add any costs to Gov. Hunt's budget.

Last December, I saw firsthand the tragedy a truck crash can bring. In Polk County, a tanker carrying a hazardous material overturned on Interstate 26. The hazardous material spilled out onto the interstate and down the side of the mountain. Hundreds of residents had to be evacuated from their homes. The interstate was shut down. It looked like a battlefield.

When we see a tragedy like this, we wonder what we could do to prevent it. Last year we convened a work group in DOT to see how we could make trucks safer on our highways. Our plan is based on their recommendations and with the help of our sponsor, Representative Drew Saunders, and your support we send a strong message that truck safety is priority in North Carolina.

First, to get unsafe trucks off the road, we must adopt a penalty schedule similar to one designed by highway safety administrators from across North America. This schedule penalizes trucking companies and drivers of unsafe vehicles and would enhance DMV Enforcement officers' powers to get them off the road.

Second, truck drivers must be more accountable for their actions when they break motor vehicle laws. We propose to make them more accountable by increasing the fines and administering additional driver license points.

Third, we must make it illegal to possess any alcoholic beverages in a truck in North Carolina. We already have a zero-tolerance law for commercial drivers. These folks are professional drivers and they should not possess a substance that can potentially cause so much harm.

Fourth, to enhance traffic surveillance and law enforcement capabilities we need to be able to install electronic camera systems in high crash corridors and highway work zones as soon as funding is available. This equipment will allow us to identify and stop those who drive recklessly in these areas.

Next, we must increase the minimum penalty to $250 for speeding in the highway work zone—this amount would be in addition to current penalties for speeding.

We must allow all law enforcement officers to cross the highway median so that they can pursue trucks or any other vehicle operating in an unsafe manner.

Finally, **intra**state truck drivers will be required to carry the same minimum amount of insurance as **inter**state truck drivers.

We believe we need to set up a statewide inspection program for trucks, much the same way we do for passenger vehicles. But before we ask you to implement that program, we need to make sure we are doing all we can to inspect commercial vehicles on the roadsides and at weigh stations. Our officers will increase their interaction with drivers to make sure their driving logs are accurate and that they are not too tired to be driving. And we are training more of our uniformed DMV Enforcement officers to conduct certified truck inspections. Currently we are inspecting at a rate of 5,000 trucks per month. Our target is to increase that number by 50 percent by July 1.

Other actions we will take within DOT to make sure trucks are safer is to identify multi-lane highways where we could restrict trucks to specific lanes on the road. I've instructed our traffic engineering branch to begin that program immediately. We will look at locations throughout the state to determine where lane restrictions will work best.

Additionally, we will increase the time weigh stations are open— a minimum of 16 hours a day, five days a week.

Finally, we recognize that highway safety requires a team effort. Therefore, we will use all highway safety resources to help law enforcement officers to concentrate their efforts on the high crash corridors.

Truck safety affects all North Carolinians. And we all have to do our part to make our highways safer. The people of this state expect that of us.

NCDOT Truck Safety Plan
March 3, 1999

Legislative Initiatives

Adopt a version of the Commercial Vehicle Safety Alliance (CVSA) penalty schedule to penalize drivers of commercial vehicles who operate in an unsafe manner. The CVSA is comprised of highway safety administrators from the U.S., Canada and Mexico. This penalty schedule will serve as a deterrent to future violations.

Increase the fines and driver license points for commercial vehicle drivers who violate motor vehicle laws such as speed limits and failure to stop at red lights and stop signs. For example, today a truck driver charged with speeding would pay a fine of $50. Under this change, the fine would double and the driver would pay $100 and court costs.

Crack down on commercial vehicle drivers who possess alcoholic beverages in their vehicle by issuing fines and adding points to their driver license.

Allow DOT to use electronic monitoring devices, similar to stop light cameras in Charlotte, in high crash corridors, work zones and high traffic interchanges.

Increase the minimum fine for speeding in a highway work zone to $250—in addition to current penalties for speeding. An increase in this penalty would be a deterrent to commercial motor vehicle drivers who might speed in the work zone.

Allow all law enforcement officers to cross a divided median to pursue an unsafe commercial vehicle.

Require intrastate truck drivers to carry the same amount of insurance as interstate truck drivers.

NCDOT Administrative Initiatives

- Increase the number of inspections performed on an annual basis by NCDMV Enforcement officers.
- Analyze areas where we can restrict commercial vehicles to specific lanes on interstates and other multi-lane highways.
- Keep our weigh stations open longer and utilize them more efficiently at peak times to remove unsafe commercial vehicles from the highways.
- Identify high crash corridors and determine how to effectively patrol those regions to reduce commercial vehicle crashes.

- Place more NCDMV Enforcement officers in highway work zones to enforce speed and safe driving regulations on commercial vehicles traveling through the work zones.

- Crack down on commercial driver violations, such as speeding, careless and reckless driving and crashes caused by commercial vehicle drivers that could result in a fatality.

- Use new technologies, such as thermal imaging units, to make commercial vehicle inspections more accurate and efficient.

- Supplement driver education classes and the driver license test to include information on commercial vehicle safety— such as No-Zone awareness and required braking distance for trucks so that all drivers will have a better understanding of the operation of commercial vehicles.

- Work with members of the judicial community to provide education on the different types of commercial vehicle citations they will see in hopes of decreasing the number of violations that are either reduced or dismissed in the judicial system.

- Supplement the Basic Law Enforcement training course on commercial vehicle regulations so that all new law enforcement officers will have some level of education on commercial vehicle regulations.

- Crack down on drivers when debris falls from their commercial vehicles and creates hazardous situations on our highways. Educate commercial vehicle drivers on proper ways to secure loads and equipment.

- Use DMV's crash reporting system to provide continual analysis of crash data in relation to commercial vehicles.

- Suspend oversize and overweight permits for those who repeatedly violate commercial motor vehicle laws.

- Create a truck safety course for all DOT highway project bid winners. The course would cover training sessions on how to properly secure loads and equipment as well as proper safety measures for working in work zones.

- Conduct special commercial vehicle checkpoint operations to remove unsafe drivers and unsafe commercial vehicles from the highways.

- Investigate the creation of commercial vehicle parking areas in remote locations for the purpose of enforcing size, weight and safety regulation inspections.

- Review the statewide tracking system that identifies sections of highways and bridges that are being damaged by commercial motor vehicles so that we may improve safety and maintenance.

VISITOR REGISTRATION SHEET

Transportation — Name of Committee

3-3-99 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Lucius Pullen	ATTORNEY
Charlie Diehl	NC Outdoor Adv. Assoc.
Gene Causby	NCD&SEA
Doug Duncan	NC Forestry Assn.
Kelli Kukura	DuPont
Jim Brown	State Ports
Eb Peters	NC Trucking Assn
Vb McBride	NCDOT
Margaret Kluttz	NCBOT
Dalton Buffkin	NCDOT
G.R. Kindley	NCDOT
Doug Galyon	NCDOT
Gabby Hayes	Arizona
Judith Shearer Smith	NCDOT Board
Butch Gunnells	NC Soft Drink Assoc

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Roger Bone	Bowe & Assoc —
John Long	Martin Marietta
Bob Mathews	NC DOT BI Member New Bern
Walter Price	Charlotte Chamber
Kim Hibbard	NCLM
Barbara Gillespie	
John Lyons	N.C. State Grange
Nancy Thompson	NCCBD
Andy Romanet	NCLM
Charlie Carden	NCDMV Enforcement
Jon Pabst	NCDMV
Beth Evans	Federal Highway Administration
Dave A Moody	DMV ENFORCEMENT
David C. Richard	DMV
Janice Faulkner	DMV

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Gene Cella	DMV
Len Sanderson	DOT
Angie Harris	DOT
Charles H Ward	Board of Transportation
Jerry Lynch	State Traffic Engr. - NCDOT
John C. Moore	D.O.T. Board Greenville, N.C.
Jane Pinsky	AAA Carolinas
Paul Jaffeson	Infotam Inc
Sheri C. Johnson	DOT
Ruth Sappie	DOT
Doug Rogers	DOT
Roberto Canales	DOT
DAVID KING	DOT
Steve Metcalf	NC Senate
Lyman Cooper	CSX Transportation

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Barbie Holmes	CSX Transportation
Bernie Satt	NBC 17 Proud as a Peacock!
Paul Wilms	NCMDA
Tom McKillop III	Moore + VanAllen
Chris Hunt	Electric Cords
David Knight	NCPTA, CPT
Susan Valauri	Nationwide Ins.

VISITOR REGISTRATION SHEET

Transportation
Name of Committee

3-3-99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

March 10, 1999

The House Committee on Transportation met Wednesday, March 10, 1999 in Room 643 of the Legislative Office Building. Representative Charles M. Buchanan, Chairman, presided. Members present were Representatives Buchanan, Saunders, Moore, Allred, Baker, Bridgeman, Brown, Cole, Culp, Eddins, Gibson, Gillespie, Hill, Holmes, McComas, McLawhorn, Rayfield, Setzer, Sherrill, Sutton, Teague, and Thomas. Also present were Giles Perry, Staff Counsel and pages, Charles Warren and Shara Tomlinson from Wake County. A list of visitors attending is attached.
The following bills were on the Agenda:

House Bill 133, A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM PROPERTY TAX MOTOR VEHICLES OWNED BY TOTALLY DISABLED VETERANS AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS, was explained by bill sponsor, Representative Gene Rogers. Totally disabled combat veterans would pay no property taxes on motor vehicles they own, and the Department of Revenue would reimburse counties for the tax revenue lost. A fiscal note was obtained for this legislation.

Because there were numerous suggestions from the members for changes to the bill, Representative Rogers suggested that the bill be withdrawn and put in a subcommittee for further work. Chairman Buchanan ruled that the bill be assigned to a subcommittee and named Representative McComas chairman of the committee. The other members are Representatives Rayfield, Moore, and Sherrill.

Senate Bill 51 was on the agenda but because of the absence of the sponsor, the bill was not presented to the committee at this time.

The meeting adjourned at 11:25 a.m.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Mary H. Moore, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan and Saunders** for the Committee on **TRANSPORTATION**.

☐ Committee Substitute for
H.B. 133 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM PROPERTY TAX MOTOR VEHICLES OWNED BY TOTALLY DISABLED VETERANS AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #)~~, (and recommendation that the committee substitute bill #) be re-referred to the Committee on Finance

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 133*
Proposed Committee Substitute H133-PCSA153-RC

Short Title: Exempt Disabled Veteran Vehicles. (Public)

Sponsors:

Referred to:

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX MODIFIED MOTOR VEHICLES OWNED BY DISABLED VETERANS WHO ARE ELIGIBLE FOR FEDERAL SPECIAL EQUIPMENT ALLOWANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(5a) A motor vehicle owned by a disabled veteran that is altered with special equipment to accommodate a service-connected disability. As used in this section, disabled veteran means a person as defined in 38 U.S.C. § 101(2) who is entitled to special automotive equipment for a service-connected disability, as provided in 38 U.S.C. § 3901."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 133*

Short Title: Exempt Disabled Veteran Vehicles. (Public)

Sponsors: Representatives Rogers; Barefoot, Brown, Cox, Culpepper, Dedmon, Edwards, Fox, Gibson, Haire, Horn, Hurley, Justus, Kinney, Kiser, McCrary, McLawhorn, Melton, Morris, Ramsey, Sherrill, Smith, Sutton, Thomas, Tolson, Wainwright, Warner, and Warren.

Referred to: Transportation.

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX MOTOR VEHICLES OWNED BY TOTALLY DISABLED VETERANS AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(5a) A motor vehicle owned by a veteran, as defined in 38 U.S.C. § 1101, who is entitled to benefits for total disability under 38 U.S.C. § 1110."

Section 2. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-275.3. Reimbursement for exclusion of disabled veterans' vehicles.**

(a) On September 1, 2000, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified during the previous fiscal year for the exemption provided in G.S. 105-275(5a). The list shall also contain for each name the total value of vehicles exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The list shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(b) Before May 31, 2001, the Secretary of Revenue shall distribute to the county or city the total for the list provided pursuant to subsection (a) of this section of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this subsection in 2001 the amount it was entitled to receive in 2001.

(c) Any funds received by a county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(d) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue shall draw from collections received under Part 2 of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 51
Commerce Committee Substitute Adopted 2/23/99

Short Title: Highway Contract Bonding Req'ments. (Public)

Sponsors:

Referred to:

February 8, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING HIGHWAY SMALL PROJECT BIDDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.10(a) reads as rewritten:

"(a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund projects of ~~three hundred thousand dollars ($300,000)~~ five hundred thousand dollars ($500,000) or less, the Board of Transportation may, after soliciting at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation."

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

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March 10, 1999

To: Members of the House Transportation Committee

From: Giles S. Perry, Committee Counsel

Re: House Bill 133 Exempt Disabled Veteran Vehicles

House Bill 133 would exempt from property taxes motor vehicles owned by totally disabled combat veterans.

The Department of Revenue would be required to reimburse counties for the property tax revenue lost due to this exemption.

House Bill 133 would become effective beginning with the 1999-2000 tax year.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

March 10, 1999

OPENING REMARKS

Representative Charles Buchanan, Chair

BILLS FOR DISCUSSION

HB 133 Exempt Disabled Veteran Vehicles

Bill Sponsor: Representative Gene Rogers

SB 51 Highway Contract Bonding Requirements

Bill Sponsor: Senator Larry Shaw

ADJOURNMENT

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 133 (First Edition)

SHORT TITLE: Exempt Disabled Veteran Vehicles

SPONSOR(S): Representative Rogers, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
EXPENDITURES					
General Fund					
Reimbursement to Cities and Counties	-	($283,581)	($288,118)	($293,881)	($298,877)
Administrative Cost	No impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: Effective for taxable years beginning on or after July 1, 1999.

BILL SUMMARY: The proposed bill exempts from property tax those motor vehicles owned by totally disabled combat era veterans and reimburses local governments for their revenue loss.

ASSUMPTIONS AND METHODOLOGY:
As of April 14, 1998, the Veterans Administration reports 5,042 100% disabled veterans living in North Carolina. Section 1 of HB 133 limits the vehicle property tax exemption to combat veterans (38 USC section 1110). Of all veterans receiving service connected compensation in the state in 1998, 72.76% were combat veterans and 27.24% were peacetime veterans. Applying these percentages to the 100% disabled group, there are 3,668 veterans eligible for the vehicle property tax exemption and 1,374 peacetime veterans that are ineligible.

For this fiscal note, it is assumed that each veteran will claim the tax exemption for one vehicle. The average value of a vehicle in North Carolina is $7,632 in 1999. This vehicle value is the average of vehicle valuations taken from Cabarrus, Orange, Haywood, Surry, Halifax, and Sampson counties. The data was provided by TEC Data Systems, Inc., a company that provides vehicle tax values to county tax assessors statewide.

Since it is difficult to predict whether this veteran population will trade, buy, or retain their vehicles in the next five years, the average vehicle price is adjusted by a national inflation rate for light vehicles. A Standard & Poor's DRI national forecast for light vehicles (cars and trucks) in January 1999 predicted an increase in car values as follows:

1999 1%
2000 1.3%
2001 1.6%
2002 2.0%
2003 1.7%

Without a printout of addresses for disabled veterans, a statewide tax rate is used to estimate the fiscal impact of this bill. The unified property tax rate for all government jurisdictions in North Carolina has fluctuated from .994 per $100 of assessed valuation in 1993-94 to .968 per $100 in 1997-98. Due to pressures in many counties to build schools and provide other services, an estimated rate of $1.00 per $100 of assessed value is used in this note.

Using the variables mentioned above, the revenue impact is calculated as follows:

	Average car values	DRI Inflation est.	100% Disabled Veterans	Value of Exempted Property	Unified Property Tax Rate	Property Tax Exempted
1999-00	$7,632	1.0%	3,668	$27,994,176	$1.00	$279,942
2000-01	$7,731	1.3%	3,668	$28,358,100	$1.00	$283,581
2001-02	$7,855	1.6%	3,668	$28,811,830	$1.00	$288,118
2002-03	$8,012	2.0%	3,668	$29,388,066	$1.00	$293,881
2003-04	$8,148	1.7%	3,668	$29,887,664	$1.00	$298,877

The first payment of $283, 581will be made on or before May 31, 2001, thus the first impact to the state General Fund will be in FY 2000-01. The Department of Revenue will need to develop a simple spreadsheet application to track the reimbursements, but can absorb this administrative cost in their existing budget.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic
APPROVED BY:
DATE: March 9, 1999

VISITOR REGISTRATION SHEET

TRANSPORTATION 3-10-99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Henry Jones	Attorney - Raleigh
2.	VL McBride	NCTA
3.	David Symons	ZDA, PA
4.	Charles F Smith	NCDOA
5.	Charlie Diehl	NC Outdoor Advertising Assoc.
6.	Katie Carstens	SCO
7.	David Bell	DOR
8.	Jim Blackburn	County Commissioners Assn
9.	Kim Hibbard	NCLM
10.	Annie Belton	Phi Omega aka
11.	Tanela Campbell	Phi Omega AKA
12.	Shannon Lassiter	Zeta Xi AKA
13.	Mamie Cranford	Zeta Xi AKA
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

March 17, 1999
Room 643 LOB
11:00 AM

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS TO BE CONSIDERED

HB 247 FUNERAL PROCESSIONS
Sponsor: Rep. Wainwright

HB 280 MOTOR VEHICLE TECH. AMENDMENTS/AB
Sponsors: Rep. Cole and Justus

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

March 17, 1999

The House Committee on Transportation met in Room 643 of the Legislative Office Building on Wednesday, March 17, 1999, at 11:00 AM. Representative Drew Saunders, Chair, called the meeting to order. Members present were: Representatives Saunders, Buchanan, Moore, Allred, Baker, Bridgeman, Brown, Church, Cole, Crawford, Culp, Gibson, Gillespie, Hill, Holmes, McComas, McLawhorn, Nye, Rayfield, Setzer, Sherrill, Sutton, Teague, Thomas, and Wainwright. Giles Perry, Staff Counsel, was also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Saunders introduced Richard Riddle and Maxine Holley with the Sergeant of Arms Office and Pages: Krystal Trice from Wake County, sponsored by Speaker Black, and Ashley Butler from McDowell County, sponsored by Rep. Gillespie.

The first bill to be discussed by the committee was HB 247 Funeral Processions. Representative Buchanan, Chair, moved that a substitute for this bill be considered, and Representative Wainwright, Sponsor, gave a summary of the substitute bill. A question and answer period followed, in which Representative Wainwright, Giles Perry, Jon Carr with the Funeral Directors Association, and Eddie Caldwell with the North Carolina Sheriffs Association and North Carolina Law Enforcement Officers Association responded to questions. Representative Sherrill made a motion that the bill be referred to a subcommittee for further study. The motion was approved, and Representative Saunders appointed Representatives Sutton, Sherrill, Moore, McLawhorn, and Baker to the subcommittee. Representative Sutton will chair the subcommittee.

A second bill to come before the committee was HB 280 Motor Vehicle Tech. Amendments/AB. Representative Buchanan, Chair, made a motion that a substitute bill be discussed, and Representative Cole, Sponsor, asked that Ruth Sappie with the Division of Motor Vehicles present a summary of the substitute bill. In the question and answer period which followed the presentation, Representative Cole, Ruth Sappie, Wayne Hurder, Director of the Drivers License Section, and Carol Howard, Director of the Vehicle Registration Section, replied to the questions. Due to the number of questions and time limitations, the bill will be considered in the next Transportation Committee meeting.

The meeting adjourned at 11:50AM.

Representative Drew Saunders, Chair

Representative Charles Buchanan, Chair

Ruth Fish, Committee Assistant

March 24, 1999

MEMORANDUM

TO: Representative Drew Saunders
Representative Charles Buchanan

FROM: Representative Ron Sutton

SUBJECT: HB 247 – Funeral Processions

The Transportation Subcommittee on HB 247 (Funeral Processions) met today. All members of the Subcommittee were present –(Representatives Baker, McLawhorn, Moore, and Sherrill). Representative Wainwright, sponsor of the bill, also attended.

The Subcommittee reviewed the bill line by line and discussed it in detail, asking questions of staff member Giles Perry; Jon Carr, lobbyist, and Larry Stegall, Executive Director, Funeral Directors and Morticians Association of N. C.

The Subcommittee voted unanimously in favor of a proposed Committee Substitute which Giles Perry is preparing and will forward to you.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 247
Proposed Committee Substitute H247-PCS2176-RW

Short Title: Funeral Processions. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE FUNERAL PROCESSIONS AND TO CODIFY THE RULES OF THE ROAD WITH REGARD TO FUNERAL PROCESSIONS.

The General Assembly of North Carolina enacts:

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

"**§ 20-157.1. Funeral processions.**

(a) As used in this section, a 'funeral procession' means two or more vehicles accompanying the remains of a deceased person, or traveling to the church, chapel, or other location at which the funeral services are to be held, in which the lead vehicle is either a State or local law enforcement vehicle, other designated official vehicle, or the lead vehicle displays a flashing amber or purple light, sign, pennant, flag, or other insignia furnished by a funeral home indicating a funeral procession.

(b) Each vehicle in the funeral procession shall be operated with its headlights illuminated, if so equipped, and its hazard warning signal lamps illuminated, if so equipped.

(c) The operator of the lead vehicle in a funeral procession shall comply with all traffic-control signals, but when the lead vehicle in a funeral procession has progressed across an intersection in accordance with the traffic-control sign or signal, or when directed to do so by a law enforcement officer or an official designee, or when the lead vehicle is a law enforcement vehicle which progresses across the intersection while giving appropriate warning by light or siren, all vehicles in the funeral procession may proceed through the intersection without stopping, except that

the operator of each vehicle shall exercise reasonable care towards any other vehicle or pedestrian on the highway. An operator of a vehicle that is not part of the funeral procession shall not join the funeral procession for the purpose of securing the right-of-way granted by this subsection.

(d) Operators of vehicles in a funeral procession shall drive on the right-hand side of the roadway and shall follow the vehicle ahead as closely as reasonable and prudent having due regard for speed and existing conditions.

(e) Operators of vehicles in a funeral procession shall yield the right-of-way to law enforcement vehicles, fire protection vehicles, rescue vehicles, ambulances, and other emergency vehicles giving appropriate warning signals by light or siren, and shall yield the right-of-way when directed to do so by a law enforcement officer.

(f) Operators of vehicles in a funeral procession shall proceed at the posted minimum speed, except that the operator of such vehicle shall exercise reasonable care having due regard for speed and existing conditions.

(g) The operator of a vehicle proceeding in the opposite direction as a funeral procession may yield to the funeral procession. If the operator chooses to yield to the procession, the operator must do so by reducing speed, or by stopping completely off the roadway when meeting the procession or while the procession passes, so that operators of other vehicles proceeding in the opposite direction of the procession can continue to travel without leaving their lane of traffic.

(h) The operator of a vehicle proceeding in the same direction as a funeral procession shall not pass or attempt to pass the funeral procession, except that the operator of such a vehicle may pass a funeral procession when the highway has been marked for two or more lanes of moving traffic in the same direction of the funeral procession.

(i) An operator of a vehicle shall not knowingly drive between vehicles in a funeral procession by crossing their path unless directed to so by a person authorized to direct traffic. When a funeral procession is proceeding through a steady or strobe-beam stoplight emitting a red light as permitted by subsection (c), an operator of a vehicle that is not in the funeral procession shall not enter the intersection knowing a funeral procession is in process, even if facing a steady or strobe-beam stoplight emitting a green light, unless the operator can do so safely without crossing the path of the funeral procession.

(j) Nothing in this section shall be construed to prevent State or local law enforcement officers from escorting funeral processions in law enforcement vehicles.

(k) A violation of this section shall not constitute negligence per se.

(l) Liability for any death, personal injury, or property damage suffered by any person participating in a funeral procession or colliding with any vehicle in a funeral procession shall not be imposed upon a law enforcement officer or other official designee escorting or assisting the funeral procession whether in a vehicle or on foot, the supervisor who assigned the law enforcement officer to escort or assist with the funeral procession, the funeral director or funeral establishment leading, coordinating, organizing, or participating in the funeral procession, or their employees or agents,

unless such death, personal injury, or property damage is proximately caused by the negligent act of such person, firm, or corporation.

(m) To the extent that a local government unit's ordinance is in direct conflict with any part of this statute, the ordinance shall control and prevail over the conflicting part."

Section 2. This act becomes effective December 1, 1999, and applies to violations occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 247

Short Title: Funeral Processions. (Public)

Sponsors: Representative Wainwright.

Referred to: Transportation, if favorable, Judiciary I.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE FUNERAL PROCESSIONS AND TO CODIFY THE RULES OF THE ROAD WITH REGARD TO FUNERAL PROCESSIONS.

The General Assembly of North Carolina enacts:

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

"**§ 20-157.1. Funeral processions.**

(a) As used in this section, a 'funeral procession' means two or more motor vehicles accompanying the body of a deceased person or traveling to the church, chapel, or other location at which the funeral service is to be held, in which the lead vehicle is either a State or local law enforcement vehicle or the lead vehicle displays a flashing amber or purple light, sign, pennant, flag, or other insignia furnished by a funeral home indicating a funeral procession.

(b) Each vehicle in the funeral procession shall be operated with its headlights illuminated.

(c) The operator of the lead vehicle in a funeral procession shall comply with all traffic-control signals, but when the lead vehicle in the funeral procession has progressed across an intersection in accordance with the traffic-control sign or signal, or when directed to do so by a law enforcement officer, or as otherwise provided by law, all vehicles in the funeral procession may proceed through the intersection without stopping, except that the operator of each vehicle shall exercise reasonable care toward any other vehicle or pedestrian on the highway. An operator of a vehicle that is not part of the funeral procession shall not join the funeral procession for the purpose of securing the right-of-way granted by this subsection.

(d) Operators of vehicles in a funeral procession shall drive on the right-hand side of the roadway and shall follow the vehicle ahead as closely as reasonable and prudent having due regard for speed and existing conditions. Any ordinance, law, or regulation requiring that a motor vehicle shall be operated to allow sufficient space enabling any other vehicle to enter and occupy that space without danger shall not be applicable to vehicles in a funeral procession.

(e) Operators of vehicles in a funeral procession shall yield the right-of-way to law enforcement vehicles, fire, rescue, ambulatory, and other emergency vehicles giving audible signals by light and siren, and shall yield the right-of-way when directed to do so by a law enforcement officer.

(f) Operators of vehicles in a funeral procession shall proceed at the posted minimum speed, except that the operator of a vehicle in a funeral procession shall exercise reasonable care having due regard for speed and existing conditions.

(g) The operator of a vehicle proceeding in the opposite direction from the direction of travel of a funeral procession may yield to the funeral procession by reducing speed, or by stopping off the roadway when meeting a funeral procession or while the funeral procession passes, so long as operators of other vehicles proceeding in the opposite direction from the direction of travel of the funeral procession can continue to travel without leaving their lane of traffic.

(h) The operator of a vehicle proceeding in the same direction as a funeral procession shall not pass or attempt to pass the funeral procession, except that the operator of a vehicle proceeding in the same direction of a funeral procession may pass a funeral procession when the highway has been marked for two or more lanes of moving traffic in the direction of the funeral procession.

(i) An operator of a vehicle shall not knowingly drive between vehicles in a funeral procession by crossing their path unless directed to do so by a person authorized to direct traffic. When a funeral procession is proceeding through a red signal as permitted by subsection (c) of this section, an operator of a vehicle that is not in the funeral procession shall not enter the intersection knowing a funeral procession is in process, even if facing a steady green signal, unless the operator can do so safely without crossing the path of the funeral procession.

(j) State or local law enforcement officers may escort funeral processions in or on properly marked law enforcement vehicles.

(k) A violation of this section shall not constitute negligence per se.

(l) Liability for any death, personal injury, or property damage suffered by any person participating in a funeral procession or colliding with any vehicle in a funeral procession shall not be imposed upon the operator of the law enforcement vehicle escorting or assisting with the funeral procession, the supervisor who assigned the operator of the law enforcement vehicle to escort or assist with the funeral procession, the funeral director or funeral establishment leading, coordinating, organizing, or participating in the funeral procession, or their employees or agents, unless that death, personal injury, or property damage is proximately caused by the negligent or intentional act of that person, firm, or corporation.

(m) To the extent that a local ordinance is in direct conflict with any part of this statute, the ordinance shall control and prevail over the conflicting part."

Section 2. This act becomes effective December 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 280
Proposed Committee Substitute H280-PCS1153-RW

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued

under this subdivision expires or is revoked, the license continues in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who

shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, or who shall cover any number or sticker on a registration plate with any material that makes the number or sticker illegible, shall be guilty of a Class 2 misdemeanor."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Electronic Applications and Collections. -- The Division is authorized to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years. After 20 years, the Division shall maintain a record of the last two owners.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 2000, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 8.1. G.S. 20-79.4(b)(27) reads as rewritten:

"(27) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired. ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~"

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. ~~Collection of delinquent penalties and taxes.~~ Detaining property-hauling vehicles until penalties and taxes are collected.**

~~A law enforcement officer who discovers that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~

(a) Authority to Detain Vehicles. -- A law enforcement officer may seize and detain the following property-hauling vehicle operating on the highways of the State:

(1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) or G.S. 20-118, until the penalty is paid;

(2) A property-hauling vehicle that is equipped with improper registration plates, until the proper plates are secured for the vehicle and the penalty due under G.S. 20-118.3 is paid;

(3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days; and

(4) A property hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes, until the overdue penalties or taxes are paid.

(b) Storage; Liability. -- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident.~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.

(3) The persons and vehicles involved.

(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within 10 business days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance

policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within 10 working days of its issuance; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or

(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division.

Any insurance company with less than twenty-five million dollars ($25,000,000) in annual vehicle insurance premium volume may submit notices required under this section by paper or electronic means."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 180, 382, and 390 through 398.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(3) Interstate commerce. -- As defined in 49 C.F.R. Part 390.5.

(4) Intrastate commerce. -- As defined in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over~~

~~fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	41.00
Buses:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 lbs. that do not haul products for-hire	41.50 (4,000 lbs.) 51.00 (5,000 lbs.) 61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina

or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. -- A supervising driver ~~must~~ shall be a parent or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver ~~must~~ shall be a licensed driver who has been licensed for at least five years. ~~A~~ At least one supervising driver ~~must~~ shall sign the application for a permit or license. ~~Each permit or license issued pursuant to this section shall be limited to a maximum of two supervising drivers.~~"

Section 20. The Division of Motor Vehicles shall develop a plan to improve the system of collecting and maintaining proof of financial responsibility for newly licensed drivers classified as inexperienced operators. The Division shall submit its report to the Joint Legislative Transportation Oversight Committee by December 1, 1999.

Section 21. Section 11 of this act becomes effective October 1, 2000. Section 19 of this act becomes effective July 1, 1999. The remainder of this act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 280

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors: Representatives Cole; and Justus.

Referred to: Transportation, if favorable, Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE LAWS TO MAKE TECHNICAL AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued under this subdivision expires or is revoked, the license continues

in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-16.2(d) reads as rewritten:

"(d) Consequences of Refusal; Right to Hearing before Division; Issues. -- Upon receipt of a properly executed affidavit required by subsection (c), the Division ~~must~~ shall expeditiously notify the person charged that the person's license to drive is revoked for 12 months, effective on the ~~tenth~~ twentieth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. Except for the time referred to in

G.S. 20-16.5, if the person shows to the satisfaction of the Division that his or her license was surrendered to the court, and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the 12-month revocation period required by this subsection. If the person properly requests a hearing, the person retains his or her license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing ~~must~~ shall be conducted in the county where the charge was brought, and ~~must~~ shall be limited to consideration of whether:

(1) The person was charged with an implied-consent offense;
(2) The charging officer had reasonable grounds to believe that the person had committed an implied-consent offense;
(3) The implied-consent offense charged involved death or critical injury to another person, if this allegation is in the affidavit;
(4) The person was notified of his or her rights as required by subsection (a); and
(5) The person willfully refused to submit to a chemical analysis upon the request of the charging officer.

If the Division finds that the conditions specified in this subsection are met, it ~~must~~ shall order the revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not met, it ~~must~~ shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is not met, it ~~must~~ shall order the revocation sustained if that is the only condition that is not met; in this instance subsection (d1) does not apply to that revocation. If the revocation is sustained, the person ~~must~~ shall surrender his or her license immediately upon notification by the Division."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Nothing in this section shall prohibit the issuance of registration plates, registration certificates, and certificates of title through electronic application or issuance or shall prohibit the collection of fees and penalties electronically."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as

he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 1999, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. Collection of delinquent penalties and taxes.**

A law enforcement officer who discovers ~~that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

a property-hauling vehicle being operated on the highways with an overload in violation of G.S. 20-88(k) or G.S. 20-118, or which is equipped with improper registration plates, or the owner of which is liable for any overload penalties or assessments due and unpaid for more than 30 days, or in violation of the provisions of Article 36B of Chapter 105 of the General Statutes, may seize the property-hauling vehicle and hold it until the overload has been removed or proper registration plates have seen secured for the vehicle and the penalties owed under this section and G.S. 20-118(e), G.S. 20-118.3, and under Article 36B of Chapter 105 of the General Statutes have been paid.

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~ When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the

Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident.~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.

(3) The persons and vehicles involved.

(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within three working days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within three working days; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or

(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner,

spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 185, 382, and 390 through ~~398.~~ 397.

~~(2) Foreign commerce. -- Commerce between any of the following:~~

~~a. A place in the United States and a place in a foreign country.~~

~~b. Places in the United States through any foreign country.~~

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(2) Interstate commerce and intrastate commerce shall have the same definitions as set forth in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00
~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~		
Automobiles:	15 or fewer passengers	41.00
Bus:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 that do not haul products for hire	41.50 (4,000 lbs.) 51.00 (5,000 lbs.) 61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. This act becomes effective October 1, 1999.

HOUSE BILL 247:
Funeral Processions

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Rep. Wainwright
Date:	March 17, 1999	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 247 sets out detailed rules for funeral processions.

Specifically, the bill sets out the following traffic rules for funeral processions (defined):

--requires illuminated headlights for vehicles in the procession

--authorizes vehicles in the procession to proceed through traffic signals

--requires the procession to operate on the right-hand side of the road

--requires vehicles in the procession to yield to emergency vehicles

--authorizes vehicles meeting the procession to reduce speed or leave the roadway

--prohibits passing the procession, except on multi-lane roads

--prohibits knowingly driving between vehicles in the procession

--Authorizes State and local law enforcement officers to escort funeral processions

In addition, the bill provides that violation of this section shall not constitute negligence per se, exempts law enforcement officers and funeral personnel from liability for collisions with vehicles in the procession, and provides that local ordinances may override this bill.

Effective Date: December 1, 1999.

HOUSE BILL 247:
Funeral Processions

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Rep. Wainwright
Date:	March 17, 1999	**Summary by:**	Giles S. Perry
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 247 sets out detailed rules for funeral processions.

Specifically, the bill sets out the following traffic rules for funeral processions (defined):

--requires illuminated headlights and hazard signals for vehicles in the procession

--authorizes vehicles in the procession to proceed through traffic signals

--requires the procession to operate on the right-hand side of the road

--requires vehicles in the procession to yield to emergency vehicles

--authorizes vehicles meeting the procession to reduce speed or leave the roadway

--requires persons who choose to yield to not block traffic

--prohibits passing the procession, except on multi-lane roads

--prohibits knowingly driving between vehicles in the procession

--does not prohibit State and local law enforcement officers from escorting funeral processions

In addition, the bill provides that violation of this section shall not constitute negligence per se, exempts law enforcement officers, other official escorts, and funeral personnel from liability for collisions with vehicles in the procession, and provides that local ordinances may override this bill.

Effective Date: December 1, 1999, applies to offenses on or after that date.

HOUSE BILL 280:
Motor Vehicle Technical Amendments/AB

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Reps. Cole; and Justus
Date:	March 17, 1999	**Summary by:**	Giles S. Perry
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY:

Section 1 changes the term "accident" to "crash" in the motor vehicle definitions.

Section 2 defines the new term "crash" in motor vehicle laws.

Section 3 authorizes DMV to require a disabled person with a drivers license to present a medical certificate at an interval deemed appropriate by the Division, instead of every year, as under current law.

Section 4 requires DMV to offer a hearing within 60 days to a person whose license is suspended under 20-16(d)(now-30 days).

Section 5 changes the effective date of license revocations for refusing a chemical analysis when charged with an implied consent offense from the 10th to the 20th day after the mailing of the revocation order.

Section 6 authorizes DMV to electronically accept applications for registration plates, registration certificates, and certificates of title; and to collect fees and penalties electronically.

Section 7 requires DMV to maintain title records for 20 years (now—last two owners).

Section 8 would require DMV to receive 1,000 applications before issuing a new special plate (now-300 for most new plates).

Section 9. Current law allows law enforcement officers to detain vehicles owned by a person who owes any overweight penalties or unpaid motor fuels taxes or penalties that are more than 30 over due. Section 9 would, in addition, authorize law enforcement officers to seize and detain property hauling vehicles that are found to overweight on the road, and until the penalties are paid [see (a)(1)]; vehicles with improper registration plates, until the plates are replaced and the penalty is paid [see(a)(2)]; and vehicles that are owned by a person who owes any motor fuel taxes or penalties [see(a)(4)].

Section 10 authorizes DMV to provide "forms or procedures" for submitting crash data. Under current law, they provide a "form."

Section 11 requires insurance companies to electronically notify DMV of terminations and new insurance policies within five business days. Small insurance companies could still submit the reports by paper.

Section 12 corrects and simplifies a reference to federal law.

Section 13 corrects a reference to federal law

Section 14 amends the definition of "Gross Vehicle Weight Rating" to allow DMV enforcement officers to use the license weight or total weight of a structurally altered vehicle when enforcing motor carrier safety regulations, and when determining if the driver requires a CDL.

Section 15 changes the term "recyclable: to "recyclable material".

Section 16 establishes registration fees for u-drive-it passenger vehicles that are small trucks The effect of this change is to increase the registration fees for these vehicles, and change the insurance classification of these vehicles so that they can be insured under a minimum liability policy.

Section 17 corrects a statutory reference.

Section 18 corrects a statutory reference.

Section 19 authorizes Level 1 and Level 2 drivers under the graduated drivers license system to have more than two supervising drivers.

Effective Date:

Section 11 effective October 1, 2000. The rest of the bill would become effective October 19, 1999.

March 17, 1999

VISITOR REGISTRATION SHEET

TRANSPORTATION

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. Carol Howard	DMV
2. Lucius Pullen	Attorney
3. John Cyrus	N.C. State Treasurer
4. Mat Osborne	AOC
5. Mike Bryant	DL/DMV
6. Wayne Hurder	DL/DMV
7. Alan Milo	Bailey & Dixon LLP
8. Danny Rogers	NCDOT
9. Robert Glisson	NCADA
10. Eddie Caldwell	NC Sheriffs Assn/NC Law Enf Officers
11. Jon Carr	Jordan Price
12. [illegible]	Fiscal Research
13. R Weiss	UNC-GA/NCSU A&T
14. [illegible]	Douglas & Sons, Inc.
15. [illegible]	DOUGLAS & SONS, INC
16. Melinda S. Douglas	
17.	
18.	
19.	
20.	
21.	

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

March 24, 1999
Room 643 LOB
11:00 AM

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS TO BE CONSIDERED

HB 280 Motor Vehicle Tech. Amendments/AB
Sponsors: Rep. Cole and Justus

HB 299 Outdoor Advertising Control Act/AB
Sponsors: Rep. Hackney, Hurley, and Luebke

HB 317 Safety Chains for Trailers
Sponsors: Rep. Redwine, Thompson, Luebke, Cole, and Melton

SB 51 Highway Contract Bonding Requirements
Sponsor: Sen. Larry Shaw

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

March 24, 1999

The House Committee on Transportation met in Room 643 of the Legislative Office Building on Wednesday, March 24, 1999, at 11:00 AM. The meeting was called to order by Representative Drew Saunders, Chair. Members present were: Representatives Saunders, Buchanan, Adams, Baker, Bridgeman, Brown, Church, Cole, Crawford, Culp, Gibson, Gillespie, Hill, McComas, McLawhorn, Nye, Rayfield, Sherrill, Teague, Thomas, and Warwick. Mr. Giles Perry, Staff Counsel, was also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Saunders introduced Dusty Rhodes and Martha Parrish from the Sergeant of Arms Office and Pages, Tamahl Gorham and Marissa Gilmore. Both Pages are from Wake County, and they were sponsored by Speaker Black.

The first bill to be discussed was HB 280 Motor Vehicle Technical Amendments/AB. Representative Church made a motion that a committee substitute be considered that incorporated two substitutions that were discussed in the March 17, 1999, meeting. The motion was approved, and Representative Cole, bill sponsor, continued the explanation of the bill, assisted by Ruth Sappie with Department of Motor Vehicles. A question and answer period followed with a number of questions, and Representative Nye made a motion that the bill be sent to a subcommittee for further study and recommendations. The motion was approved, and Representatives Saunders appointed the following members to serve on the subcommittee: Reps. Nye, Chair, Thomas, Gibson, and McComas.

A second bill to be considered by the committee was HB 317 Safety Chains for Trailers, and Representative Redwine, bill sponsor, explained the bill. Representative Nye made a motion for a favorable report. Following a question and answer period, a vote was taken; and the bill was approved for a favorable report.

A third bill which was brought before the committee was SB 51, and Senator Larry Shaw, bill sponsor, was present to explain the bill. Representative Buchanan proposed an amendment to raise the threshold of all contracts over $500,000 to $800,000 that the Department of Transportation may let for construction or repair without having to go to the Board of Transportation. A question and answer period followed, and Giles Perry, Ruth Sappie, David Allsbrook, Division Engineer with Department of Transportation, and Berry Jenkins with the Carolina Association of Contractors, assisted Senator Shaw in responding to questions. Representative Adams moved that the amendment be adopted, and a vote was taken. The amendment was rolled into the committee substitute bill and the committee substitute received a favorable report.

Representative Sutton announced that the subcommittee studying HB Funeral Processions would meet at noon today.

The meeting adjourned at 11:55 AM.

Representative Drew Saunders, Chair

Representative Charles Buchanan, Chair

Ruth Fish, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **TRANSPORTATION.**

☐ Committee Substitute for
H.B. 317 A BILL TO BE ENTITLED AN ACT TO REQUIRE TOWED VEHICLES ATTACHED BY MEANS OF LOCKING PINS OR BOLTS TO ALSO HAVE SAFETY CHAINS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **TRANSPORTATION.**

☒ Committee Substitute for
S.B. 51 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING HIGHWAY SMALL PROJECT BIDDING.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#), ☐ ~~which changes the title,~~ unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 51

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

S51-ARW-001

Date_____,1999

Comm. Sub. [ ]
Amends Title [ ]

moves to amend the bill on page 1, line 15,
by rewriting that line to read:

" Section 2. G.S. 136-28.1(a) reads as rewritten:
'(a) All contracts over ~~five~~ eight hundred thousand dollars (~~$500,000~~) ($800,000) that the Department of Transportation may let for construction or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal-aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.131(a) for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. The Department of Transportation shall use only the contract provisions provided in the North Carolina Department of Transportation, Standard Specifications for Roads and Structures, January 1, 1984, except as each may be changed or provided for by rule adopted by the Board of Transportation in accordance with the Administrative Procedure Act.'
Section 3. G.S. 136-28.1(b) reads as rewritten:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 280
Proposed Committee Substitute H280-PCS1153-RW

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued

under this subdivision expires or is revoked, the license continues in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who

shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, or who shall cover any number or sticker on a registration plate with any material that makes the number or sticker illegible, shall be guilty of a Class 2 misdemeanor."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Electronic Applications and Collections. -- The Division is authorized to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years. After 20 years, the Division shall maintain a record of the last two owners.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 2000, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 8.1. G.S. 20-79.4(b)(27) reads as rewritten:

"(27) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired. ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~"

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. ~~Collection of delinquent penalties and taxes.~~ Detaining property-hauling vehicles until penalties and taxes are collected.**

~~A law enforcement officer who discovers that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~

(a) Authority to Detain Vehicles. -- A law enforcement officer may seize and detain the following property-hauling vehicle operating on the highways of the State:

(1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) or G.S. 20-118, until the penalty is paid;

(2) A property-hauling vehicle that is equipped with improper registration plates, until the proper plates are secured for the vehicle and the penalty due under G.S. 20-118.3 is paid;

(3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days; and

(4) A property hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes, until the overdue penalties or taxes are paid.

(b) Storage; Liability. -- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident:~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.

(3) The persons and vehicles involved.

(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within 10 business days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance

policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within 10 working days of its issuance; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or

(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division.

Any insurance company with less than twenty-five million dollars ($25,000,000) in annual vehicle insurance premium volume may submit notices required under this section by paper or electronic means."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 180, 382, and 390 through 398.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(3) Interstate commerce. -- As defined in 49 C.F.R. Part 390.5.

(4) Intrastate commerce. -- As defined in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over~~

~~fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	41.00
Buses:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 lbs. that do not haul products for-hire	41.50 (4,000 lbs.) 51.00 (5,000 lbs.) 61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina

or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. -- A supervising driver ~~must~~ shall be a parent or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver ~~must~~ shall be a licensed driver who has been licensed for at least five years. ~~A~~ At least one supervising driver ~~must~~ shall sign the application for a permit or license. ~~Each permit or license issued pursuant to this section shall be limited to a maximum of two supervising drivers.~~"

Section 20. The Division of Motor Vehicles shall develop a plan to improve the system of collecting and maintaining proof of financial responsibility for newly licensed drivers classified as inexperienced operators. The Division shall submit its report to the Joint Legislative Transportation Oversight Committee by December 1, 1999.

Section 21. Section 11 of this act becomes effective October 1, 2000. Section 19 of this act becomes effective July 1, 1999. The remainder of this act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 280

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors: Representatives Cole; and Justus.

Referred to: Transportation, if favorable, Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE LAWS TO MAKE TECHNICAL AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued under this subdivision expires or is revoked, the license continues

in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-16.2(d) reads as rewritten:

"(d) Consequences of Refusal; Right to Hearing before Division; Issues. -- Upon receipt of a properly executed affidavit required by subsection (c), the Division ~~must~~ shall expeditiously notify the person charged that the person's license to drive is revoked for 12 months, effective on the ~~tenth~~ twentieth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. Except for the time referred to in

G.S. 20-16.5, if the person shows to the satisfaction of the Division that his or her license was surrendered to the court, and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the 12-month revocation period required by this subsection. If the person properly requests a hearing, the person retains his or her license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing ~~must~~ shall be conducted in the county where the charge was brought, and ~~must~~ shall be limited to consideration of whether:

(1) The person was charged with an implied-consent offense;
(2) The charging officer had reasonable grounds to believe that the person had committed an implied-consent offense;
(3) The implied-consent offense charged involved death or critical injury to another person, if this allegation is in the affidavit;
(4) The person was notified of his or her rights as required by subsection (a); and
(5) The person willfully refused to submit to a chemical analysis upon the request of the charging officer.

If the Division finds that the conditions specified in this subsection are met, it ~~must~~ shall order the revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not met, it ~~must~~ shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is not met, it ~~must~~ shall order the revocation sustained if that is the only condition that is not met; in this instance subsection (d1) does not apply to that revocation. If the revocation is sustained, the person ~~must~~ shall surrender his or her license immediately upon notification by the Division."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Nothing in this section shall prohibit the issuance of registration plates, registration certificates, and certificates of title through electronic application or issuance or shall prohibit the collection of fees and penalties electronically."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as

he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 1999, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. Collection of delinquent penalties and taxes.**

A law enforcement officer who discovers ~~that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

a property-hauling vehicle being operated on the highways with an overload in violation of G.S. 20-88(k) or G.S. 20-118, or which is equipped with improper registration plates, or the owner of which is liable for any overload penalties or assessments due and unpaid for more than 30 days, or in violation of the provisions of Article 36B of Chapter 105 of the General Statutes, may seize the property-hauling vehicle and hold it until the overload has been removed or proper registration plates have seen secured for the vehicle and the penalties owed under this section and G.S. 20-118(e), G.S. 20-118.3, and under Article 36B of Chapter 105 of the General Statutes have been paid.

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~ When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the

Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident.~~ crash:

(1) The cause of the ~~accident.~~ crash.
(2) The conditions existing at the time of the ~~accident.~~ crash.
(3) The persons and vehicles involved.
(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within three working days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within three working days; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination;~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or
(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner,

spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 185, 382, and 390 through ~~398.~~ 397.

~~(2) Foreign commerce. -- Commerce between any of the following:~~

~~a. A place in the United States and a place in a foreign country.~~

~~b. Places in the United States through any foreign country.~~

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(2) Interstate commerce and intrastate commerce shall have the same definitions as set forth in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00
~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~		
Automobiles:	15 or fewer passengers	41.00
Bus:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 that do not haul products for hire	41.50 (4,000 lbs.)
		51.00 (5,000 lbs.)
		61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 299

Short Title: Outdoor Advertising Control Act/AB. (Public)

Sponsors: Representatives Hackney; Hurley and Luebke.

Referred to: Transportation, if favorable, Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY AND UPDATE THE OUTDOOR ADVERTISING CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-133 reads as rewritten:

"**§ 136-133. Permits required.**

No person shall 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, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules and regulations promulgated by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules and regulations promulgated by the Department of Transportation thereunder. Any person aggrieved by the decision of the Department of Transportation or its agents in refusing to grant or in revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal. The Department of Transportation shall have the authority to charge permit fees to defray the costs of administering the permit procedures under this Article. ~~The fees for directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a twenty dollar ($20.00) initial fee and a fifteen dollar ($15.00) annual renewal fee. The fees for~~

~~outdoor advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a sixty dollar ($60.00) initial fee and a thirty dollar ($30.00) annual renewal fee.~~

The permit fees established in the rules issued by the Department of Transportation shall be reviewed by the Board of Transportation on a biennial basis and adjusted when necessary.

If outdoor advertising is under construction and the Department determines that a permit has not been issued for the outdoor advertising as required under this section, the Department of Transportation may require that all work on the outdoor advertising cease until the owner of the outdoor advertising shows that the outdoor advertising does not violate this section. The stop work order shall be prominently posted on the outdoor advertising structure, and no further notice is required. The failure of an owner of outdoor advertising to comply immediately with the stop work order shall subject the outdoor advertising to removal by the Department of Transportation or its agents. Outdoor advertising is under construction when it is in any phase of construction prior to the attachment and display of the advertising message in final position for viewing by the traveling public. The cost of removing outdoor advertising by the Department of Transportation or its agents pursuant to this section shall be assessed against the owner of the unpermitted outdoor advertising by the Department of Transportation."

Section 2. G.S. 136-134 reads as rewritten:

"**§ 136-134. Illegal advertising.**

Any outdoor advertising erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this Article as determined by G.S. 136-140, in violation of the provisions of this Article or rules and regulations promulgated by the Department of Transportation, or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance. The Department of Transportation or its agents shall give 30 days' notice to the owner of the illegal outdoor advertising with the exception of the owner of unlawful portable outdoor advertising for which the Department of Transportation shall give five days' notice, if such owner is known or can by reasonable diligence be ascertained, to remove the outdoor advertising or to make it conform to the provisions of this Article or rules and regulations promulgated by the Department of Transportation hereunder. The Department of Transportation or its agents shall have the right to remove the illegal outdoor advertising at the expense of the said owner if the said owner fails to ~~act~~ remove the outdoor advertising or to make it conform to the provisions of this Article or rules issued by the Department of Transportation within 30 days after receipt of such notice or five days for owners of portable outdoor advertising. The Department of Transportation or its agents may enter upon private property for the purpose of removing the outdoor advertising prohibited by this Article or rules and regulations promulgated by the Department of Transportation hereunder without civil or criminal liability. The costs of removing the outdoor advertising, whether by the Department of Transportation or its agents, shall be assessed against the owner of the illegal outdoor advertising by the Department of Transportation. Any person

aggrieved by the decision declaring the outdoor advertising structure illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal."

Section 3. G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).

(2) Repealed by Session Laws 1993, c. 501, s. 29.

(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.

(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.

(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.

(6) The Department of Revenue.

(7) The Department of Correction.

(8) The Department of Transportation, except as provided in ~~G.S. 136-29.~~ G.S. 136-29, 136-133.1, and 136-134.1.

(9) The Occupational Safety and Health Review Board.

(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

Section 4. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-133.1. Administrative review of outdoor advertising decisions.**

(a) An applicant for an outdoor advertising permit, an outdoor advertising permit holder, or an outdoor advertising owner who is dissatisfied with the final decision of

the Department of Transportation may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes within 20 days after the decision is made by the Department of Transportation, except that the venue of the hearing shall not be determined pursuant to G.S. 150B-24, but shall be Wake County.

(b) The burden of proof shall be on the party petitioning for review."

Section 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-134.2. Notification requirements.**

When the Department of Transportation notifies a permit applicant, permit holder, or the owner of an outdoor advertising structure that the application is denied, the permit revoked, or the structure is in violation of this Article or rules issued pursuant to this Article, respectively, it shall do so in writing by certified mail, return receipt requested and shall include a copy of this Article and all rules issued pursuant to this Article.

If the Department of Transportation fails to include a copy of this Article and the rules, the time period during which the permit applicant, permit holder, or owner of the outdoor advertising structure has to request a review hearing shall be tolled, until the Department of Transportation provides the required materials."

Section 6. G.S. 136-134.1 reads as rewritten:

"**§ 136-134.1. Judicial review.**

~~Any person who is aggrieved by a final decision of the Secretary of Transportation after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of such decision under this Article. In order to obtain judicial review of the Secretary of Transportation's decision under this Article, the person seeking review must file a petition in the Superior Court of Wake County within 30 days after written copy of the decision of the Secretary of Transportation is served upon the person seeking review. Failure to file such a petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter.~~

~~The petition shall state explicitly what exceptions are taken to the decision of the Secretary of Transportation and what relief petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the Department of Transportation. Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the Department of Transportation shall transmit to the reviewing court a certified copy of the written decision.~~

~~At any time before or during the review proceeding, the aggrieved party may apply to the reviewing court for an order staying the operation of the decision of the Secretary of Transportation pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. The review of the decision of the Secretary of Transportation under this Article shall be conducted by the court without a jury and shall hear the matter de novo pursuant to the rules of evidence as applied in the General Court of Justice. The court, after hearing the matter may affirm, reverse or modify the decision if the decision is:~~

~~(1) In violation of constitutional provisions; or~~
~~(2) Not made in accordance with this Article or rules or regulations promulgated by the Department of Transportation; or~~
~~(3) Affected by other error of law.~~
~~The party aggrieved shall have the burden of showing that the decision was violative of one of the above.~~

~~A party to the review proceedings, including the agency, may appeal to the appellate division from the final judgment of the Superior Court under the rules of procedure applicable in civil cases. The appealing party may apply to the Superior Court for a stay for its final determination or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the appellate division.~~

Article 4 of Chapter 150B of the General Statutes shall govern judicial review of final agency decisions regarding outdoor advertising permits."

Section 7. G.S. 136-135 reads as rewritten:

"**§ 136-135. Enforcement provisions.**

Any person, firm, corporation or association, placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules and regulations promulgated by the Department of Transportation shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Transportation may seek injunctive relief in the Superior Court of Wake County or of the county where the outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article or rules and regulations promulgated pursuant hereto, or require the removal of the said illegal outdoor advertising."

Section 8. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-18.7. Fees.**

The Board of Transportation may establish fees to defray the costs of administering the permit procedures for the Department of Transportation's selective vegetation removal policy established pursuant to G.S. 136-18(5), (7), and (9). These fees shall be no more than necessary to ensure that the policy is entirely self-funded."

Section 9. 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 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 ~~highways~~ highway systems within the State should be controlled and regulated 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. 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 10. G.S. 136-128 reads as rewritten:

"**§ 136-128. Definitions.**

As used in this Article:

(1) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(1a) "Illegal sign" means one which was erected and/or maintained in violation of State law.

(1b) "Information center" means 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 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) "Nonconforming sign" shall mean a sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(3) "Outdoor advertising" means 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 systems" ~~means that portion of connected main highways, as now officially designated, or as may hereafter be so designated by the Department of Transportation as primary system, or other~~

~~appropriate authorities and are also so designated by N.C. or U.S. numbers.~~ means 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 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.

(6) "State law" means 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.

(7) "Unzoned area" shall mean an area where there is no zoning in effect.

(8) "Urban area" shall mean 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 of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

Section 11. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any

side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas."

Section 12. G.S. 136-129.1 reads as rewritten:

"**§ 136-129.1. Limitations of outdoor advertising devices beyond 660 feet.**

No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State outside of the urban areas so as to be visible and intended to be read from the main-traveled way except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located."

Section 13. G.S. 136-136 reads as rewritten:

"**§ 136-136. Zoning changes.**

All zoning authorities shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial zones within 660 feet of the right-of-way of interstate or primary ~~highways.~~ highway systems. Notice shall be by registered mail sent to the offices of the Department of Transportation in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment."

Section 14. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 317

Short Title: Safety Chains for Trailers. (Public)

Sponsors: Representatives Redwine; Thompson, Luebke, Cole, and Melton.

Referred to: Transportation.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TOWED VEHICLES ATTACHED BY MEANS OF LOCKING PINS OR BOLTS TO ALSO HAVE SAFETY CHAINS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-123 reads as rewritten:

"**§ 20-123. Trailers and towed vehicles.**

(a) The limitations in G.S. 20-116 on combination vehicles do not prohibit the towing of farm trailers not exceeding three in number nor exceeding a total length of 50 feet during the period from one-half hour before sunrise until one-half hour after sunset when a red flag of at least 12 inches square is prominently displayed on the last vehicle. The towing of farm trailers and equipment allowed by this subsection does not apply to interstate or federal numbered highways.

(b) No trailer or semitrailer or other towed vehicle shall be operated over the highways of the State unless such trailer or semitrailer or other towed vehicle be firmly attached to the rear of the towing unit, and unless so equipped that it will not snake, but will travel in the path of the vehicle drawing such trailer or semitrailer or other towed vehicle, which equipment shall at all times be kept in good condition.

(c) In addition to the requirements of subsections (a) and (b) of this section, the towed vehicle shall be attached to the towing unit by means of safety chains or cables which shall be of sufficient strength to hold the gross weight of the towed vehicle in the event the primary towing device fails or becomes disconnected while being operated on the highways of this State if the primary towing attachment is a ball hitch. ~~Trailers and semitrailers having locking pins or bolts in the towing attachment to prevent disconnection, and the locking pins or bolts are of sufficient strength and~~

~~condition to hold the gross weight of the towed vehicle, need not be equipped with safety chains or cables unless their operation is subject to the requirements of the Federal Motor Carrier Safety Regulations.~~ Semitrailers in combinations of vehicles that are equipped with fifth wheel assemblies that include locking devices need not be equipped with safety chains or cables."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 51
Commerce Committee Substitute Adopted 2/23/99
Proposed House Committee Substitute S51-PCS1618-RW

Short Title: Highway Contract Bonding Req'ments. (Public)

Sponsors:

Referred to:

February 8, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING HIGHWAY SMALL PROJECT BIDDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.10(a) reads as rewritten:

"(a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund projects of ~~three hundred thousand dollars ($300,000)~~ five hundred thousand dollars ($500,000) or less, the Board of Transportation may, after soliciting at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation."

Section 2. G.S. 136-28.1(a) reads as rewritten:

"(a) All contracts over ~~five~~ eight hundred thousand dollars ~~($500,000)~~ ($800,000) that the Department of Transportation may let for construction or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal aid projects entered into pursuant to this section shall not contain the standardized

contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.131(a) for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. The Department of Transportation shall use only the contract provisions provided in the North Carolina Department of Transportation, Standard Specifications for Roads and Structures, January 1, 1984, except as each may be changed or provided for by rule adopted by the Board of Transportation in accordance with the Administrative Procedure Act."

Section 3. G.S. 136-28.1(b) reads as rewritten:

"(b) In those cases in which the amount of work to be let to contract for highway construction, maintenance, or repair is ~~five~~ eight hundred thousand dollars ~~($500,000)~~ ($800,000) or less, at least three informal bids shall be solicited. The term 'informal bids' is defined as bids in writing, received pursuant to a written request, without public advertising. All such contracts shall be awarded to the lowest responsible bidder. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time after the bids are opened."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 51
Commerce Committee Substitute Adopted 2/23/99

Short Title: Highway Contract Bonding Req'ments. (Public)

Sponsors:

Referred to:

February 8, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING HIGHWAY SMALL PROJECT BIDDING.

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

HOUSE BILL 317:
Safety Chains for Trailers

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Reps. Redwine; and others
Date:	March 24, 1999	**Summary by:**	Giles S. Perry Committee Counsel
Version:	First Edition		

SUMMARY:

Under current law, trailers and semitrailers with locking pins or bolts in the towing attachment are not required to have safety chains.

House Bill 317 would require locking pin or bolt towing attachments to also have safety chains of sufficient strength to hold the towed vehicle if the primary towing device fails or becomes disconnected.

Effective date: when it becomes law.

VISITOR REGISTRATION SHEET

TRANSPORTATION 3-24-99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. David Allsbrook	NCDOT
2. BERRY Jenkins	CAROLINAS AGC
3. L/MAN COOPER	C.S.K
4. DALE MCKEEL	SCENIC NC
5. Nat Mat	CCNC
6. Natalie Endlish	NC Agribusiness Council
7. Steve Woodson	NC Farm Bureau Federation, Inc.
8. Charlie Diehl	NC Outdoor Adv. Assoc.
9. Randy B. Ragan	Raleigh
10. Richard Westbrook	United Transportation Union
11. Andy Gantt	WCSR
12. Wayne Hooten	NC DMV Police Officers
13. Dianne A. Mooney	NC DMV ENFORCEMENT
14. [illegible]	DMV
15. Kathy Buchanan	AOC
16. Matt Osborne	AOC
17. Doug DUNCAN	NC Forestry Assoc.
18. Bob Slocum	NC Forestry Assoc.
19. Andy Romanet	N.C.L.M.
20. A.B. Swindell	BFI
21. John Lynes	N.C. State Grange
22. VC McBride	NCDA

HOUSE TRANSPORTATION COMMITTEE MEETING

MARCH 31, 1999

AGENDA

CALL MEETING TO ORDER

INTRODUCE PAGES:

BILLS ON THE AGENDA:

HB 247 – Funeral Processions – Rep. Wainwright

SB 27 –Repeal DOT Bermuda Grass Prohib. – Sen. Kerr

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

HOUSE TRANSPORTATION COMMITTEE

MEETING – MARCH 31, 1999

MINUTES

The House Committee on Transportation met at 11:00 a.m. on Wednesday, March 31, 1999 in Room 643 of the Legislative Office Building. Representative Charles M. Buchanan, Chair, called the meeting to order. Members present were: Representatives Buchanan, Moore, Baker, Bridgeman, Brown, Church, Cole, Crawford, Culp, Gibson, Gillespie, Hill, Holmes, McComas, McLawhorn, Nye, Rayfield, Teague, and Wainwright. Giles Perry, Staff Counsel, was also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Buchanan introduced Dusty Rhodes and Martha Parrish with the Sergeant of Arms Office and Pages, Macon Sykes of Wake County and Jessica Hobbs of Johnston County, sponsored by Representatives Neely and Creech.

Representative Wainwright was recognized to explain a proposed committee substitute bill for HB 247—A BILL TO BE ENTITLED AN ACT TO REGULATE FUNERAL PROCESSIONS AND TO CODIFY THE RULES OF THE ROAD WITH REGARD TO FUNERAL PROCESSIONS. Representative Sutton, chair of the subcommittee appointed to study this bill, was unable to attend due to a bill in another committee but fully supported the committee substitute. Representative Church was recognized and made a motion to adopt the proposed committee substitute and the motion carried. Representative Wainwright was recognized to explain the bill. Representative Wainwright stated that since an explanation had been given previously of the original bill, he would explain the changes. Following his explanation and a short discussion, Representative Moore was recognized and made a motion to give the committee substitute a favorable report at the appropriate time. After further discussion, House committee substitute for HB 247 was given a favorable report, unfavorable to the original bill and re-referred to the Committee on Judiciary I.

Chairman Buchanan announced a subcommittee on HB 280, with Representative Edd Nye, Chair and Representatives Thomas, Gibson and McComas would meet today, March 31, at 3:00 p.m. in LOB 605.

Senator John Kerr was recognized to explain SB 27—A BILL TO BE ENTITLED AN ACT TO REPEAL THE PROHIBITION AGAINST THE DEPARTMENT OF TRANSPORTATION USING BERMUDA GRASS ALONG CERTAIN ROADS. Following a short discussion from the committee members, Senator Kerr read letters

from Commissioner of Agriculture, James A. Graham and Secretary E. Norris Tolson, Department of Transportation endorsing this legislation. SEE ATTACHMENTS Representative Crawford was recognized and made a motion to give SB 27 a favorable report and this motion passed.

There being no further business, the meeting adjourned at 11:30 a.m.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Glenda O. Jones, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan and Saunders** for the Committee on **TRANSPORTATION.**

☐ Committee Substitute for
H.B. 247 A BILL TO BE ENTITLED AN ACT TO REGULATE FUNERAL PROCESSIONS AND TO CODIFY THE RULES OF THE ROAD WITH REGARD TO FUNERAL PROCESSIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill, unfavorable as to original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Judiciary I.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Saunders & Buchanan** for the Committee on **Transportation.**

☐ Committee Substitute for
S.B. 27 A BILL TO BE ENTITLED AN ACT TO REPEAL THE PROHIBITION AGAINST THE DEPARTMENT OF TRANSPORTATION USING BERMUDA GRASS ALONG CERTAIN ROADS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

March 24, 1999

MEMORANDUM

TO: Representative Drew Saunders
Representative Charles Buchanan

FROM: Representative Ron Sutton

SUBJECT: HB 247 – Funeral Processions

The Transportation Subcommittee on HB 247 (Funeral Processions) met today. All members of the Subcommittee were present –(Representatives Baker, McLawhorn, Moore, and Sherrill). Representative Wainwright, sponsor of the bill, also attended.

The Subcommittee reviewed the bill line by line and discussed it in detail, asking questions of staff member Giles Perry; Jon Carr, lobbyist, and Larry Stegall, Executive Director, Funeral Directors and Morticians Association of N. C.

The Subcommittee voted unanimously in favor of a proposed Committee Substitute which Giles Perry is preparing and will forward to you.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 247
Proposed Committee Substitute H247-PCS2176-RW

Short Title: Funeral Processions. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE FUNERAL PROCESSIONS AND TO CODIFY THE RULES OF THE ROAD WITH REGARD TO FUNERAL PROCESSIONS.

The General Assembly of North Carolina enacts:

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

"**§ 20-157.1. Funeral processions.**

(a) As used in this section, a 'funeral procession' means two or more vehicles accompanying the remains of a deceased person, or traveling to the church, chapel, or other location at which the funeral services are to be held, in which the lead vehicle is either a State or local law enforcement vehicle, other designated official vehicle, or the lead vehicle displays a flashing amber or purple light, sign, pennant, flag, or other insignia furnished by a funeral home indicating a funeral procession.

(b) Each vehicle in the funeral procession shall be operated with its headlights illuminated, if so equipped, and its hazard warning signal lamps illuminated, if so equipped.

(c) The operator of the lead vehicle in a funeral procession shall comply with all traffic-control signals, but when the lead vehicle in a funeral procession has progressed across an intersection in accordance with the traffic-control sign or signal, or when directed to do so by a law enforcement officer or an official designee, or when the lead vehicle is a law enforcement vehicle which progresses across the intersection while giving appropriate warning by light or siren, all vehicles in the funeral procession may proceed through the intersection without stopping, except that

the operator of each vehicle shall exercise reasonable care towards any other vehicle or pedestrian on the highway. An operator of a vehicle that is not part of the funeral procession shall not join the funeral procession for the purpose of securing the right-of-way granted by this subsection.

(d) Operators of vehicles in a funeral procession shall drive on the right-hand side of the roadway and shall follow the vehicle ahead as closely as reasonable and prudent having due regard for speed and existing conditions.

(e) Operators of vehicles in a funeral procession shall yield the right-of-way to law enforcement vehicles, fire protection vehicles, rescue vehicles, ambulances, and other emergency vehicles giving appropriate warning signals by light or siren, and shall yield the right-of-way when directed to do so by a law enforcement officer.

(f) Operators of vehicles in a funeral procession shall proceed at the posted minimum speed, except that the operator of such vehicle shall exercise reasonable care having due regard for speed and existing conditions.

(g) The operator of a vehicle proceeding in the opposite direction as a funeral procession may yield to the funeral procession. If the operator chooses to yield to the procession, the operator must do so by reducing speed, or by stopping completely off the roadway when meeting the procession or while the procession passes, so that operators of other vehicles proceeding in the opposite direction of the procession can continue to travel without leaving their lane of traffic.

(h) The operator of a vehicle proceeding in the same direction as a funeral procession shall not pass or attempt to pass the funeral procession, except that the operator of such a vehicle may pass a funeral procession when the highway has been marked for two or more lanes of moving traffic in the same direction of the funeral procession.

(i) An operator of a vehicle shall not knowingly drive between vehicles in a funeral procession by crossing their path unless directed to so by a person authorized to direct traffic. When a funeral procession is proceeding through a steady or strobe-beam stoplight emitting a red light as permitted by subsection (c), an operator of a vehicle that is not in the funeral procession shall not enter the intersection knowing a funeral procession is in process, even if facing a steady or strobe-beam stoplight emitting a green light, unless the operator can do so safely without crossing the path of the funeral procession.

(j) Nothing in this section shall be construed to prevent State or local law enforcement officers from escorting funeral processions in law enforcement vehicles.

(k) A violation of this section shall not constitute negligence per se.

(l) Liability for any death, personal injury, or property damage suffered by any person participating in a funeral procession or colliding with any vehicle in a funeral procession shall not be imposed upon a law enforcement officer or other official designee escorting or assisting the funeral procession whether in a vehicle or on foot, the supervisor who assigned the law enforcement officer to escort or assist with the funeral procession, the funeral director or funeral establishment leading, coordinating, organizing, or participating in the funeral procession, or their employees or agents.

unless such death, personal injury, or property damage is proximately caused by the negligent act of such person, firm, or corporation.

(m) To the extent that a local government unit's ordinance is in direct conflict with any part of this statute, the ordinance shall control and prevail over the conflicting part."

Section 2. This act becomes effective December 1, 1999, and applies to violations occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 247

Short Title: Funeral Processions. (Public)

Sponsors: Representative Wainwright.

Referred to: Transportation, if favorable, Judiciary I.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE FUNERAL PROCESSIONS AND TO CODIFY THE RULES OF THE ROAD WITH REGARD TO FUNERAL PROCESSIONS.

The General Assembly of North Carolina enacts:

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

"**§ 20-157.1. Funeral processions.**

(a) As used in this section, a 'funeral procession' means two or more motor vehicles accompanying the body of a deceased person or traveling to the church, chapel, or other location at which the funeral service is to be held, in which the lead vehicle is either a State or local law enforcement vehicle or the lead vehicle displays a flashing amber or purple light, sign, pennant, flag, or other insignia furnished by a funeral home indicating a funeral procession.

(b) Each vehicle in the funeral procession shall be operated with its headlights illuminated.

(c) The operator of the lead vehicle in a funeral procession shall comply with all traffic-control signals, but when the lead vehicle in the funeral procession has progressed across an intersection in accordance with the traffic-control sign or signal, or when directed to do so by a law enforcement officer, or as otherwise provided by law, all vehicles in the funeral procession may proceed through the intersection without stopping, except that the operator of each vehicle shall exercise reasonable care toward any other vehicle or pedestrian on the highway. An operator of a vehicle that is not part of the funeral procession shall not join the funeral procession for the purpose of securing the right-of-way granted by this subsection.

(d) Operators of vehicles in a funeral procession shall drive on the right-hand side of the roadway and shall follow the vehicle ahead as closely as reasonable and prudent having due regard for speed and existing conditions. Any ordinance, law, or regulation requiring that a motor vehicle shall be operated to allow sufficient space enabling any other vehicle to enter and occupy that space without danger shall not be applicable to vehicles in a funeral procession.

(e) Operators of vehicles in a funeral procession shall yield the right-of-way to law enforcement vehicles, fire, rescue, ambulatory, and other emergency vehicles giving audible signals by light and siren, and shall yield the right-of-way when directed to do so by a law enforcement officer.

(f) Operators of vehicles in a funeral procession shall proceed at the posted minimum speed, except that the operator of a vehicle in a funeral procession shall exercise reasonable care having due regard for speed and existing conditions.

(g) The operator of a vehicle proceeding in the opposite direction from the direction of travel of a funeral procession may yield to the funeral procession by reducing speed, or by stopping off the roadway when meeting a funeral procession or while the funeral procession passes, so long as operators of other vehicles proceeding in the opposite direction from the direction of travel of the funeral procession can continue to travel without leaving their lane of traffic.

(h) The operator of a vehicle proceeding in the same direction as a funeral procession shall not pass or attempt to pass the funeral procession, except that the operator of a vehicle proceeding in the same direction of a funeral procession may pass a funeral procession when the highway has been marked for two or more lanes of moving traffic in the direction of the funeral procession.

(i) An operator of a vehicle shall not knowingly drive between vehicles in a funeral procession by crossing their path unless directed to do so by a person authorized to direct traffic. When a funeral procession is proceeding through a red signal as permitted by subsection (c) of this section, an operator of a vehicle that is not in the funeral procession shall not enter the intersection knowing a funeral procession is in process, even if facing a steady green signal, unless the operator can do so safely without crossing the path of the funeral procession.

(j) State or local law enforcement officers may escort funeral processions in or on properly marked law enforcement vehicles.

(k) A violation of this section shall not constitute negligence per se.

(l) Liability for any death, personal injury, or property damage suffered by any person participating in a funeral procession or colliding with any vehicle in a funeral procession shall not be imposed upon the operator of the law enforcement vehicle escorting or assisting with the funeral procession, the supervisor who assigned the operator of the law enforcement vehicle to escort or assist with the funeral procession, the funeral director or funeral establishment leading, coordinating, organizing, or participating in the funeral procession, or their employees or agents, unless that death, personal injury, or property damage is proximately caused by the negligent or intentional act of that person, firm, or corporation.

(m) To the extent that a local ordinance is in direct conflict with any part of this statute, the ordinance shall control and prevail over the conflicting part."

Section 2. This act becomes effective December 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 27

Short Title: Repeal DOT Bermuda Grass Prohib. (Public)

Sponsors: Senator Kerr.

Referred to: Transportation.

February 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PROHIBITION AGAINST THE DEPARTMENT OF TRANSPORTATION USING BERMUDA GRASS ALONG CERTAIN ROADS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18.1 is repealed.

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

JAMES A. GRAHAM
COMMISSIONER

State of North Carolina
Department of Agriculture and Consumer Services
Raleigh

March 9, 1999

Senator John H. Kerr, III
NC Senate
Legislative Office Building, Room 526
Raleigh, North Carolina 27601

Re: S.27 - Bermuda Grass

Dear John:

The Department of Agriculture and Consumer Services supports Senate Bill 27, which would repeal a 1945 law restricting the planting of bermuda grass along highways.

While this law served a purpose at one time, bermuda grass is now widely used. We understand that DOT must have suitable grasses to use for ground cover, and that bermuda grass may be more desirable for adjoining landowners than bahia grass, which is not restricted.

Please let me know if we can provide further information.

With all good wishes.

Sincerely,

James A. Graham
Commissioner of Agriculture

JAG:jm
CC: Secretary Norris Tolson
S.27.com

Post Office Box 27647 • Raleigh, North Carolina 27611
Phone (919) 733-7125 • Fax (919) 733-1141

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT JR.
GOVERNOR

P.O. BOX 25201, RALEIGH, N.C. 27611-5201

E. NORRIS TOLSON
SECRETARY

March 2, 1999

The Honorable John H. Kerr, III
North Carolina Senate
Legislative Office Building
Room 525
Raleigh, NC 27601

Dear John:

This is to offer the Department of Transportation's support for Senate Bill 27 – "An Act to Repeal the Prohibition Against the Department of Transportation Using Bermuda Grass Along Certain Roads." Currently, DOT is restricted from the use of bermuda grass along many sections of highway under GS 136-18.1.

In sections of our state where coastal bermuda grass hay is grown the use of bermuda grass would allow us to have a more compatible crop for seeding. Our current use of bahia grass causes some pest problems in these coastal bermuda areas.

We would use common bermuda grass and centipede grass through these areas. We hope after the initial establishment by bermuda grass the much slower growing centipede grass would take over the roadside in five to ten years. Centipede has proven to be a very low maintenance roadside grass.

Common bermuda grass is widely available and planted and maintained on golf courses, cemeteries, schools, industrial sites, and residential lawns. It also volunteers on many of our roadsides. Our use of common bermuda grass in certain locations should not present a problem to adjacent landowners.

Thank you for your efforts in this regard.

Sincerely,

E. Norris Tolson

ENT/vs

SENATE BILL 27:
Repeal DOT Bermuda Grass Prohibition

BILL ANALYSIS

Committee: House Transportation
Date: March 31, 1999
Version:

Introduced by:
Summary by: Committee Counsel

SUMMARY:

Current law (G.S. 136-18.1) limits the areas that the Department of Transportation can use Bermuda grass, and requires the Department to try to eliminate Bermuda grass on the shoulders of highways in cultivated farm areas.

Senate Bill 27 repeals G.S. 136-18.1.

Effective Date: when it becomes law.

Comm'n v. Farm Equip. Co., 281 N.C. 459, 189 S.E.2d 272 (1972).

OPINIONS OF ATTORNEY GENERAL

State Highway Commission (Now Department of Transportation) May Dispose of Abandoned, Junked Motor Vehicles. — See opinion of Attorney General to Mr. F. L. Hutchinson, Division Engineer, State Highway Commission, 40 N.C.A.G. 437 (1969).

Regulatory Authority over State Highway System Streets. — The Department of Transportation is vested with general regulatory authority over the use of State Highway System streets. The general grant of authority to municipalities over streets is subordinate to the Department of Transportation's rights and duties to maintain the State Highway System. See opinion of the Attorney General to Mr. Ralph D. Karpinos, Town Attorney, Chapel Hill, N.C., 58 N.C.A.G. 17 (Feb. 26, 1988).

§ 136-18.1. Use of Bermuda grass.

The use of Bermuda grass shall be restricted to sections of the highway where the abutting property is not in cultivation, except where the Department of Transportation has written consent of the abutting landowner. In long sections of woodland or wasteland sufficiently distant from cultivated areas, Bermuda grass may be used. The Department of Transportation and its employees shall use every reasonable effort to eliminate Bermuda grass heretofore planted on the shoulders of the highways through cultivated farm areas. (1945, c. 992; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1.)

§ 136-18.2. Seed planted by Department of Transportation to be approved by Department of Agriculture.

The Department of Transportation shall not cause any seed to be planted on or along any highway or road right-of-way unless and until such seed has been approved by the State Department of Agriculture as provided for in the rules and regulations of the Department of Agriculture for such seed. (1957, c. 1002; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1.)

§ 136-18.3. Location of garbage collection containers by counties and municipalities.

(a) The Department of Transportation is authorized to issue permits to counties and municipalities for the location of containers on rights-of-way of state-maintained highways for the collection of garbage. Such containers may be located on highway rights-of-way only when authorized in writing by the State Highway Administrator in accordance with rules and regulations promulgated by the Department of Transportation. Such rules and regulations shall take into consideration the safety of travelers on the highway and the elimination of unsightly conditions and health hazards. Such containers shall not be located on fully controlled-access highways.

(b) The provisions of G.S. 14-399, which make it a misdemeanor to place garbage on highway rights-of-way, shall not apply to persons placing garbage in containers in accordance with rules and regulations promulgated by the Department of Transportation.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 317

Short Title: Safety Chains for Trailers. (Public)

Sponsors: Representatives Redwine; Thompson, Luebke, Cole, and Melton.

Referred to: Transportation.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TOWED VEHICLES ATTACHED BY MEANS OF LOCKING PINS OR BOLTS TO ALSO HAVE SAFETY CHAINS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-123 reads as rewritten:

"**§ 20-123. Trailers and towed vehicles.**

(a) The limitations in G.S. 20-116 on combination vehicles do not prohibit the towing of farm trailers not exceeding three in number nor exceeding a total length of 50 feet during the period from one-half hour before sunrise until one-half hour after sunset when a red flag of at least 12 inches square is prominently displayed on the last vehicle. The towing of farm trailers and equipment allowed by this subsection does not apply to interstate or federal numbered highways.

(b) No trailer or semitrailer or other towed vehicle shall be operated over the highways of the State unless such trailer or semitrailer or other towed vehicle be firmly attached to the rear of the towing unit, and unless so equipped that it will not snake, but will travel in the path of the vehicle drawing such trailer or semitrailer or other towed vehicle, which equipment shall at all times be kept in good condition.

(c) In addition to the requirements of subsections (a) and (b) of this section, the towed vehicle shall be attached to the towing unit by means of safety chains or cables which shall be of sufficient strength to hold the gross weight of the towed vehicle in the event the primary towing device fails or becomes disconnected while being operated on the highways of this State if the primary towing attachment is a ball hitch. ~~Trailers and semitrailers having locking pins or bolts in the towing attachment to prevent disconnection, and the locking pins or bolts are of sufficient strength and~~

~~condition to hold the gross weight of the towed vehicle, need not be equipped with safety chains or cables unless their operation is subject to the requirements of the Federal Motor Carrier Safety Regulations.~~ Semitrailers in combinations of vehicles that are equipped with fifth wheel assemblies that include locking devices need not be equipped with safety chains or cables."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 333

Short Title: TIP Funding Allocations/Loans. (Public)

Sponsors: Representatives Hurley, Kinney, Warner; Allred, Barefoot, Bonner, Buchanan, Church, Cole, Culp, Fox, Goodwin, Hill, McAllister, Melton, Morris, Rogers, Wainwright, and Yongue.

Referred to: Transportation.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT UNEXPENDED FUNDS DEDICATED TO A CERTAIN DISTRIBUTION REGION PURSUANT TO G.S. 136-17.2A SHALL BE USED FOR PROJECTS IN THAT DISTRIBUTION REGION OR MAY BE USED FOR LOANS TO OTHER DISTRIBUTION REGIONS THAT MUST BE RETURNED WITHIN TWO YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than funds expended on an urban loop project listed in G.S. 136-180, shall be distributed throughout the State in accordance with this section. For purposes of this distribution, the counties of the State are grouped into seven distribution ~~regions~~ regions, each consisting of two divisions, as follows:

(1) Distribution Region A consists of ~~the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.~~ Division 1 and Division 4.

(2) Distribution Region B consists of ~~the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New~~

~~Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.~~ Division 2 and Division 3.

(3) Distribution Region C consists of ~~the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.~~ Division 5 and Division 6.

(4) Distribution Region D consists of ~~the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.~~ Division 7 and Division 9.

(5) Distribution Region E consists of ~~the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.~~ Division 8 and Division 10.

(6) Distribution Region F consists of ~~the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.~~ Division 11 and Division 12.

(7) Distribution Region G consists of ~~the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.~~ Division 13 and Division 14."

Section 2. G.S. 136-17.2A is amended by adding a new subsection to read:

"(g) Unexpended and unencumbered funds that have been designated pursuant to the allocation formula provisions of this section for projects to be constructed under the Transportation Improvement Program in a particular Division shall remain available, from year to year, for construction of projects in that Division and shall be used for projects in that Division.

The Highway Administrator may do either of the following:

(1) The Highway Administrator may advance the construction of other Transportation Improvement Program projects within a Division in order to make the most efficient use these funds.

(2) The Highway Administrator may transfer designated funds from one or more donor Divisions to one or more recipient Divisions with the prior approval of the Board of Transportation. If a transfer, or loan, of designated funds is made, the same amount of funds shall be designated for use in the donor Divisions within two years of the transfer, or loan, as a part of the next planning cycle for the Transportation Improvement Program."

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

VISITOR REGISTRATION SHEET

TRANSPORTATION — Name of Committee

APRIL 14, 1999 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NC DMV ENFORCEMENT
Steve Woodson	NCFTB
[illegible]	Sheriff -
John Phelps	NCLM

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

April 21, 1999

Room 643 Legislative Office Building

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS TO BE CONSIDERED

HB 128 NONBETTERMENT RELOCATION COSTS
Sponsors: Reps. Cansler, Sherrill, Walend

HB 299 OUTDOOR ADVERTISING CONTROL ACT
Sponsors: Rep. Hackney

HB 723 DARK WINDOW INSPECTION FEE
Sponsor: Rep. Insko

HB 748 HIGHWAY UTILITY NONBETTERMENT COST
Sponsor: Rep. Goodwin

HB 789 HIGHWAY UTILITY NONBETTERMENT COST-2
Sponsor: Rep. Goodwin

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

April 21, 199

The House Committee on Transportation met on April 21, 1999, in Room 643 of the Legislative Office Building at 11:00 AM. Members in attendance were: Representatives Adams, Baker, Bridgeman, Buchanan, Brown, Church, Clary, Cole, Crawford, Culp, Eddins, Gibson, Hill, Holmes, Kenney, McComas, McLawhorn, Moore, Nye, Rayfield, Saunders, Setzer, Sherrill, Sutton, Teague, Scott, Wainwright, and Warwick. Giles Perry, Staff Counsel was also present. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Drew Saunders, Chair, presided; and he opened the meeting by introducing Pages, Neica Evans and Amber Burwell from Granville County, who were sponsored by Representative Jim Crawford. Martha Parrish and Dusty Rhodes from the Sergeant of Arms Office were also recognized.

The first bill to be discussed was HB 723 Dark Window Inspection Fee, sponsored by Representative Verla Insko. Representative Baker made a motion that a committee substitute bill be considered. A vote was taken and approved for the motion. Representative Insko was recognized to present a summary of the bill. The bill would lower the fee for inspecting after-factory window tinting of vehicles. A question and answer period followed. Ruth Sappie and Aydren Flowers with the North Carolina Department of Transportation and Lt. Cross with the Division of Motor Vehicles assisted Representative Insko in answering questions. David Ferrell with the Service Station and Independent Garage Owners Associations spoke in opposition of the bill. Representative Sherrill proposed an amendment to the bill that would reduce the inspection fee to $5 for vehicle owners, having medical conditions, which require that they have tinted windows. The amendment was voted on and approved. Representative Moore made a motion that the committee substitute with the approved amendment be given a favorable report. A vote was taken and approved, and the bill will be referred to the Finance Committee.

The next bill to be debated was HB 128 Nonbetterment Relocation Costs, sponsored by Representatives Cansler, Sherrill, and Walend. Representative Cansler was acknowledged to explain the bill. The bill would require the Department of Transportation to pay the cost of moving water and sewer lines on DOT right of way constructed by a water and sewer system organized under Article 20 of Chapter 160A. Representative Cansler called on Jim Westbrook, Bob Oast, and Tom Frederick of the City of Asheville to give additional information about the bill. A question and answer period followed. Representative Cansler, and Aydren Flowers and Ruth Sappie with the Department of Transportation responded to questions. Ruth Sappie spoke in opposition to the bill due to the effect on the DOT equity formula for Divisions 13 and 14. Representative Sherrill made a motion that the bill be given a favorable report and

referred to the Appropriations Committee. A vote was not taken on the motion, and action on the bill is pending.

The meeting adjourned at 11:55 AM.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Ruth Fish, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation.**

☐ Committee Substitute for
H.B. 723 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE FEE FOR INSPECTING AFTER-FACTORY WINDOW TINTING NEED BE PAID ONLY ONCE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(# ——)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill # ——)~~, (and recommendation that the committee substitute bill ~~# ——)~~ be re-referred to the Committee on Finance

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 128

Short Title: Nonbetterment Relocation Costs. (Local)

Sponsors: Representatives Cansler, Sherrill, Walend (Primary Sponsors); and Nesbitt.

Referred to: Transportation, if favorable, Appropriations.

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS FOR WATER AND SEWER LINES OWNED BY A SYSTEM CREATED PURSUANT TO ARTICLE 20 OF CHAPTER 160A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are owned by: (i) a municipality with a population of 5,500 or less according to the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural water system operated by county as an enterprise system; (v) any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes; ~~or~~ (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 5,500 according to the latest decennial ~~census.~~ census; or (vii) constructed by a water or sewer system organized pursuant to Article 20 of Chapter 160A of the General Statutes."

Section 2. This act applies to Buncombe County and Henderson County only.

Section 3. This act is effective when it becomes law and shall not affect pending litigation.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 723
Proposed Committee Substitute H723-CSLB-1

Short Title: Dark Window Inspection Fee. (Public)

Sponsors:

Referred to: Transportation.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO LOWER THE FEE FOR INSPECTING AFTER-FACTORY WINDOW TINTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ 8.25	$ 1.00
Safety Only, With After-Factory Tinted Window	~~18.25~~ 13.25	1.00
Emissions and Safety Without After-Factory Tinted Window	17.00	2.40
Emissions and Safety With After-Factory Tinted Window	~~27.00~~ 22.00	2.40.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle

passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee."

Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 723
Proposed Committee Substitute H723-PCS4228-RW

Short Title: Dark Window Inspection Fee. (Public)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR PERSONS WITH DOCUMENTED MEDICAL CONDITIONS THAT REQUIRE WINDOW TINTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ 8.25	$ 1.00
Safety Only, With After-Factory Tinted Window	18.25	1.00
Emissions and Safety Without After-Factory Tinted Window	17.00	2.40
Emissions and Safety With After-Factory Tinted Window	27.00	2.40.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window applies only to an

inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

The fee for after-factory tinting inspection shall be reduced by five dollars ($5.00) for any vehicle owner with a documented medical condition that requires after-factory tinted windows."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 723

Short Title: Dark Window Inspection Fee. (Public)

Sponsors: Representative Insko.

Referred to: Transportation.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE FEE FOR INSPECTING AFTER-FACTORY WINDOW TINTING NEED BE PAID ONLY ONCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ 8.25	$ 1.00
Safety Only, With After-Factory Tinted Window	18.25	1.00
Emissions and Safety Without After-Factory Tinted Window	17.00	2.40
Emissions and Safety With After-Factory Tinted Window	27.00	2.40.

If the inspector is presented with a receipt that shows that the fee for inspection of after-factory tinted windows has been previously paid, then the fee for the current inspection shall be the fee as if the vehicle was without after-factory tinted windows.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for

performing an inspection of a vehicle with a tinted window applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 748

Short Title: Highway Utility Nonbetterment Cost. (Public)

Sponsors: Representative Goodwin.

Referred to: Transportation.

March 31, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are ~~owned by:~~ any of the following:

(1) ~~(i) a~~ Owned by a municipality with a population of 5,500 or less according to the latest decennial ~~census; (ii)~~ census.

(2) ~~a~~ Owned by a nonprofit water or sewer association or ~~corporation; (iii)~~ corporation.

(3) ~~any~~ Owned by any water or sewer system organized pursuant to Chapter 162A of the General ~~Statutes; (iv)~~ Statutes.

(4) ~~a~~ Owned by a rural water system operated by county as an enterprise ~~system; (v)~~ system.

(5) ~~any~~ Owned by any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General ~~Statutes; or (vi)~~ Statutes.

(6) ~~constructed~~ Constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or

transferred to a municipality with a population of greater than 5,500 according to the latest decennial census.

(7) Owned by any municipality with a population of 20,000 or less according to the latest decennial census when all of the following conditions apply:

a. The lines are located in the right-of-way of an existing or proposed federal primary or interstate highway.

b. The municipality operates its water or sewer system as an enterprise system and has not used any of the proceeds from its water or sewer enterprise fund for any purposes other than water or sewer purposes during the previous five years."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 789

Short Title: Highway Utility Nonbetterment Cost-2. (Public)

Sponsors: Representative Goodwin.

Referred to: Transportation.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are ~~owned by:~~ any of the following:

(1) ~~(i) a~~ Owned by a municipality with a population of 5,500 or less according to the latest decennial ~~census; (ii)~~ census.

(2) ~~a~~ Owned by a nonprofit water or sewer association or ~~corporation; (iii)~~ corporation.

(3) ~~any~~ Owned by any water or sewer system organized pursuant to Chapter 162A of the General ~~Statutes; (iv)~~ Statutes.

(4) ~~a~~ Owned by a rural water system operated by county as an enterprise ~~system; (v)~~ system.

(5) ~~any~~ Owned by any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General ~~Statutes; or (vi)~~ Statutes.

(6) ~~constructed~~ Constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or

transferred to a municipality with a population of greater than 5,500 according to the latest decennial census.

(7) Owned by any municipality with a population of 20,000 or less according to the latest decennial census when all of the following conditions apply:

a. The line or lines were ordered to be installed by one State agency, construction was started, and then the line or lines were ordered to be relocated by the Department within four years in connection with reconstruction of a federal primary highway.

b. The municipality operates its water or sewer system as an enterprise system and has not used any of the proceeds from its water or sewer enterprise fund for any purposes other than water or sewer purposes during the previous five years."

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

HOUSE BILL 723:
Dark Window Inspection Fee

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Rep. Insko
Date:	April 21, 1999	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

Current Law:

Current law requires persons with after factory tinting on their motor vehicle to get the tint inspected each year as part of the required vehicle safety inspection. The tint inspection costs an additional $10 a year.

House Bill 723:

House Bill 723 amends the current law to require payment of the regular inspection fee, even if the vehicle has after-factory tint, if the person getting the inspection presents a receipt showing that "the fee for inspection of after-factory tinted windows has been previously paid."

Effective Date: when it becomes law.

HOUSE BILL 789:
Highway Utility Nonbetterment Cost -2

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Goodwin
Date:	May 12, 1999	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

CURRENT LAW: Current law requires DOT to reimburse the following six types of entities for the cost of moving (but not improving) their utility lines located on DOT right-of-way:

--a municipality of 5,500 or less

--a nonprofit water and sewer association

--a water or sewer system organized under Chapter 162A

--a rural water system operated by a county as an enterprise system

--a sanitary district organized under Chapter 130A, Art 2, Part 2

--a water or sewer system constructed under Chapter 162A, and sold to municipality with a population greater than 5,500

HOUSE BILL 789: House Bill 789 would require DOT to pay the cost of moving (but not improving) water and sewer lines on DOT right of way constructed owned by a municipality with a population of 20,000 or less, when:

--the lines were ordered installed by one State agency, construction began, and then the lines were ordered relocated within four years in connection with reconstruction of a federal aid primary highway; and

--the municipality operates its water an sewer system as an enterprise system and has not used any of its proceeds for any purposes other than water and sewer purposes in the previous five years.

Effective Date: when it becomes law.

VISITOR REGISTRATION SHEET

TRANSPORTATION — 4/21/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Aydren Flowers	Dept. of Transportation
Ashley Westbrook	Governor Office
Jim Westbrook	City of Asheville
Tom Frederick	City of Asheville
Bob Ast	City of Asheville
Louise Saunders	Hartsville
Betty Branch	Newport NC
Don Harrow	Piedmont Natural Gas
Stu Dixon	NCNG
Ruth Sapphie	NCDOT
Al Bennett	NCSSA
T. L. Gray	N.C. Nat. Housing
John Lowe	AC

1 or 2 minutes each

Jim Westbrook	City Manager - Asheville
Bob Oast	City Attorney - Asheville
Tom Fredericks	Water Resource Director

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

April 28, 1999

The House Committee on Transportation met on April 28, 1999, in Room 643 of the Legislative Building, at 12:25 PM. Representative Charles Buchanan, Chair, presided at the meeting. Members present were Representatives Baker, Bridgeman, Buchanan, Culp, Nye, Rayfield, and Teague. Giles Perry, Staff Counsel, was also present. Dusty Rhodes and Martha Parrish from the Sergeant of Arms Office assisted with the meeting.

The first bill to be considered was HB 1085 Transitways. Bill Sponsor, Representative McMahan, was recognized to explain the bill. The bill would allow the Department of Transportation to designate one or more travel lanes as a transitway on streets and highways on the State Highway System and cities could designate travel lanes on the Municipal Street System. Rep. Baker made a motion that the bill receive a favorable report. A vote was taken, and the bill received a favorable report.

The next bill to come before the committee was HB 937 Regional Transportation Authority Amd. Representative Rayfield made a motion that a committee substitute be considered. It was voted on and approved that the committee substitute be debated. Representative Gray, bill sponsor, was acknowledged to summarize the bill. Representative Baker made a motion that the committee substitute bill be given a favorable report and the original bill be given an unfavorable report. A vote was taken, and the committee substitute bill was given a favorable report and the original bill was given an unfavorable report.

Representative Buchanan announced that any remaining bills referred to the Transportation Committee did not have to meet crossover deadlines and would be considered at future meetings.

The meeting adjourned at 12:35 PM.

Representative Charles Buchanan, Chair

Representative Drew P. Saunders, Chair

Ruth Fish, Committee Assistant

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION
April 28, 1999

The House Committee on Transportation met around the chamber desk of Representative Buchanan, committee chair, immediately after the 5:30 p.m. recess of the House session on Wednesday, April 28, 1999. The chair called the meeting to order and the following members were present: Representatives Allred, Baker, Bridgeman, Decker, Gillispie, Sherrill, Setzer and Teague.

Representative Buchanan announced that the purpose of the meeting was to consider House Bill 1029 –AN ACT TO PROVIDE THAT A NEWLY INCORPORATED MUNICIPALITY MAY WAIVE ITS POWELL BILL FUNDS AND HAVE SECONDARY ROADS THAT WERE ON THE PAVEMENT PRIORITY LIST AND SCHEDULED TO BE PAVED PRIOR TO INCORPORATION PAVED BY THE DEPARTMENT OF TRANSPORTATION ACCORDING TO THE PRIORITY LIST. Representative Decker is the bill sponsor. The chairman brought the bill before the committee. Representative Allred moved for a favorable report. Motion carried.

There being no further business, the meeting adjourned.

Charles Buchanan
Representative Charles Buchanan
Presiding Committee Chair

Anne M. Cole
Anne M. Cole
Acting Committee Assistant

Attachments:
Committee report
HB 1029

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

Jules
4-28-99

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **BUCHANAN AND SAUNDERS** for the Committee on **TRANSPORTATION**.

☐ Committee Substitute for
H.B. 1085 A BILL TO BE ENTITLED AN ACT TO PERMIT THE USE OF TRANSITWAYS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

file
4-28-99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **BUCHANAN AND SAUNDERS** for the Committee on **TRANSPORTATION**.

☐ Committee Substitute for
H.B. 937 A BILL TO BE ENTITLED AN ACT TO AMEND THE REGIONAL TRANSPORTATION AUTHORITY ACT CONCERNING JURISDICTION OF THE ENTIRE AREA OF THE COUNTY IN CERTAIN CIRCUMSTANCES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#———), ☒ which changes the title, unfavorable as to (original bill), ~~(Committee Substitute Bill #———), (and recommendation that the committee substitute bill #———) be re-referred to the Committee on———.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

Jule
4-28-99
@ Chandler Desk

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **TRANSPORTATION**.

☐ Committee Substitute for
H.B. 1029 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A NEWLY INCORPORATED MUNICIPALITY MAY WAIVE ITS POWELL BILL FUNDS AND HAVE SECONDARY ROADS THAT WERE ON THE PAVEMENT PRIORITY LIST AND SCHEDULED TO BE PAVED PRIOR TO INCORPORATION PAVED BY THE DEPARTMENT OF TRANSPORTATION ACCORDING TO THE PRIORITY LIST.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1085

Short Title: Transitways. (Public)

Sponsors: Representative McMahan.

Referred to: Transportation.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE USE OF TRANSITWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-146.2 is amended by adding a new subsection to read:

"(a1) The Department of Transportation may designate one or more travel lanes as a transitway on streets and highways on the State Highway System and cities may designate one or more travel lanes as a transitway on streets on the Municipal Street System. Transitways shall be reserved for public transportation vehicles as determined by the Department of Transportation or the city having jurisdiction over the street or highway. When transitways have been designated, and they have been appropriately marked with signs or other markers, they shall be reserved for privately or publicly operated transportation vehicles."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 937
Proposed Committee Substitute H937-PCS8124-RW

Short Title: Regional Transportation Authority Amd. (Public)

Sponsors:

Referred to:

April 6, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REGIONAL TRANSPORTATION AUTHORITY ACT CONCERNING JURISDICTION OF THE ENTIRE AREA OF THE COUNTY IN CERTAIN CIRCUMSTANCES AND MEMBERSHIP OF THE AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-634(a) reads as rewritten:

"(a) The territorial jurisdiction and service area of the Authority shall be as determined by the Board of Trustees consistent with its purpose, but shall initially consist of those areas included within the Metropolitan Planning Organization boundaries. With the consent by resolution of the affected board of county commissioners, the jurisdiction and area may be expanded to include contiguous areas, but the total jurisdiction and service area shall not exceed part or all of 12 counties. The jurisdiction and area include the entire area of the county if the Board of Trustees has been expanded to include the chairman or other member of the board of commissioners of that county pursuant to G.S. 160A-635(4)."

Section 2. G.S. 160A-635(a) reads as rewritten:

"(a) The governing body of an authority is the Board of Trustees. The Board of Trustees shall consist of:

(1) The mayor of the four cities within the service area that have the largest population, or a member of the city council designated by the city council to serve in the absence of the mayor.

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

(3) The chair of each Metropolitan Planning Organization in the territorial jurisdiction.

(4) The chair of the board of commissioners of any county within the territorial jurisdiction or a member of the board of commissioners designated by the board to serve in the absence of the chair, but only if the Board of Trustees by resolution has expanded the Board of Trustees to include the chair of the board of commissioners of that county and the board of commissioners of that county has consented by resolution.

(5) The chair of the Forsyth County Airport Commission.

(6) The chair of the Piedmont Triad Airport Authority."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 937

Short Title: Regional Transportation Authority Amd. (Public)

Sponsors: Representative Gray.

Referred to: Transportation.

April 6, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REGIONAL TRANSPORTATION AUTHORITY ACT CONCERNING JURISDICTION OF THE ENTIRE AREA OF THE COUNTY IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-634(a) reads as rewritten:

"(a) The territorial jurisdiction and service area of the Authority shall be as determined by the Board of Trustees consistent with its purpose, but shall initially consist of those areas included within the Metropolitan Planning Organization boundaries. With the consent by resolution of the affected board of county commissioners, the jurisdiction and area may be expanded to include contiguous areas, but the total jurisdiction and service area shall not exceed part or all of 12 counties. The jurisdiction and area include the entire area of the county if the Board of Trustees has been expanded to include the chairman or other member of the board of commissioners of that county pursuant to G.S. 160A-635(4)."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1029

Short Title: Municipal Secondary Roads Paved. (Public)

Sponsors: Representatives Decker; and Daughtry.

Referred to: Transportation.

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A NEWLY INCORPORATED MUNICIPALITY MAY WAIVE ITS POWELL BILL FUNDS AND HAVE SECONDARY ROADS THAT WERE ON THE PAVEMENT PRIORITY LIST AND SCHEDULED TO BE PAVED PRIOR TO INCORPORATION PAVED BY THE DEPARTMENT OF TRANSPORTATION ACCORDING TO THE PRIORITY LIST.

The General Assembly of North Carolina enacts:

Section 1. Section 169.1 of Chapter 321 of the 1993 Session Laws reads as rewritten:

"Sec. 169.1. Notwithstanding any other provision of law, the Department of Transportation shall maintain the streets and highways on the State highway system within municipalities that are not eligible for funds under G.S. 136-41.2. The Department of Transportation shall maintain the streets and highways as part of the State secondary system, and maintain the paving priority for the secondary roads the same as if the municipality were not incorporated, as long as the ineligibility for funds under G.S. 136-41.2 continues. The provisions of this section apply only to municipalities incorporated between July 1, 1989, and June 30, ~~1993.~~ 1993, and to any municipality incorporated prior to May 31, 1996, which is eligible for funds under G.S. 136-41.2 but which has not received any funds under G.S. 136-41.1."

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

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

MAY 12, 1999

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS TO BE CONSIDERED

HB 128 NONBETTERMENT RELOCATION COSTS
Sponsors: Reps. Cansler, Sherrill, and Walend

HB 789 HIGHWAY UTILITY NONBETTERMENT COST 2
Sponsor: Rep. Goodwin

HB 333 TIP FUNDING ALLOCATIONS/LOANS – 2
Sponsors: Reps. Hurley, Kinney, and Warner

HB 1273 FEDERAL CMAQ FUNDS USE/PUB. TRANS.
Sponsor: Rep. Luebke

QUESTIONS AND ANNOUNCEMENTS

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

May 12, 1999

The House Committee on Transportation met at 11:00 AM in Room 643 of the Legislative Office Building on May 12, 1999. Members present were: Representatives Allred, Baker, Bridgeman, Brown, Buchanan, Church, Cole, Culp, Eddins, Gillespie, McComas, McLawhorn, Nye, Rayfield, Saunders, Setzer, Sherrill, Sutton, Teague, Thomas, and Warwick. Giles Perry, Staff Counsel, was also present. The Visitor Register is attached and made a part of the minutes.

Representative Saunders, Presiding Chair, called the meeting to order and introduced Pages, Clay Madden and Tierra Leach. Clay Madden, sponsored by Rep. Luebke, is from Durham; and Tierra Leach, sponsored by Rep. Bonner, is from Robeson County. Dusty Rhodes and Martha Parrish from the Sergeant of Arms Office were also recognized.

The first bill to be discussed was **SB 233 DOT Regional Equity. HB 333 TIP Funding Allocations/Loans** was originally on the agenda for the meeting; but SB 233, having met the crossover deadline and being a companion bill to HB 333, was added to the agenda. Representative Hurley, bill sponsor for HB 333, was recognized to explain the bill for Senator Shaw, bill sponsor. Representative Hurley gave a brief explanation of a proposed committee substitute for SB 233. The committee substitute changed the title to **SB 233 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT UNEXPENDED FUNDS DEDICATED TO A CERTAIN DISTRIBUTION REGION PURSUANT TO G.S. 136-17.2A SHALL BE USED FOR PROJECTS IN THAT DISTRIBUTION REGION OR MAY BE USED FOR LOANS TO OTHER DISTRIBUTION REGIONS THAT MUST BE RETURNED WITHIN THE FOLLOWING TRANSPORTATION IMPROVEMENT PROGRAM.** Senate Bill 233 modifies the Department of Transportation's regional distribution formula to require the Secretary to keep funds that cannot be spent in a division in one year available to the division in following years. Ruth Sappie with the Department of Transportation was acknowledged to respond to Representative Hurley's summary of the bill. Ms. Sappie stated that the Department of Transportation had no position on the bill. Letters from the Fayetteville Chamber of Commerce and the Cumberland County Civic Center Commission, supporting SB 233 and HB 333 were distributed to committee members. They are attached to the minutes. Representative Brown made a motion that the committee substitute be given a favorable report and be referred to the Appropriations Committee. Following a question and answer period, a vote was taken; and the motion was approved. Later in the meeting, it was noted that SB 233 did not need to be referred to the Appropriations Committee. Representative Brown made a motion that the

Committee Substitute for SB 233 be given a favorable report and not be referred to the Appropriations Committee. The motion was voted on and approved.

The second bill to be discussed was **HB 128 NONBETTERMENT RELOCATION COSTS.** This bill had been considered in the April 21, 1999, committee meeting, and Representative Sherrill had made a motion for a favorable report and for the bill to be referred to the Appropriations Committee. A vote had not been taken in the earlier meeting. Representative Buchanan made a motion that a proposed committee substitute be brought before the committee. The motion was voted on and approved. Representative Sherrill, bill sponsor, was recognized to explain the committee substitute. She was assisted by Giles Perry. Ruth Sappie was recognized to explain the position of the Department of Transportation. Ms. Sappie stated that the Department of Transportation would oppose any change in status that would affect funds for the Department. Representative Buchanan was called upon to present an amendment for Section 4, which would assure that funds expended by the Department of Transportation for projects in Buncombe and Henderson counties would not affect or delay projects in the other counties of Transportation Divisions 13 and 14. A question and answer period followed. Representative Buchanan made a motion that the committee substitute with the amendment rolled into it be given a favorable report and be referred to the Appropriations Committee. A vote was taken, and the motion was approved.

House Bill 789 Highway Utility Nonbetterment Cost 2 and HB 1273 Federal CMAQ Funds Use/Pub. Trans. on the agenda were not considered due to lack of time.

The meeting adjourned at 11:45 AM.

Rep. Charles Buchanan, Chair

Rep. Drew Saunders, Chair

Ruth Fish, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **TRANSPORTATION**.

☒ Committee Substitute for
S.B. 233 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CARRY OVER ANY UNSPENT TRANSPORTATION IMPROVEMENT PROGRAM EQUITY REGION ALLOCATIONS TO THE NEXT YEAR, TO AUTHORIZE LOANS OF UNSPENT EQUITY REGION ALLOCATIONS TO OTHER EQUITY REGIONS AND TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO DEMONSTRATE COMPLIANCE WITH THE HIGHWAY TRUST FUND EQUITY REGION FORMULA BY SUBMITTING YEARLY REPORTS DOCUMENTING ALLOCATIONS AND SPENDING BY EQUITY REGION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **TRANSPORTATION.**

☐ Committee Substitute for
H.B. 128 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS FOR WATER AND SEWER LINES OWNED BY A SYSTEM CREATED PURSUANT TO ARTICLE 20 OF CHAPTER 160A OF THE GENERAL STATUTES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to ~~(~~original bill~~) (Committee Substitute Bill #), (~~and recommendation that the committee substitute bill ~~#~~) be re-referred to the Committee on APPROPRIATIONS

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 128

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

H128-ARW-001 Page 1 of __

Date_____,1999

Comm. Sub. [YES]
Amends Title [ ]

Rep. Buchanan

moves to amend the bill on page 2, lines 13 through 14, by adding a new section to read:

"Section 4. Funds expended by the Department of Transportation pursuant to this act shall be credited against Department projects in Buncombe and Henderson counties only, and shall not affect or delay projects in the other counties of Transportation Divisions 13 and 14.";

and by renumbering the succeeding sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H128-CSRW-001
PROPOSED COMMITTEE SUBSTITUTE
H128-CSRW-001
THIS IS A DRAFT 4-MAY-99 20:42:34
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Nonbetterment Relocation Costs. (Local)

Sponsors:

Referred to: Transportation, if favorable, Appropriations.

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS FOR WATER AND SEWER LINES OWNED BY A SYSTEM CREATED PURSUANT TO ARTICLE 20 OF CHAPTER 160A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are owned by: (i) a municipality with a population of 5,500 or less according to the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural water system operated by county as an enterprise system; (v) any sanitary district organized pursuant

to Part 2 of Article 2 of Chapter 130A of the General Statutes; ~~or~~ (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 5,500 according to the latest decennial ~~census.~~ census; or (vii) constructed by a water or sewer system organized pursuant to Article 20 of Chapter 160A of the General Statutes."

Section 2. This act applies to Buncombe County and Henderson County only.

Section 3. This act shall not apply to any funds due to the Department of Transportation for any project completed or for which a contract has been let prior to the effective date of this act.

Section 4. This act is effective when it becomes law and shall not affect pending litigation.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 128

Short Title: Nonbetterment Relocation Costs. (Local)

Sponsors: Representatives Cansler, Sherrill, Walend (Primary Sponsors); and Nesbitt.

Referred to: Transportation, if favorable, Appropriations.

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS FOR WATER AND SEWER LINES OWNED BY A SYSTEM CREATED PURSUANT TO ARTICLE 20 OF CHAPTER 160A OF THE GENERAL STATUTES.

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The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are owned by: (i) a municipality with a population of 5,500 or less according to the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural water system operated by county as an enterprise system; (v) any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes; ~~or~~ (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 5,500 according to the latest decennial ~~census.~~ census; or (vii) constructed by a water or sewer system organized pursuant to Article 20 of Chapter 160A of the General Statutes."

Section 2. This act applies to Buncombe County and Henderson County only.

Section 3. This act is effective when it becomes law and shall not affect pending litigation.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 333

Short Title: TIP Funding Allocations/Loans. (Public)

Sponsors: Representatives Hurley, Kinney, Warner; Allred, Barefoot, Bonner, Buchanan, Church, Cole, Culp, Fox, Goodwin, Hill, McAllister, Melton, Morris, Rogers, Wainwright, and Yongue.

Referred to: Transportation.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT UNEXPENDED FUNDS DEDICATED TO A CERTAIN DISTRIBUTION REGION PURSUANT TO G.S. 136-17.2A SHALL BE USED FOR PROJECTS IN THAT DISTRIBUTION REGION OR MAY BE USED FOR LOANS TO OTHER DISTRIBUTION REGIONS THAT MUST BE RETURNED WITHIN TWO YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than funds expended on an urban loop project listed in G.S. 136-180, shall be distributed throughout the State in accordance with this section. For purposes of this distribution, the counties of the State are grouped into seven distribution ~~regions~~ regions, each consisting of two divisions, as follows:

(1) Distribution Region A consists of ~~the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.~~ Division 1 and Division 4.

(2) Distribution Region B consists of ~~the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New~~

~~Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.~~ Division 2 and Division 3.

(3) Distribution Region C consists of ~~the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.~~ Division 5 and Division 6.

(4) Distribution Region D consists of ~~the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.~~ Division 7 and Division 9.

(5) Distribution Region E consists of ~~the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.~~ Division 8 and Division 10.

(6) Distribution Region F consists of ~~the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.~~ Division 11 and Division 12.

(7) Distribution Region G consists of ~~the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.~~ Division 13 and Division 14."

Section 2. G.S. 136-17.2A is amended by adding a new subsection to read:

"(g) Unexpended and unencumbered funds that have been designated pursuant to the allocation formula provisions of this section for projects to be constructed under the Transportation Improvement Program in a particular Division shall remain available, from year to year, for construction of projects in that Division and shall be used for projects in that Division.

The Highway Administrator may do either of the following:

(1) The Highway Administrator may advance the construction of other Transportation Improvement Program projects within a Division in order to make the most efficient use these funds.

(2) The Highway Administrator may transfer designated funds from one or more donor Divisions to one or more recipient Divisions with the prior approval of the Board of Transportation. If a transfer, or loan, of designated funds is made, the same amount of funds shall be designated for use in the donor Divisions within two years of the transfer, or loan, as a part of the next planning cycle for the Transportation Improvement Program."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 233
Transportation Committee Substitute Adopted 3/24/99
Proposed House Committee Substitute S233-PCS3816-RW

Short Title: TIP Funding Allocations/Loans. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT UNEXPENDED FUNDS DEDICATED TO A CERTAIN DISTRIBUTION REGION PURSUANT TO G.S. 136-17.2A SHALL BE USED FOR PROJECTS IN THAT DISTRIBUTION REGION OR MAY BE USED FOR LOANS TO OTHER DISTRIBUTION REGIONS THAT MUST BE RETURNED WITHIN A SPECIFIED TIME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than funds expended on an urban loop project listed in G.S. 136-180, shall be distributed throughout the State in accordance with this section. For purposes of this distribution, the counties of the State are grouped into seven distribution ~~regions~~ regions, each consisting of two divisions, as follows:

(1) Distribution Region A consists of ~~the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.~~ Division 1 and Division 4.

(2) Distribution Region B consists of ~~the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New~~

~~Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.~~ Division 2 and Division 3.

(3) Distribution Region C consists of ~~the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.~~ Division 5 and Division 6.

(4) Distribution Region D consists of ~~the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.~~ Division 7 and Division 9.

(5) Distribution Region E consists of ~~the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.~~ Division 8 and Division 10.

(6) Distribution Region F consists of ~~the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.~~ Division 11 and Division 12.

(7) Distribution Region G consists of ~~the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.~~ Division 13 and Division 14."

Section 2. G.S. 136-17.2A is amended by adding a new subsection to read:

"(g) Unexpended and unencumbered funds that have been designated pursuant to the allocation formula provisions of this section for projects to be constructed under the Transportation Improvement Program in a particular Division shall remain available, from year to year, for construction of projects in that Division and shall be used for projects in that Division.

The Secretary may do either of the following:

(1) The Secretary may advance the construction of other Transportation Improvement Program projects within a Division in order to make the most efficient use of these funds.

(2) The Secretary may transfer designated funds from one or more donor Divisions to one or more recipient Divisions with the prior approval of the Board of Transportation. If a transfer or loan of designated funds is made, the same amount of funds shall be designated for use in the donor Divisions as soon as practicable and at least within five years.

(3) Funds transferred by this statute shall not be considered in the computation of the distribution formula as defined by G.S. 136-17.2A."

Section 3. G.S. 136-14.1 reads as rewritten:

"**§ 136-14.1. Transportation engineering divisions.**

For purposes of administering transportation activities, the ~~Department~~ Board of Transportation shall have authority to designate boundaries of 14 transportation engineering divisions for the proper administration of its duties."

Section 4. This act becomes effective July 31, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 233
S233-PCSRW-001
11-MAY-99 13:30:58

Short Title: TIP Funding Allocations/Loans. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT UNEXPENDED FUNDS DEDICATED TO A CERTAIN DISTRIBUTION REGION PURSUANT TO G.S. 136-17.2A SHALL BE USED FOR PROJECTS IN THAT DISTRIBUTION REGION OR MAY BE USED FOR LOANS TO OTHER DISTRIBUTION REGIONS THAT MUST BE RETURNED WITHIN THE FOLLOWING TRANSPORTATION IMPROVEMENT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than funds expended on an urban loop project listed in G.S. 136-180, shall be distributed throughout the State in accordance with this section. For purposes of this distribution, the counties of the State are grouped into seven distribution ~~regions~~ regions, each consisting of two divisions, as follows:

(1) Distribution Region A consists of ~~the following counties: Bertie, Camden, Chowan, Currituck, Dare,~~

~~Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.~~ Division 1 and Division 4.

(2) Distribution Region B consists of ~~the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.~~ Division 2 and Division 3.

(3) Distribution Region C consists of ~~the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.~~ Division 5 and Division 6.

(4) Distribution Region D consists of ~~the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.~~ Division 7 and Division 9.

(5) Distribution Region E consists of ~~the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.~~ Division 8 and Division 10.

(6) Distribution Region F consists of ~~the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.~~ Division 11 and Division 12.

(7) Distribution Region G consists of ~~the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.~~ Division 13 and Division 14."

Section 2. G.S. 136-17.2A is amended by adding a new subsection to read:

"(g) Unexpended and unencumbered funds that have been designated pursuant to the allocation formula provisions of this section for projects to be constructed under the Transportation Improvement Program in a particular Division shall remain

available, from year to year, for construction of projects in that Division and shall be used for projects in that Division.

The Secretary may do either of the following:

(1) The Secretary may advance the construction of other Transportation Improvement Program projects within a Division in order to make the most efficient use these funds.

(2) The Secretary may transfer designated funds from one or more donor Divisions to one or more recipient Divisions with the prior approval of the Board of Transportation. If a transfer, or loan, of designated funds is made, the same amount of funds shall be designated for use in the donor Divisions as soon as practicable and at least within five years.

(3) Funds transferred by this statute shall not be considered in the computation of the distribution formula as defined by G.S. 136-17.2A."

Section 3. G.S. 136-14.1 reads as rewritten:

"**§ 136-14.1. Transportation engineering divisions.**

For purposes of administering transportation activities, the ~~Department~~ Board of Transportation shall have authority to designate boundaries of 14 transportation engineering divisions for the proper administration of its duties."

Section 4. This act becomes effective July 31, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 333

Short Title: TIP Funding Allocations/Loans. (Public)

Sponsors: Representatives Hurley, Kinney, Warner; Allred, Barefoot, Bonner, Buchanan, Church, Cole, Culp, Fox, Goodwin, Hill, McAllister, Melton, Morris, Rogers, Wainwright, and Yongue.

Referred to: Transportation.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT UNEXPENDED FUNDS DEDICATED TO A CERTAIN DISTRIBUTION REGION PURSUANT TO G.S. 136-17.2A SHALL BE USED FOR PROJECTS IN THAT DISTRIBUTION REGION OR MAY BE USED FOR LOANS TO OTHER DISTRIBUTION REGIONS THAT MUST BE RETURNED WITHIN TWO YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than funds expended on an urban loop project listed in G.S. 136-180, shall be distributed throughout the State in accordance with this section. For purposes of this distribution, the counties of the State are grouped into seven distribution ~~regions~~ regions, each consisting of two divisions, as follows:

(1) Distribution Region A consists of ~~the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.~~ Division 1 and Division 4.

(2) Distribution Region B consists of ~~the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New~~

~~Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.~~ Division 2 and Division 3.

(3) Distribution Region C consists of ~~the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.~~ Division 5 and Division 6.

(4) Distribution Region D consists of ~~the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.~~ Division 7 and Division 9.

(5) Distribution Region E consists of ~~the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.~~ Division 8 and Division 10.

(6) Distribution Region F consists of ~~the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.~~ Division 11 and Division 12.

(7) Distribution Region G consists of ~~the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.~~ Division 13 and Division 14."

Section 2. G.S. 136-17.2A is amended by adding a new subsection to read:

"(g) Unexpended and unencumbered funds that have been designated pursuant to the allocation formula provisions of this section for projects to be constructed under the Transportation Improvement Program in a particular Division shall remain available, from year to year, for construction of projects in that Division and shall be used for projects in that Division.

The Highway Administrator may do either of the following:

(1) The Highway Administrator may advance the construction of other Transportation Improvement Program projects within a Division in order to make the most efficient use these funds.

(2) The Highway Administrator may transfer designated funds from one or more donor Divisions to one or more recipient Divisions with the prior approval of the Board of Transportation. If a transfer, or loan, of designated funds is made, the same amount of funds shall be designated for use in the donor Divisions within two years of the transfer, or loan, as a part of the next planning cycle for the Transportation Improvement Program."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 789

Short Title: Highway Utility Nonbetterment Cost-2. (Public)

Sponsors: Representative Goodwin.

Referred to: Transportation.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are ~~owned by:~~ any of the following:

(1) ~~(i) a~~ Owned by a municipality with a population of 5,500 or less according to the latest decennial ~~census; (ii)~~ census.

(2) ~~a~~ Owned by a nonprofit water or sewer association or ~~corporation; (iii)~~ corporation.

(3) ~~any~~ Owned by any water or sewer system organized pursuant to Chapter 162A of the General ~~Statutes; (iv)~~ Statutes.

(4) ~~a~~ Owned by a rural water system operated by county as an enterprise ~~system; (v)~~ system.

(5) ~~any~~ Owned by any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General ~~Statutes; or (vi)~~ Statutes.

(6) ~~constructed~~ Constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or

transferred to a municipality with a population of greater than 5,500 according to the latest decennial census.

(7) Owned by any municipality with a population of 20,000 or less according to the latest decennial census when all of the following conditions apply:

a. The line or lines were ordered to be installed by one State agency, construction was started, and then the line or lines were ordered to be relocated by the Department within four years in connection with reconstruction of a federal primary highway.

b. The municipality operates its water or sewer system as an enterprise system and has not used any of the proceeds from its water or sewer enterprise fund for any purposes other than water or sewer purposes during the previous five years."

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

HOUSE BILL 128:
Nonbetterment Relocation Costs

BILL ANALYSIS

Committee: House Transportation Committee
Date: May 12, 1999
Version: Proposed Com. Sub.

Introduced by: Reps. Cansler, Sherrill, Walend; and Nesbitt
Summary by: Giles S. Perry
Committee Counsel

CURRENT LAW: Current law requires DOT to reimburse the following six types of entities for the cost of moving (but not improving) their utility lines located on DOT right-of-way:

--a municipality of 5,500 or less

--a nonprofit water and sewer association

--a water or sewer system organized under Chapter 162A

--a rural water system operated by a county as an enterprise system

--a sanitary district organized under Chapter 130A, Art 2, Part 2

--a water or sewer system constructed under Chapter 162A, and sold to municipality with a population greater than 5,500

HOUSE BILL 128: House Bill 128, applicable only to Buncombe and Henderson Counties, would require DOT to pay the cost of moving (but not improving) water and sewer lines on DOT right of way constructed by a water and sewer system organized under Article 20 of Chapter 160A.

The water and sewer system would still be liable for accounts receivable for projects already completed or let prior to the effective date of the act.

Effective Date: when it becomes law, not to affect pending litigation.

SENATE BILL 233:
TIP Funding Allocations/Loans

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Sen. Shaw and others
Date:	May 12, 1999	**Summary by:**	Giles S. Perry
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY:

Senate Bill 233 amends the Department of Transportation regional distribution formula to require the Secretary to keep funds that cannot be spent in a division in one year available to the division in following years.

The Secretary is authorized by the bill to use the funds to advance other TIP projects within the division, or to loan the funds to other divisions. The amount of any loaned funds would have to be designated for use in the donor division within five years of the transfer.

The bill also clarifies in the statues that there are 14 transportation divisions.

Effective date :July 31, 1999.

George W. Breece

May 12, 1999

Dear Mr. Chairman,

I am writing to you as Chairman of the fifteen member Cumberland County Civic Center Commission, which oversees the Crown Coliseum Complex in Fayetteville. It is a pleasure for me to attend your committee meeting today and return to the North Carolina House of Representatives, a body that I served in some 24 years ago.

I come here today in support of Legislation that has passed the Senate as sponsored by Senators Rand and Shaw of Cumberland, and with a companion bill sponsored by Rep. Hurley and the other fine members of the House delegation from Cumberland. This legislation short title being the "TIP funding Allocation/Loan" bill.

Mr. Chairman, I could go on and on with a long list as to why this common sense legislation is needed but I know that you and your committee are looking for the bottom line on this and every issue you address. The bottom line Mr. Chairman is that our County and many more throughout North Carolina are losing millions of dollars every year on road projects that need to be started and completed. These dollars, because of a number of reasons, are being moved to other projects and our county and many others have to then begin the appropriations process all over. This legislation that I refer to as the IOU Transportation bill would guarantee that local road projects would become a reality within certain time constraints.

Mr. Chairman, I have enclosed a copy of an Editorial from the Fayetteville Observer Times and WFNC radio that both speak directly to this issue. Thank you for the opportunity to submit my letter and the attached to you and the committee.

With best wishes,

Sincerely,

George W. Breece

Fayetteville Observer-Times

THURSDAY
MARCH 25, 1999

Editorials

MERGING PLANS

Community's involvement is needed

The demise of the Owen Drive Extension in Fayetteville is being gloomily described as a setback and a dead end. In some respects it is both; but it is mainly a challenge to get busy and keep millions in road money where it is most urgently needed: here.

There is no true "alternative" to the Extension — not unless a number of agencies reverse themselves regarding the kind of interchange they've declared feasible for Wilkes Road and N.C. 87. The Extension, which would have provided the long-awaited thoroughfare from Fort Bragg to I-95 while meeting the traffic-control needs of the Crown Coliseum Complex, is dead. But there are other, more modest possibilities for an area in need.

The most promising, at this early stage, is a Wilkes Road-East Mountain Drive connector running just east of the National Guard Armory, past the front of the coliseum.

A few of the advantages: no wetlands disruption; no residents displaced; most of the route already lies along county and state rights-of-way. And, because the connector would be shorter than the now-defunct Extension, it would also be cheaper, which means the savings might be used to widen part or all of East Mountain Drive between U.S. 301 and N.C. 87. That would greatly improve traffic flow along several corridors, making it much more than a "coliseum project."

If the big disadvantage is that it would take years to complete, it has that in common with every other plan, proposal and talking point. And it is likely to be less time-consuming because the Corps of Engineers practically endorsed it, state Board of Transportation member Lyndo Tippett has already promised to put it on a fast track, and the Civic Center Commission is behind it.

BUT:

Nothing gets built — in fact, $5.2 million goes *poof!*— unless the General Assembly approves common-sense legislation (unanimously recommended by the Board of Transportation) that would allow money from stalled projects to be spent elsewhere, but would in effect require that areas in predicaments like ours be issued the equivalent of IOU's.

Not only that, the law must be passed *soon,* which means that if you plan to grade the lawmakers on their work as Plan B is developed, you should judge those who dither, stall and obstruct as harshly as you do those who openly try to divert the money to the pork barrel.

Sen. Tony Rand took the lead by introducing the necessary legislation in the Senate. Rep. Bill Hurley followed with a similar bill in the House. All area legislators except Rep. Edd Nye are reported to be on board.

The $5.2 million would be reason enough for the public to attend the requisite hearings. But there's much more at stake. This year, the IOU bill is critical to safeguarding $40 million on which this area has staked a big part of its transportation future.

There are worse things than ending up with a traffic-improvement plan that you can't help viewing as second-best — as the public, to its dismay, will surely discover in a few weeks unless it holds the lawmakers' feet to the fire regarding a problem that was already urgent years before Tuesday's bad news arrived.

AM640 FM102.3
WFNC
NEWS TALK RADIO

1009 Drayton Road ▪ PO Box 35297 ▪ Fayetteville, NC 28303 ▪ 910-864-5222 ▪ Fax 910-864-3065

3-26-99

Owen Drive Extension – Let Division Keep Money

There's no getting around it. The loss of the Owen Drive Extension is a terrific disappointment to the community, especially painful since many among us had taken it for granted that it would become a lovely and welcoming gateway to the southern part of Fayetteville. But there is also no use in whining over something that is clearly a dead issue. The only option now is to select another access to the Crown Coliseum – probably a Wilkes Road – East Mountain Drive connector – and get it built as quickly as possible.

The key to this project, and every other one in Cumberland County's future, is a measure now pending in the General Assembly which would allow state transportation funds allocated to a certain division to stay in that division whether a specific project, for example, the defunct Owen Drive extension, is actually constructed or not.

This proposal, steered to agreement through the Board of Transportation by Cumberland County's Representative Lyndo Tippett and introduced in the legislature by local Senator Tony Rand and Representative Bill Hurley, is one hundred and eighty degrees from the current practice of having unspent dollars revert to the Transportation Department to be doled out to some other road project somewhere else. Such monies could be "borrowed" between one highway division and another, but they would have to be repaid to the original division – hence the nickname, the "IOU" bill.

The bottom line here is that the magnitude of the loss of the Owen Drive extension, both in terms of dollars and the importance of the project to the community, makes the IOU Bill even more critical. Cumberland County cannot afford to send even one transportation dollar, let alone 5.2 million, back to Raleigh for some other community's benefit.

Fayetteville
North Carolina
CHAMBER OF COMMERCE

To the Members of the
North Carolina House of Representatives
Transportation Committee:

Fayetteville is North Carolina's 4th largest metropolitan area in terms, however, over the past decade we have ranked 12th of the 14 NCDOT Divisions in highway funding. From 1986 through 1996, NCDOT Division 6 had $4.3 billion in projects included in the Transportation Improvement Plan with only eight percent (8%) of those projects funded. When a project is not funded (a variety of reasons are used) funds are lost for the Division and are not return in a fair and equitable manner.

SB 239 / HB 333 addresses this issue and set forth the steps necessary to protect the integrity of the funding plan.

The Fayetteville Chamber of Commerce fully supports and endorses Senate Bill 239 and House Bill 333 which provide for the retention of allocated Department of Transportation funding into each Division regardless of the deposition of the projects funded and further, the Fayetteville Chamber of Commerce supports the bills' provision that will allow for the Department of Transportation to loan one division's funds to another division provided those funds are repaid to the original funded division when needed and urges the passage of one or a combination of these bills.

Sincerely,

J. David Jameson
President

May 12, 1999

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FAYETTEVILLE, NC 28302
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North Carolina's 4th Largest Metro

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CHAMBER OF COMMERCE
EXECUTIVES ASSOCIATION
BY THE UNITED STATES

VISITOR REGISTRATION SHEET

TRANSPORTATION — 5-12-99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Cyrus	N.C. State Grange
Bob Measamer	N.C. Realtors Assn.
CHET OEHME	FAYETTEVILLE ASSOC OF REALTORS
Johnnie Hall	Fayetteville Assoc. of Realtors
SWAYN Hamlet	Fayetteville Assoc of REALTORS
Walker Price	Chamber of Commerce
R. Rogers	DENR
Ashley Westbrook	Governor's office
Thomas Mills	DNSS
Barbara Wyse	Sierra Club
Nat Mundt	CCNC
David Knight	NCPTA NCCPT
BERRY JONES	CAROLINAS AGC
Aydren Flowers	NCDOT
[illegible] Roy	NCDOT
Ruth Sapp	NCDOT
C. JOHN MABONE	FAYETTEVILLE ASSN OF REALTORS®
JOHN HOLDREN	FAYETTEVILLE ASSN OF REALTORS®
HARRY STEWART	" " "
Cam Cruz	BDM & L
Richard Westbrook	UTU
Sherol Brewer	NC Petroleum Council
DAVID JAMESON	Fayetteville Chamber of Commerce
George W. Breece	Cumberland County Civic Center Commission

HOUSE TRANSPORTATION COMMITTEE MEETING

May 19, 1999

AGENDA

CALL MEETING TO ORDER

INTRODUCE PAGES

BILLS ON THE AGENDA:

SB 368 PUBLIC ACCESS TO RIVERS AND STREAMS
Sponsor: Senator Gulley

HB 789 HIGHWAY UTILITY NONBETTERMENT COST 2
Sponsor: Representative Goodwin

SB 1081 RECYCLED MATERIALS IN ROAD MAINTENANCE
Sponsor: Senator Albertson

HB 1386 FERRY DIVISION PRIVATIZATION
Sponsors: Representative McAllister

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

HOUSE TRANSPORTATION COMMITTEE

MEETING – MAY 19, 1999

MINUTES

The House Committee on Transportation met at 11:00 a.m. on Wednesday, May 19,1999, in Room 643 of the Legislative Office Building. Representative Charles M. Buchanan, Chair, called the meeting to order. Members present were: Representatives Adams, Buchanan, Baker, Bridgeman, Brown, Church, Clary, Cole, Crawford, Culp, Eddins, Gibson, Gillespie, Hill, Holmes, McComas, McLawhorn, Moore, Nye, Rayfield, Saunders, Setzer, Sherrill, Sutton, and Teague, Thomas, Wainwright, and Warwick. Giles Perry, Staff Counsel, was also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Buchanan introduced Dusty Rhodes and Martha Parrish with the Sergeant of Arms Office.

Chairman Buchanan announced HB 1386 Ferry Division Privatization would not be considered before the committee today at the request of the bill sponsor, Representative McAllister.

The first bill to be discussed was SB 368 Public Access to Rivers and Streams sponsored by Senator Gulley. Senator Gulley was recognized to explain the bill. The bill amends the powers of the Department of Transportation to authorize the Department to acquire land for and construct public access to rivers and streams. Senator Gulley stated that the Department of Transportation was okay with the bill since no additional money was needed but Mr. Charles Fullwood, Executive Director of Wildlife Resource in DEANER had requested the bill be amended to include coastal waters. Representative Church sent forth an amendment and made a motion to adopt the amendment. Ruth Sappie and Don Goins with the Department of Transportation and Giles Perry, Staff Counsel assisted Senator Gulley in a question and answer period concerning the bill. Representative Warwick asks that the bill be displaced until some questions could be worked out. After much discussion, Representative Church suggested that SB 368 and the amendment be withdrawn and put in a subcommittee. Chairman Buchanan ruled that the bill be assigned to a subcommittee and named Representative Church chairman of the committee. The other members are Representatives Gillespie, Hill,Sherrill and Thomas.

At this time, Representative Buchanan welcomed a school group from Surry County that was in the committee to observe the legislative process.

The next bill on the agenda was HB 789 Highway Utility Nonbetterment Cost 2, sponsored by Representative Goodwin. Representative Goodwin was recognized to explain the bill and offered a committee substitute bill for HB 789. Chairman Buchanan recognized Representative Church's motion to adopt the committee substitute for discussion and the motion carried. Representative Goodwin was recognized to explain the proposed committee substitute. After giving an explanation of the bill, Chairman Buchanan proposed a amendment that states funds expended by the Department of Transportation pursuant to this act shall be credited against Department projects in Richmond County only. A question and answer period followed, with Ruth Sappie and Aydren Flowers, State Utility Agent, with Department of Transportation, speaking in opposition to the bill and responding to questions from the committee. Mr. Flowers explained that the Department of Transportation was not aware of the situation with the other state agency, DENR at the time when the sewer line was installed. When the project became active, the Department of Transportation approached Rockingham County about the situation and they ask DOT to include the work as part of a roadway contract and entered into an agreement with them for reimbursement for the work, which was approximately $200,000. DOT was not aware until recently that DENR allowed this situation to occur. Representative Goodwin was recognized to respond and answer follow-up questions explaining Rockingham felt it had no choice but to enter an agreement to pay for line and entered the agreement in February of this year while this bill was being prepared for the legislature. Mrs. Sappie voiced her concern and suggested legislation to prevent miscommunication in the future. Representative Sherrill made a motion that the committee substitute be referred to a subcommittee for further study. Chairman Buchanan ruled HB 789 with the two amendments is assigned to a subcommittee and appointed Representatives Sutton, Cole, Holmes, Baker, Brown, and Gibson to the subcommittee. Representative Sutton will chair the subcommittee.

The third bill to come before the committee was SB 1081 Recycled Materials in Road Maintenance sponsored by Senator Albertson. Senator Albertson was recognized by Chairman Buchanan to explain the bill. A summary of the bill is attached to the minutes. In the question and answer period which followed the presentation, Ruth Sappie with the Department of Transportation, responded to questions concerning the bill. Due to the number of questions and time limitations, the bill will be considered in the next Transportation Committee Meeting.

The meeting adjourned at 12::00 a.m.

Charles Buchanan
Representative Charles Buchanan, Chair

Drew Saunders
Representative Drew Saunders, Chair

Glenda O Jones
Glenda O. Jones, Committee Assistant

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 368

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

S368-ARW-001 Page 1 of __

Date_____,1999

Rep.

moves to amend the bill on page 1, line 12,
by rewriting the phrase "rivers and streams" to read:
"rivers, streams, and coastal waters".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1081

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

S1081-ARW-001 Page 1 of __

Date_____,1999

Comm. Sub. [YES]
Amends Title []

Rep. Saunders

moves to amend the bill on page 1, line 21,
by deleting the phrase
",including hot in-place recycling,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 368
Second Edition Engrossed 4/21/99

Short Title: Public Access to Rivers and Streams. (Public)

Sponsors: Senators Gulley, Miller, Kinnaird; Horton and Hoyle.

Referred to: Transportation.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CONSTRUCT ACCESS TO RIVERS AND STREAMS.

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 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~~ overlooks, public access to rivers and streams, 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. 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 (i) for materials displayed in welcome centers in accordance with G.S. 136-89.56, and (ii) for 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. 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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H789-CSRW-002
PROPOSED COMMITTEE SUBSTITUTE
House Bill 789
THIS IS A DRAFT 18-MAY-99 15:29:34
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Highway Utility Nonbetterment Cost-2. (Public)

Sponsors:

Referred to: Transportation.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are ~~owned by:~~ any of the following:

(1) ~~(i) a~~ Owned by a municipality with a population of 5,500 or less according to the latest decennial ~~census; (ii)~~ census.

(2) ~~a~~ Owned by a nonprofit water or sewer association or ~~corporation; (iii)~~ corporation.

(3) ~~any~~ Owned by any water or sewer system organized pursuant to Chapter 162A of the General ~~Statutes; (iv)~~ Statutes.

(4) ~~a~~ Owned by a rural water system operated by county as an enterprise ~~system; (v)~~ system.

(5) ~~any~~ Owned by any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General ~~Statutes; or (vi)~~ Statutes.

(6) ~~constructed~~ Constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 5,500 according to the latest decennial census.

(7) Owned by any municipality with a population of 20,000 or less according to the latest decennial census when all of the following conditions apply:

a. The line or lines were required to be installed by one or more State agency, construction was started, and then the line or lines were required to be relocated by the Department within four years in connection with reconstruction of a federal primary highway.

b. The municipality operates its water or sewer system as an enterprise system and has not used any of the proceeds from its water or sewer enterprise fund for any purposes other than water or sewer purposes during the previous five years."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 789

Short Title: Highway Utility Nonbetterment Cost-2. (Public)

Sponsors: Representative Goodwin.

Referred to: Transportation.

April 1, 1999

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(2) ~~a~~ Owned by a nonprofit water or sewer association or ~~corporation; (iii)~~ corporation.

(3) ~~any~~ Owned by any water or sewer system organized pursuant to Chapter 162A of the General ~~Statutes; (iv)~~ Statutes.

(4) ~~a~~ Owned by a rural water system operated by county as an enterprise ~~system; (v)~~ system.

(5) ~~any~~ Owned by any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General ~~Statutes; or (vi)~~ Statutes.

(6) ~~constructed~~ Constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or

transferred to a municipality with a population of greater than 5,500 according to the latest decennial census.

(7) Owned by any municipality with a population of 20,000 or less according to the latest decennial census when all of the following conditions apply:

a. The line or lines were ordered to be installed by one State agency, construction was started, and then the line or lines were ordered to be relocated by the Department within four years in connection with reconstruction of a federal primary highway.

b. The municipality operates its water or sewer system as an enterprise system and has not used any of the proceeds from its water or sewer enterprise fund for any purposes other than water or sewer purposes during the previous five years."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1081
Second Edition Engrossed 4/28/99

Short Title: Recycled Materials in Road Maintenance. (Public)

Sponsors: Senators Albertson; and Metcalf.

Referred to: Transportation.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO EXPAND THE USE OF RECYCLED MATERIALS IN ROAD MAINTENANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.8 reads as rewritten:

"**§ 136-28.8. Use of recycled materials in construction.**

(a) It is the intent of the General Assembly that the Department of Transportation continue to expand its use of recycled materials in its construction and maintenance programs.

(b) The General Assembly declares it to be in the public interest to find alternative ways to use certain recycled materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. ~~To the extent economically practicable, the Department shall use:~~ The Department shall, consistent with economic feasibility and applicable engineering and environmental quality standards, use:

(1) Rubber from tires in road pavements, subbase materials, or other appropriate ~~applications; and~~ applications.

(2) Recycled materials for guard rail posts, right-of-way fence posts, and sign ~~supports~~ supports.

(3) Recycling technology, including hot in-place recycling, in road and highway maintenance.

~~so long as these materials meet all appropriate engineering standards.~~

(c) As a part of its scheduled projects, the Department shall conduct additional research, which may include demonstration projects, on the use of recycled materials in ~~construction.~~ construction and maintenance.

(d) The Department shall review and revise existing bid procedures and specifications to eliminate any procedures and specifications that explicitly discriminate against recycled materials in ~~construction,~~ construction and maintenance, except where the procedures and specifications are necessary to protect the health, safety, and welfare of the people of this State.

(e) The Department shall review and revise its bid procedures and specifications on a continuing basis to encourage the use of recycled materials in construction and maintenance and shall, to the extent economically practicable, require the use of recycled materials.

(f) All agencies shall cooperate with the Department in carrying out the provisions of this section.

(g) On or before October 1 of each year, the Department shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental ~~Operations and~~ Operations, the Joint Legislative Transportation Oversight Committee, and the Environmental Review Commission.

(h) The Department, in consultation with the Department of Environment and Natural Resources, shall determine minimum content standards for recycled materials.

(i) This section is broadly applicable to all procurements by the Department if the quality of the product is consistent with the requirements of the bid specifications.

(j) The Department may adopt rules to implement this section."

Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1386

Short Title: Ferry Division Privatization. (Public)

Sponsors: Representatives McAllister, Morgan, Hunter (Primary Sponsors); Adams, Arnold, Baker, Berry, Bowie, Brown, Brubaker, Buchanan, Cansler, Capps, Carpenter, Clary, Creech, Culp, Davis, Eddins, Esposito, Fitch, Gardner, Gillespie, Gray, Gulley, Holmes, McCombs, McMahan, Mitchell, Morris, Pope, Rayfield, Setzer, Sexton, Starnes, Sutton, Teague, Walend, and Wood.

Referred to: Transportation, if favorable, Appropriations.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO PRIVATIZE THE FERRY DIVISION.

The General Assembly of North Carolina enacts:

Section 1. Using funds appropriated from the Highway Fund for the operation of the Ferry Division, the Department of Transportation shall:

(1) Privatize the operations of all ferries.

(2) Seek bids for the addition of high speed passenger and vehicular ferries to the fleet.

(3) Develop and submit legislation providing for tax credits and other financing mechanisms to making it attractive for private entities to operate the ferry system.

(4) Require that all new ferries be built in North Carolina.

Section 2. The Department of Transportation shall report its plans for meeting the requirements of Section 1 of this act along with specific goals and performance measures to the November meeting of the Joint Legislative Transportation Oversight Committee.

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

SENATE BILL 368:
Public Access to Rivers and Streams

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Sens. Gulley, Miller, Kinnaird; Horton and Hoyle
Date:	May 19, 1999	**Summary by:**	Giles S. Perry Committee Counsel

SUMMARY:

Senate Bill 368 amends the powers of the Department of Transportation to authorize the Department to acquire land for and construct public access to rivers and streams.

Effective Date: when it becomes law.

HOUSE BILL 789:
Highway Utility Nonbetterment Cost -2

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Goodwin
Date:	May 19, 1999	**Summary by:**	Giles S. Perry
Version:	Proposed Committee Substitute		Committee Counsel

CURRENT LAW: Current law requires DOT to reimburse the following six types of entities for the cost of moving (but not improving) their utility lines located on DOT right-of-way:

--a municipality of 5,500 or less

--a nonprofit water and sewer association

--a water or sewer system organized under Chapter 162A

--a rural water system operated by a county as an enterprise system

--a sanitary district organized under Chapter 130A, Art 2, Part 2

--a water or sewer system constructed under Chapter 162A, and sold to municipality with a population greater than 5,500

HOUSE BILL 789: House Bill 789 would require DOT to pay the cost of moving (but not improving) water and sewer lines on DOT right of way constructed owned by a municipality with a population of 20,000 or less, when:

--the lines were required to be installed by one State agency, construction began, and then the lines were ordered relocated within four years in connection with reconstruction of a federal aid primary highway; and

--the municipality operates its water an sewer system as an enterprise system and has not used any of its proceeds for any purposes other than water and sewer purposes in the previous five years.

Effective Date: when it becomes law.

SENATE BILL 1081:
Recycled Materials in Road Maintenance

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Senator Albertson; and Metcalf
Date:	May 19, 1999	**Summary by:**	Giles S. Perry Committee Counsel

SUMMARY:

Senate Bill 1081changes the current law concering requiring the Department of Transportation to use recycled materials in construction to add *maintenance.*

In addition, the bill requires the Department to:

--use recycling technology, including *hot in-place recycling*, in road and highway maintenance, consistent with economic feasibility and applicable engineering and environmental standards; and.

--report its recycling efforts to the Joint Legislative Transportation Oversight Committee, in addition to the report already required for the Joint Legislative Commission on Governmental Operations.

Effective Date: July 1, 1999

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

May 26, 1999

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS TO BE CONSIDERED

SB 1081 RECYCLED MATERIALS ROAD MAINTENANCE

Bill Sponsor: Sen. Charles Albertson

HB 1273 FEDERAL CMAQ FUNDS USE/PUB. TRANS.

Bill Sponsor: Rep. Paul Luebke

ANNOUNCEMENTS

HOUSE TRANSPORTATION COMMITTEE

MEETING – MAY 26, 1999

MINUTES

The House Committee on Transportation met at 11:00 a.m. on Wednesday, May 26, 1999, in Room 643 of the Legislative Office Building. Representative Charles M. Buchanan, Chair, called the meeting to order. Members present were: Representatives Allred, Buchanan, Baker, Bridgeman, Brown, Church, Clary, Crawford, Culp, Eddins, Gibson, Gillespie, Hill, McComas, McLawhorn, Nye, Rayfield, Setzer, Sherrill, Sutton, and Teague, and Thomas. Giles Perry, Staff Counsel, was also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Buchanan introduced Dusty Rhodes and Martha Parrish with the Sergeant of Arms Office. He welcomed House Pages: Mike DeLuca and Mike McLaughlin of McDowell County, sponsored by Mitch Gillespie, Bradley Davis, Lincoln County, sponsored by Rep. Mitchell Setzer, and Norman Lewis, Harnett County, sponsored by Rep. Leslie Cox.

Chairman Buchanan announced SB 1081, Recycled Materials Road Maintenance, would not be considered before the committee today at the request of the bill sponsor, Senator Albertson.

The first bill to be discussed was HB 1273 Federal CMAQ Funds Use/Pub. Trans., sponsored by Representative Paul Luebke. Representative Luebke was recognized to explain the bill. Representative Sherrill offered a Committee Substitute and made a motion to adopt the Committee Substitute for discussion, the motion carried. Representative Luebke continued the explanation of the bill, assisted by Ruth Sappie with the Department of Transportation, in support of the bill. A question and answer period followed with numerous questions. Chairman Buchanan ruled that since there were so many unanswered questions, he was assigning it to a subcommittee and suggested they get together with the Department of Transportation to resolve unanswered questions. Chairman Buchanan named Representatives Sherrill, Gibson, Brown, Baker, Allred and Thomas to the subcommittee with Representative Sutton, chairman of the committee.

Representative Sutton announced that the subcommittee studying HB 789 would meet next week and report back to the committee.

The meeting adjourned at 11:55 a.m.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Glenda O. Jones, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1081
Second Edition Engrossed 4/28/99

Short Title: Recycled Materials in Road Maintenance. (Public)

Sponsors: Senators Albertson; and Metcalf.

Referred to: Transportation.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO EXPAND THE USE OF RECYCLED MATERIALS IN ROAD MAINTENANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.8 reads as rewritten:

"**§ 136-28.8. Use of recycled materials in construction.**

(a) It is the intent of the General Assembly that the Department of Transportation continue to expand its use of recycled materials in its construction and maintenance programs.

(b) The General Assembly declares it to be in the public interest to find alternative ways to use certain recycled materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. ~~To the extent economically practicable, the Department shall use:~~ The Department shall, consistent with economic feasibility and applicable engineering and environmental quality standards, use:

(1) Rubber from tires in road pavements, subbase materials, or other appropriate ~~applications; and~~ applications.

(2) Recycled materials for guard rail posts, right-of-way fence posts, and sign ~~supports~~ supports.

(3) Recycling technology, including hot in-place recycling, in road and highway maintenance.

~~so long as these materials meet all appropriate engineering standards.~~

(c) As a part of its scheduled projects, the Department shall conduct additional research, which may include demonstration projects, on the use of recycled materials in ~~construction.~~ construction and maintenance.

(d) The Department shall review and revise existing bid procedures and specifications to eliminate any procedures and specifications that explicitly discriminate against recycled materials in ~~construction,~~ construction and maintenance, except where the procedures and specifications are necessary to protect the health, safety, and welfare of the people of this State.

(e) The Department shall review and revise its bid procedures and specifications on a continuing basis to encourage the use of recycled materials in construction and maintenance and shall, to the extent economically practicable, require the use of recycled materials.

(f) All agencies shall cooperate with the Department in carrying out the provisions of this section.

(g) On or before October 1 of each year, the Department shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental ~~Operations and~~ Operations, the Joint Legislative Transportation Oversight Committee, and the Environmental Review Commission.

(h) The Department, in consultation with the Department of Environment and Natural Resources, shall determine minimum content standards for recycled materials.

(i) This section is broadly applicable to all procurements by the Department if the quality of the product is consistent with the requirements of the bid specifications.

(j) The Department may adopt rules to implement this section."

Section 2. This act becomes effective July 1, 1999.

#1
5-26-99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H1273-CSRW-001
PROPOSED COMMITTEE SUBSTITUTE
House Bill 1273
THIS IS A DRAFT 12-MAY-99 09:07:46
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Federal CMAQ Funds Use (Public)

Sponsors:

Referred to: Transportation.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FEDERAL CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM FUNDS FROM THE TRANSPORTATION EQUITY FORMULA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-17.2A(a) reads as rewritten:

" (a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than (i) funds expended on an urban loop project listed in G.S. 136-180, and (ii) funds appropriated through the Transportation Equity Act for the 21st Century designated as Congestion Mitigation and Air Quality funds shall be distributed throughout the State in accordance with this section. For purposes of this distribution, the counties of the State are grouped into seven distribution regions as follows:

(1) Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde,

Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

(2) Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

(3) Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.

(4) Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.

(5) Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.

(6) Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

(7) Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1273*

Short Title: Federal CMAQ Funds Use/Pub. Trans. (Public)

Sponsors: Representatives Luebke; Mosley and Insko.

Referred to: Transporation.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT FEDERAL CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM FUNDS BE USED FOR PUBLIC TRANSPORTATION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Article 2B of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.20A. Certain federal funds to be used for public transportation purposes.**

The Department of Transportation shall use all funds appropriated by the United States to the State pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149 for public transportation purposes and in accordance with 23 U.S.C. § 149."

Section 2. G.S. 136-16 reads as rewritten:

"**§ 136-16. Funds and property converted to State Highway Fund.**

Except as provided in G.S. 136-44.20A and as otherwise provided, all funds and property collected by the Department of Transportation shall be paid or converted into the State Highway Fund."

Section 3. G.S. 136-17.2A is amended by adding a new subsection to read:

"(g) Funds appropriated by the United States to the State pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149 shall be used as provided in G.S. 136-44.20A."

Section 4. This act becomes effective 1 July 1999.

5-26

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1273*

Short Title: Federal CMAQ Funds Use/Pub. Trans. (Public)

Sponsors: Representatives Luebke; Mosley and Insko.

Referred to: Transporation.

April 15, 1999

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"(g) Funds appropriated by the United States to the State pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149 shall be used as provided in G.S. 136-44.20A."

Section 4. This act becomes effective 1 July 1999.

HOUSE BILL 1273:
Federal CMAQ Funds

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Luebke and others
Date:	May 26, 1999	**Summary by:**	Giles S. Perry
Version:	Proposed Com. Sub.		Committee Counsel

Summary:

A portion of the federal transportation funds received by North Carolina is designated for transportation projects in Clean Air Act non-attainment areas. These funds, called "CMAQ" funds (for "congestion mitigation and air quality improvement") can be used for a variety of purposes, so long as the use will improve air quality.

These funds are included in the equity region distribution formula enacted as part of the Highway Trust Fund.

House Bill 1273 would remove the federal "CMAQ" funds from the equity formula.

Effective Date: July 1, 1999.

VISITOR REGISTRATION SHEET

TRANSPORTATION — Name of Committee

MARCH 31, 1999 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry Hedgpeth	NC Funeral Directors Assoc.
Marlena Tanyzel	NC DOT
Ruth Sappia	NCDOT
Jon Carr	Jordan Price
Larry Stanek	NCFDA
Jeff Harding	NCPMA
Tommy Nicker	NCPMA
John Phelps	NCLM
[illegible]	AT&T
Lucius Pullen	Attorney
Alan Newman	Poyner & Spruill
[illegible]	VMCRR
John Cannon	N.C. State Lumber
Steve Woodson	NC Farm Bureau
Ellis Caldwell	Hall, Caldwell, P.A.
Buddy Lowe	NCDOT & NCPMA
Dan O'Rourke	Mt. Olive NCPMA
Judson Pace	NCPMA
Charlie Diehl	NC Outdoor Advertising Association

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

April 7, 1999
Room 643 LOB
11:00 AM

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS TO BE CONSIDERED

HB 280 MOTOR VEHICLES TECH. AMENDMENTS/AB
Sponsors: Reps. Cole and Justus

HB 317 SAFETY CHAINS FOR TRAILERS
Sponsors: Reps. Redwine, Thompson, Luebke, Cole, Melton

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

April 7, 1999

The House Committee on Transportation met on April 7, 1999, at 11:00 AM in Room 643 of the Legislative Office Building. Members present were: Reps. Saunders, Buchanan, Moore, Adams. Baker, Bridgeman, Brown, Church, Clary, Cole, Crawford, Eddins, Gillespie, Hill, Holmes, McLawhorn, Nye, Rayfield, Sherrill, Teague, and Thomas. Giles Perry, Staff Counsel, was also present. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Drew Saunders, Chair, presided over the meeting. He introduced Dusty Rhodes and Tom Wilder from the Sergeant of Arms Staff. He welcomed Pages, D.J. Jefferson, Jr. from Johnston County, sponsored by Speaker Black, and Afton Mosley from Wake County, sponsored by Representative Bonner.

The first bill on the agenda was HB 280 Motor Vehicle Tech. Amendments/AB. Representative Buchanan made a motion to consider the committee substitute bill which had been proposed by a subcommittee. Representative Nye, Chair of the subcommittee, was recognized and commented that the subcommittee had carefully reviewed each line of the bill. Giles Perry presented a summary of the changes made in the subcommittee. Representative Cole, sponsor of HB 280, requested that the bill be amended in Section 19, Page 11, to move the effective date for compliance to July 1, 1999. Representative Baker made a motion that the amendment be approved. A vote was taken, and the amendment was approved. A question and answer period followed. Representative Buchanan made a motion that the amendment be rolled into the committee substitute bill and that the committee substitute be given a favorable report and the original bill be given an unfavorable report. A vote followed, and the motion was approved.

HB 317 Safety Chains for Trailers was the second bill on the agenda. Since Representative Redwine, sponsor of the bill, was not available, the bill was removed from the agenda.

The meeting adjourned at 11:17 AM.

Charles Buchanan

Representative Charles Buchanan, Chair

Drew Saunders

Representative Drew Saunders, Chair

Ruth Fish

Ruth Fish, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Saunders and Buchanan** for the Committee on **Transportation**.

☐ Committee Substitute for
H.B. 280 A BILL TO BE ENTITLED AN ACT TO AMEND THE MOTOR VEHICLE LAWS TO MAKE TECHNICAL AMENDMENTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #)~~, (and recommendation that the committee substitute bill ~~#)~~ be re-referred to the Committee on Finance

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H280-CSRW-003
PROPOSED COMMITTEE SUBSTITUTE
House Bill 280
THIS IS A DRAFT 6-APR-99 21:53:00
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors:

Referred to: Transportation, if favorable, Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The

terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued under this subdivision expires or is revoked, the license continues in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the interval determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise,

involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-63(g) reads as rewritten:

" (g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, or who shall cover any number or sticker on a registration plate with any material that makes the number or sticker illegible, shall be guilty of a Class 2 misdemeanor."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i)Electronic applications and collections.-- The Division is authorized to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years. After twenty years, the Division shall maintain a record of the last two owners.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 2000 all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 8.1. G.S. 20-79.4(b)(27) reads as rewritten:

"(27) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired. ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~"

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. ~~Collection of delinquent penalties and taxes.~~ Detaining property hauling vehicles until penalties and taxes are collected.**

~~A law enforcement officer who discovers that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~

(a) Authority to detain vehicles.-- A law enforcement officer may seize and detain the following property-hauling vehicle operating on the highways of the State:

(1) a property-hauling vehicle with an overload in violation of G.S. 20-88(k) or G.S. 20-118, until the penalty is paid;

(2) a property-hauling vehicle that is equipped with improper registration plates, until the proper plates are secured for the vehicle and the penalty due under G.S. 20-118.3 is paid;

(3) a property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days; and

(4) a property hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes, until the overdue penalties or taxes are paid.

(b) Storage; liability.-- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident:~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.

(3) The persons and vehicles involved.

(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within ten business days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within ten working days of its issuance; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or

(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division.

Any insurance company with less than twenty-five million dollars ($25,000,000) in annual vehicle insurance premium volume may submit notices required under this section by paper or electronic means."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 180, 382, and 390 through 398.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State~~

~~and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(3) Interstate commerce. -- As defined in 49 C.F.R. Part 390.5

(4) Intrastate commerce. -- As defined in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a

processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00

	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	41.00
Buses:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 lbs. that do not haul products for-hire	41.50 (4,000 lbs.)
		51.00 (5,000 lbs.)
		61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. -- A supervising driver ~~must~~ shall be a parent or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver ~~must~~ shall be a licensed driver who has been licensed for at least five years. ~~A~~ At least one supervising driver ~~must~~ shall sign the application for a permit or license. ~~Each permit or license issued pursuant to this section shall be limited to a maximum of two supervising drivers.~~"

Section 20. The Division of Motor Vehicles shall develop a plan to improve the system of collecting and maintaining proof of financial responsibility for newly licensed drivers classified as inexperienced operators. The Division shall submit its report to the Joint Legislative Transportation Oversight Committee by December 1, 1999.

Section 21. Section 11 of this act becomes effective October 1, 2000. The remainder of this act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H280-CSRW-002
PROPOSED COMMITTEE SUBSTITUTE
House Bill 280
THIS IS A DRAFT 23-MAR-99 15:05:18
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors:

Referred to: Transportation, if favorable, Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The

terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued under this subdivision expires or is revoked, the license continues in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise,

involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-63(g) reads as rewritten:

" (g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, or who shall obscure any number or sticker with any tinted material, shall be guilty of a Class 2 misdemeanor."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i)Electronic applications and collections.-- The Division is authorized to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The

photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 1999, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. ~~Collection of delinquent penalties and taxes.~~ Detaining property hauling vehicles until penalties and taxes are collected.**

~~A law enforcement officer who discovers that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~

(a) Authority to detain vehicles.-- a law enforcement officer may seize and detain the following property-hauling vehicle operating on the highways of the State:

(1) a property-hauling vehicle with an overload in violation of G.S. 20-88(k) or G.S. 20-118, until the overload is removed and the penalty is paid;

(2) a property-hauling vehicle that is equipped with improper registration plates, until the proper plates

are secured for the vehicle and the penalty due under G.S. 20-118.3 is paid;

(3) a property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days; and

(4) a property hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes, until the overdue penalties or taxes are paid.

(b) Storage; liability.-- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident:~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.

(3) The persons and vehicles involved.

(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within five business days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within three working days; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or

(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new

registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division.

Any insurance company with less than twenty-five million dollars ($25,000,000) in annual vehicle insurance premium volume may submit notices required under this section by paper or electronic means."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 180, 382, and 390 through 398.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(3) Interstate commerce. -- As defined in 49 C.F.R. Part 390.5

(4) Intrastate commerce. -- As defined in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local

roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	41.00
Bus:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 that do not	

haul products for hire	41.50 (4,000 lbs.)
	51.00 (5,000 lbs.)
	61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. -- A supervising driver ~~must~~ shall be a parent or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver ~~must~~ shall be a licensed driver who has been licensed for at least five years. ~~A~~ At least one supervising driver ~~must~~ shall sign the application for a permit or license. ~~Each permit or license issued pursuant to this section shall be limited to a maximum of two supervising drivers.~~"

Section 20. Section 11 of this act becomes effective October 1, 2000. The remainder of this act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 280
Proposed Committee Substitute H280-PCS1153-RW

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued

under this subdivision expires or is revoked, the license continues in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who

shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, or who shall cover any number or sticker on a registration plate with any material that makes the number or sticker illegible, shall be guilty of a Class 2 misdemeanor."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Electronic Applications and Collections. -- The Division is authorized to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years. After 20 years, the Division shall maintain a record of the last two owners.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 2000, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 8.1. G.S. 20-79.4(b)(27) reads as rewritten:

"(27) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired. ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~"

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. ~~Collection of delinquent penalties and taxes.~~ Detaining property-hauling vehicles until penalties and taxes are collected.**

~~A law enforcement officer who discovers that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~

(a) Authority to Detain Vehicles. -- A law enforcement officer may seize and detain the following property-hauling vehicle operating on the highways of the State:

(1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) or G.S. 20-118, until the penalty is paid;

(2) A property-hauling vehicle that is equipped with improper registration plates, until the proper plates are secured for the vehicle and the penalty due under G.S. 20-118.3 is paid;

(3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days; and

(4) A property hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes, until the overdue penalties or taxes are paid.

(b) Storage; Liability. -- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident.~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.

(3) The persons and vehicles involved.

(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within 10 business days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance

policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within 10 working days of its issuance; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or

(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division.

Any insurance company with less than twenty-five million dollars ($25,000,000) in annual vehicle insurance premium volume may submit notices required under this section by paper or electronic means."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 180, 382, and 390 through 398.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(3) Interstate commerce. -- As defined in 49 C.F.R. Part 390.5.

(4) Intrastate commerce. -- As defined in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over~~

~~fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	41.00
Buses:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 lbs. that do not haul products for-hire	41.50 (4,000 lbs.) 51.00 (5,000 lbs.) 61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina

or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. -- A supervising driver ~~must~~ shall be a parent or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver ~~must~~ shall be a licensed driver who has been licensed for at least five years. ~~A~~ At least one supervising driver ~~must~~ shall sign the application for a permit or license. ~~Each permit or license issued pursuant to this section shall be limited to a maximum of two supervising drivers.~~"

Section 20. The Division of Motor Vehicles shall develop a plan to improve the system of collecting and maintaining proof of financial responsibility for newly licensed drivers classified as inexperienced operators. The Division shall submit its report to the Joint Legislative Transportation Oversight Committee by December 1, 1999.

Section 21. Section 11 of this act becomes effective October 1, 2000. Section 19 of this act becomes effective July 1, 1999. The remainder of this act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 280

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors: Representatives Cole; and Justus.

Referred to: Transportation, if favorable, Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE LAWS TO MAKE TECHNICAL AMENDMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued under this subdivision expires or is revoked, the license continues

in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-16.2(d) reads as rewritten:

"(d) Consequences of Refusal; Right to Hearing before Division; Issues. -- Upon receipt of a properly executed affidavit required by subsection (c), the Division ~~must~~ shall expeditiously notify the person charged that the person's license to drive is revoked for 12 months, effective on the ~~tenth~~ twentieth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. Except for the time referred to in

G.S. 20-16.5, if the person shows to the satisfaction of the Division that his or her license was surrendered to the court, and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the 12-month revocation period required by this subsection. If the person properly requests a hearing, the person retains his or her license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing ~~must~~ shall be conducted in the county where the charge was brought, and ~~must~~ shall be limited to consideration of whether:

(1) The person was charged with an implied-consent offense;
(2) The charging officer had reasonable grounds to believe that the person had committed an implied-consent offense;
(3) The implied-consent offense charged involved death or critical injury to another person, if this allegation is in the affidavit;
(4) The person was notified of his or her rights as required by subsection (a); and
(5) The person willfully refused to submit to a chemical analysis upon the request of the charging officer.

If the Division finds that the conditions specified in this subsection are met, it ~~must~~ shall order the revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not met, it ~~must~~ shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is not met, it ~~must~~ shall order the revocation sustained if that is the only condition that is not met; in this instance subsection (d1) does not apply to that revocation. If the revocation is sustained, the person ~~must~~ shall surrender his or her license immediately upon notification by the Division."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Nothing in this section shall prohibit the issuance of registration plates, registration certificates, and certificates of title through electronic application or issuance or shall prohibit the collection of fees and penalties electronically."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as

he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 1999, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. Collection of delinquent penalties and taxes.**

A law enforcement officer who discovers ~~that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

a property-hauling vehicle being operated on the highways with an overload in violation of G.S. 20-88(k) or G.S. 20-118, or which is equipped with improper registration plates, or the owner of which is liable for any overload penalties or assessments due and unpaid for more than 30 days, or in violation of the provisions of Article 36B of Chapter 105 of the General Statutes, may seize the property-hauling vehicle and hold it until the overload has been removed or proper registration plates have seen secured for the vehicle and the penalties owed under this section and G.S. 20-118(e), G.S. 20-118.3, and under Article 36B of Chapter 105 of the General Statutes have been paid.

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~ When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the

Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident:~~ crash:

(1) The cause of the ~~accident.~~ crash.
(2) The conditions existing at the time of the ~~accident.~~ crash.
(3) The persons and vehicles involved.
(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within three working days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within three working days; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or
(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner,

spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division."

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"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 185, 382, and 390 through ~~398.~~ 397.

~~(2) Foreign commerce. -- Commerce between any of the following:~~

~~a. A place in the United States and a place in a foreign country.~~

~~b. Places in the United States through any foreign country.~~

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(2) Interstate commerce and intrastate commerce shall have the same definitions as set forth in 49 C.F.R. Part 390.5."

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"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

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"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

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"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

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b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

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	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	41.00
Bus:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 that do not haul products for hire	41.50 (4,000 lbs.)
		51.00 (5,000 lbs.)
		61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 317

Short Title: Safety Chains for Trailers. (Public)

Sponsors: Representatives Redwine; Thompson, Luebke, Cole, and Melton.

Referred to: Transportation.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TOWED VEHICLES ATTACHED BY MEANS OF LOCKING PINS OR BOLTS TO ALSO HAVE SAFETY CHAINS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-123 reads as rewritten:

"**§ 20-123. Trailers and towed vehicles.**

(a) The limitations in G.S. 20-116 on combination vehicles do not prohibit the towing of farm trailers not exceeding three in number nor exceeding a total length of 50 feet during the period from one-half hour before sunrise until one-half hour after sunset when a red flag of at least 12 inches square is prominently displayed on the last vehicle. The towing of farm trailers and equipment allowed by this subsection does not apply to interstate or federal numbered highways.

(b) No trailer or semitrailer or other towed vehicle shall be operated over the highways of the State unless such trailer or semitrailer or other towed vehicle be firmly attached to the rear of the towing unit, and unless so equipped that it will not snake, but will travel in the path of the vehicle drawing such trailer or semitrailer or other towed vehicle, which equipment shall at all times be kept in good condition.

(c) In addition to the requirements of subsections (a) and (b) of this section, the towed vehicle shall be attached to the towing unit by means of safety chains or cables which shall be of sufficient strength to hold the gross weight of the towed vehicle in the event the primary towing device fails or becomes disconnected while being operated on the highways of this State if the primary towing attachment is a ball hitch. ~~Trailers and semitrailers having locking pins or bolts in the towing attachment to prevent disconnection, and the locking pins or bolts are of sufficient strength and~~

~~condition to hold the gross weight of the towed vehicle, need not be equipped with safety chains or cables unless their operation is subject to the requirements of the Federal Motor Carrier Safety Regulations.~~ Semitrailers in combinations of vehicles that are equipped with fifth wheel assemblies that include locking devices need not be equipped with safety chains or cables."

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

HOUSE BILL 280:
Motor Vehicle Technical Amendments/AB

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Reps. Cole; and Justus
Date:	April 7, 1999	**Summary by:**	Giles S. Perry
Version:	Proposed Committee Substitute H280-SMRW-003		Committee Counsel

SUMMARY:

Section 1 changes the term "accident" to "crash" in the motor vehicle definitions.

Section 2 defines the new term "crash" in motor vehicle laws.

Section 3 authorizes DMV to require a disabled person with a drivers license to present a medical certificate at an interval deemed appropriate by the Division, instead of every year, as under current law.

Section 4 requires DMV to offer a hearing within 60 days to a person whose license is suspended under 20-16(d)(now-30 days).

Section 5 prohibits covering numbers and stickers on license plates with any material that makes the number or sticker illegible. (Class 2 misdemeanor)

Section 6 authorizes DMV to electronically accept applications for registration plates, registration certificates, and certificates of title; and to collect fees and penalties electronically.

Section 7 requires DMV to maintain title records for 20 years. After twenty years, DMV would only be required to maintain a record of the last two owners.

Section 8 would require DMV to receive 1,000 applications before issuing a new special plate (now-300 for most new plates).

Section 8.1 would delete the requirement that DMV have 300 applications before assign a military retiree plate. The effect of this section would be to require DMV to issue a retired Coast Guard plate, since all other military branch retiree plates have been issued.

Section 9. Current law allows law enforcement officers to detain vehicles owned by a person who owes any overweight penalties or unpaid motor fuels taxes or penalties that are more than 30 over due. Section 9 would, in addition, authorize law enforcement officers to seize and detain property hauling vehicles that are found to be overweight until the penalties are paid [see (a)(1)]; vehicles with improper registration plates, until the plates are replaced and the penalty is paid [see(a)(2)]; and vehicles that are owned by a person who owes any motor fuel taxes or penalties [see(a)(4)].

Section 10 authorizes DMV to provide "forms or procedures" for submitting crash data. Under current law, they provide a "form."

Section 11 requires insurance companies to electronically notify DMV of terminations and new insurance policies within ten business days. Small insurance companies could still submit the reports by paper.

Section 12 corrects and simplifies a reference to federal law.

Section 13 corrects a reference to federal law

Section 14 amends the definition of "Gross Vehicle Weight Rating" to allow DMV enforcement officers to use the license weight or total weight of a structurally altered vehicle when enforcing motor carrier safety regulations, and when determining if the driver requires a CDL.

Section 15 changes the term "recyclable: to "recyclable material".

Section 16 changes the vehicle registration category for small daily rental trucks. Currently, small daily rental trucks are issued a "for-hire" plate, and are required to have "Form E" insurance ($100,000/$300,000/$50,000). Other daily rental vehicles are issued "u-drive-it plates" and are only required to have minimum insurance coverage. To standardize the treatment of daily rental cars and small trucks, this section establishes a "u-drive-it" category and fee schedule for small trucks, and (as a result) changes the insurance classification for small daily rental trucks so they can be insured under a minimum liability policy.

Section 17 corrects a statutory reference.

Section 18 corrects a statutory reference.

Section 19 authorizes Level 1 and Level 2 drivers under the graduated drivers license system to have more than two supervising drivers.

Section 20 requires DMV to develop a plan to improve the collection an maintenance of proof of financial responsibility for newly licensed drivers classified as inexperienced operators, and submit the plan by December 1, 1999.

Effective Date:

Section 21 provides that Section 11 becomes effective October 1, 2000. The rest of the bill would become effective October 1, 1999.

VISITOR REGISTRATION SHEET

TRANSPORTATION 4-7-99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Charles Diehl	NC outdoor Adv. Assoc.
2.	Roy	NCDOT
3.	Charles Archer	Halifax Co.
4.	Doug Duncan	NC Forestry Assoc
5.	Natalie English	NC Agribusiness Council
6.	VL McBride	NCTA
7.	John Cyrus	N.C. State Grange
8.	Steve Woodson	NCFB
9.	Robert Glaser	NC Auto Dealers
10.	[illegible]	~~Property & Casualty Ins Assn of N.C.~~
11.	Mac Bosley	N.C Aggregates Assoc.
12.	[illegible]	DMV - Motor Licen
13.	Rick Sappie	NCDOT
14.	Michael Bryant	DL/DMV
15.	[illegible]	DMV
16.	[illegible] Edwards	
17.	Ray Patterson	DMV
18.	[illegible] Woody	DMV ENFORCEMENT
19.	Diane Johnson	DMV. Veh Reg
20.	[illegible]	Bone & Associates
21.	[illegible]	WCSR

HOUSE TRANSPORTATION COMMITTEE MEETING

APRIL 14, 1999

AGENDA

CALL MEETING TO ORDER

INTRODUCE PAGES:

BILLS ON THE AGENDA:

HB 317 SAFETY CHAINS FOR TRAILERS—Rep. Redwine

HB 333 TIP FUNDING ALLOCATIONS/LOANS—Representatives Hurley, Kinney and Warner

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

HOUSE TRANSPORTATION COMMITTEE

MEETING – APRIL 14, 1999

MINUTES

The House Committee on Transportation met at 11:00 a.m. on Wednesday, April 14, 1999 in Room 643 of the Legislative Office Building. Representative Charles M. Buchanan, Chair, called the meeting to order. Members present were: Representatives Buchanan, Baker, Bridgeman, Brown, Church, Cole, Crawford, Culp, Eddins, Gillespie, Hill, Holmes, McLawhorn, Nye, Rayfield, Saunders, Sutton, and Teague. Giles Perry, Staff Counsel, was also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Buchanan introduced Dusty Rhodes and Martha Parrish with the Sergeant of Arms Office and Pages, Genesis Wallace and Donnie Bowen of Wake County, sponsored by Speaker Black and Representative Capps.

Chairman Buchanan announced HB 317 Safety Chains for Trailers would not be considered before the committee at the request of the bill sponsor, Representative Redwine. HB 333 TIP Funding Allocations/Loans would not come before the committee today and would be placed on the calendar at a later date since Representative Hurley, sponsor of the bill, was unable to attend due to a conflict in his schedule.

There being no further business, the meeting adjourned at 11:15 a.m.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Glenda O. Jones, Committee Assistant

VISITOR REGISTRATION SHEET

TRANSPORTATION ,1999

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Rogers	NCDOT
Laura DeVivo	DENR
Ruth Sapphire	NCDOT
Christie Mullis	CHPH
David Wright	NCPTA NCCPT
SAM Cooke	NCFA / International Paper Co.
Mike Markevich	NCFA / International Paper Co
Walter Price	C/H Chamber
Ed Regan	N.C. Assoc of Co. Com
Carl Goodwin	OSP
Melissa Jernigan	intern
Betsy Bailey	NCPTA

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

June 9, 1999

OPENING REMARKS

Representative Drew Saunders, Chair

INTRODUCTION OF SOUTHWEST AIRLINES STAFF

Michael "Mike" Blanton, Public Affairs Manager
Raleigh-Durham Airport Authority

Todd Rogers, Manager of Governmental Affairs
Southwest Airlines, Washington, D.C.

BILLS TO BE DISCUSSED

HB 1386 Ferry Division Privatization
Bill Sponsors: Reps. McAllister, Morgan, Hunter

SB 1140 Surry Billboard Ban Repealed
Bill Sponsor: Sen. East

QUESTIONS AND ANSWERS

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

June 9, 1999

The House Committee on Transportation met on June 9, 1999, in Room 643 of the Legislative Office Building. The meeting was called to order by Representative Drew Saunders, Chair. Members present were: Representatives Adams, Bridgeman, Brown, Buchanan, Church, Clary, Cole, Crawford, Culp, Eddins, Gillespie, Holmes, McComas, McLawhorn, Nye, Rayfield, Saunders, Setzer, Sherrill, Thomas, Wainwright, and Warwick. Giles Perry, Staff Counsel, was also present.

Representative Saunders introduced Pages: Phil Montague from Wake County, sponsored by Representative Ellis; John Derrick from Wake County, sponsored by Representative Owens; Alan Balog from Alamance County, sponsored by Representative Cole; and Sergeant of Arms Staff, Dusty Rhodes and Martha Parrish.. Then, Representative Saunders recognized Mike Blanton, Public Affairs Manager of Raleigh-Durham Airport Authority, who introduced Todd Rogers, Manager of Governmental Affairs for Southwest Airlines, and Jennifer Hanson, Marketing Manager of Southwest Airlines for Raleigh-Durham. Mr. Rogers and Ms. Hanson spoke briefly about Southwest Airlines and their addition of services to Raleigh-Durham Airport.

The first bill to be discussed was HB 1386 Ferry Division Privatization, and Representative Buchanan made a motion that a committee substitute be considered. Representative McAllister, bill sponsor, was recognized to explain the bill. The bill authorized the Legislative Research Commission to study the privatization of the Ferry Division of the Department of Transportation. Representative Baker made a motion to amend the bill by adding the words, sales or leasing, on line 11 and correct the spelling of the word "privitization". After discussion, the amendment was voted on and approved. Ruth Sappie with the Department of Transportation (DOT) was asked to state the position of DOT. She stated that the Ferry Division was doing well and DOT had no problem with the committee substitute bill. Representative Baker made a motion that the committee substitute be given a favorable report and be referred to the Rules Committee. A vote was taken, and the motion was approved.

The second bill to be considered was SB 1140 Surry Billboard Ban, and Senator East was called on to explain the bill. The bill would ban new or replacement billboards on a portion of U.S. Highway 52 and North Carolina Highway 752 in Surry County. When Ms. Sappie was requested to state the position of DOT, she said that DOT had no position on the bill. Following a question and answer period, Representative Baker made a motion to give the bill a favorable report. The bill was voted on and approved.

There being no further business, the meeting adjourned at 11:30 AM.

Rep. Charles Buchanan, Chair

Rep. Drew Saunders, Chair

Ruth Fish, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan and Saunders** for the Committee on **Transportation.**

☐ Committee Substitute for
H.B. 1386 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO PRIVATIZE THE FERRY DIVISION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #_____)~~, (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on Rules.)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **TRANSPORTATION.**

☒ Committee Substitute for
S.B. 1140 A BILL TO BE ENTITLED AN ACT TO BAN NEW OR REPLACEMENT BILLBOARDS ON A PORTION OF U.S. HIGHWAY 52 AND NORTH CAROLINA HIGHWAY 752 IN SURRY COUNTY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H1386-CSRW-002
PROPOSED COMMITTEE SUBSTITUTE
HOUSE BILL 1386
THIS IS A DRAFT 9-JUN-99 10:31:51
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: LRC Study Ferry Div. Privitization. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY PRIVITIZATION OF THE FERRY DIVISION OF THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is authorized to study issues relating to the privitization of the Ferry Division of the Department of Transportation.

Section 2. As a part of its study, the Commission shall study the following:

(1) The feasibility of leasing all ferries to private entities for operation.

(2) The addition of high speed passenger and vehicular ferries to the fleet.

(3) The passage of tax credits and other financing mechanisms to make it attractive for private entities to operate the ferry system.

(4) A requirement that all new ferries be built in North Carolina.

(5) Any other issues the Legislative Research Commission considers relevant.

Section 3. The Commission may make an interim report of its recommendations regarding privitization of the Ferry Division to the 2000 Regular Session of the General Assembly, and shall make a final report to the 2001 Regular Session of the General Assembly.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1386
Proposed Committee Substitute H1386-PCS1284-RW

Short Title: LRC Study Ferry Div. Privatization. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY PRIVATIZATION OF THE FERRY DIVISION OF THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is authorized to study issues relating to the privatization of the Ferry Division of the Department of Transportation.

Section 2. As a part of its study, the Commission shall study the following:

(1) The feasibility of selling or leasing all ferries to private entities for operation.

(2) The addition of high-speed passenger and vehicular ferries to the fleet.

(3) The passage of tax credits and other financing mechanisms to make it attractive for private entities to operate the ferry system.

(4) A requirement that all new ferries be built in North Carolina.

(5) Any other issues the Legislative Research Commission considers relevant.

Section 3. The Commission may make an interim report of its recommendations regarding privatization of the Ferry Division to the 2000 Regular Session of the General Assembly and shall make a final report to the 2001 Regular Session of the General Assembly.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1386

Short Title: Ferry Division Privatization. (Public)

Sponsors: Representatives McAllister, Morgan, Hunter (Primary Sponsors); Adams, Arnold, Baker, Berry, Bowie, Brown, Brubaker, Buchanan, Cansler, Capps, Carpenter, Clary, Creech, Culp, Davis, Eddins, Esposito, Fitch, Gardner, Gillespie, Gray, Gulley, Holmes, McCombs, McMahan, Mitchell, Morris, Pope, Rayfield, Setzer, Sexton, Starnes, Sutton, Teague, Walend, and Wood.

Referred to: Transportation, if favorable, Appropriations.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO PRIVATIZE THE FERRY DIVISION.

The General Assembly of North Carolina enacts:

Section 1. Using funds appropriated from the Highway Fund for the operation of the Ferry Division, the Department of Transportation shall:

(1) Privatize the operations of all ferries.

(2) Seek bids for the addition of high speed passenger and vehicular ferries to the fleet.

(3) Develop and submit legislation providing for tax credits and other financing mechanisms to making it attractive for private entities to operate the ferry system.

(4) Require that all new ferries be built in North Carolina.

Section 2. The Department of Transportation shall report its plans for meeting the requirements of Section 1 of this act along with specific goals and performance measures to the November meeting of the Joint Legislative Transportation Oversight Committee.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1140
State and Local Government Committee Substitute Adopted 4/28/99

Short Title: Surry Billboard Ban. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO BAN NEW OR REPLACEMENT BILLBOARDS ON A PORTION OF U.S. HIGHWAY 52 AND NORTH CAROLINA HIGHWAY 752 IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 559 of the 1993 Session Laws reads as rewritten:

"Section 1. No new or replacement outdoor advertising, as defined in G.S. 136-128(3), that is visible and intended to be read from the right-of-way of the portion of North Carolina Highway 752 and United States Highway 52 south of the airport forming a corridor through the foothills of Surry County past Pilot Mountain State Park, shall be erected on or after the effective date of this act. No new or replacement outdoor advertising, as defined in G.S. 136-128(3), shall be erected within 660 feet of any interstate highway located in Buncombe County outside the corporate limits of a municipality."

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

VISITOR REGISTRATION SHEET

Transportation — Name of Committee

6-9-99 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charlie Diehl	NC Outdoor Advertising Assoc.
John Cyrus	N.C. State Grange
John Phelps	NCLM
Dale McKeel	Scenic North Carolina, Inc.
Jennifer Hanson	Southwest Airlines
Mike Blanton	RBH Public Affairs
Troy Green	SEANC
Dana Arnold	SEANC
Lyn Wilson	SEANC
TODD ROGERS	SOUTHWEST AIRLINES
Gene Causby	NCMA
Steve Woodson	NCFB
VL McBride	~~NCDOT~~
Lucius Pullen	Attorney
Scott Sapp	NCDOT
~~Josh Palacio~~	~~NCDOT~~
David Allsbrook	NCDOT

HOUSE TRANSPORTATION COMMITTEE MEETING

JUNE 23, 1999

AGENDA

CALL MEETING TO ORDER

INTRODUCE PAGES

BILLS ON THE AGENDA:

HB 133 EXEMPT DISABLED VETERAN VEHICLES
Sponsor: Representative Rogers
HB 789-Highway Utility Nonbetterment Cost
Sponsor: Representative Goodwin

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

HOUSE TRANSPORTATION COMMITTEE

MEETING – JUNE 23, 1999

MINUTES

The House Committee on Transportation met at 11:00 a.m. on Wednesday, June 23, 1999, in Room 643 of the Legislative Office Building. Representative Charles Buchanan, Chair, called the meeting to order. Members present were: Representatives Baker, Bridgeman, Brown, Buchanan, Church, Cole, Crawford, Culp, Gibson, Hill, Holmes, McLawhorn, Nye, Rayfield, Setzer, Sherrill, Sutton, and Teague. Giles Perry, Staff Counsel, was also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

Representative Buchanan introduced Dusty Rhodes, Martha Parrish and Melvin Kimble with the Sergeant of Arms Office. He welcomed House Pages: Karen Medlin and Erin Biggio of Franklin County, sponsored by Billy Creech, Eric Middleton of Wake County, sponsored by Dan Blue and Vann Lassiter of Chowan County, sponsored by Representative William Culpepper.

HB 789 Highway Utility Nonbetterment Cost-2, sponsored by Representative Wayne Goodwin was the first bill to be discussed. Representative Brown was recognized and made a motion to adopt the proposed committee substitute for discussion and the motion carried. After a brief discussion, Representative Brown made a motion to give a favorable report to the Committee Substitute for HB 789 and unfavorable to the original bill and be re-referred to the Rules Committee suggested by the subcommittee. A vote was taken and the motion carried.

The next bill to be discussed was **HB 133- Exempt Disabled Veteran Vehicles**, sponsored by Representative Gene Rogers. Representative Buchanan recognized Representative Rogers to explain the committee substitute, which had been proposed by a subcommittee. Representative Brown was recognized and made a motion to adopt the proposed committee substitute for discussion and the motion carried. Representative Rogers explained the changes from the original bill. Representative Buchanan recognized Mr. Jim Blackburn with the NC Association of County Commissioners to speak on the bill. After a brief question and answer period, Representative Rayfield was recognized and made a motion to give the committee substitute for HB 133 a favorable report, unfavorable to the original bill and be re-referred to the committee on Finance. A vote followed and the motion carried.

The meeting adjourned at 11:15 a.m.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Glenda O. Jones, Committee Assistant

June 17, 1999

MEMORANDUM

TO: Representative Monroe Buchanan, Co-Chair
Representative Drew Saunders, Co-Chair
Transportation Committee

FROM: Representative Ron Sutton

SUBJECT: Report of Subcommittee to study HB 789 -
Highway Utility Nonbetterment Cost

The above-named Subcommittee met three times (June 10, 16, and 17). On June 17, the Subcommittee unanimously took the following action:

Proposed that the law concerning the population cut-off preventing the Department of Transportation from paying for line relocation and the procedures the Department of Transportation uses in approving easement requests when the Department, through their expertise and knowledge, could advise cities in ways to prevent a recurrence of this type event be studied, with an unfavorable report on the original bill.

Giles Perry, Committee Counsel, is drafting the proposal to present to the full Transportation Committee.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan and Saunders** for the Committee on **TRANSPORTATION.**

☐ Committee Substitute for
H.B. 133 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM PROPERTY TAX MOTOR VEHICLES OWNED BY TOTALLY DISABLED VETERANS AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #)~~, (and recommendation that the committee substitute bill #) be re-referred to the Committee on Finance

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan and Saunders** for the Committee on **TRANSPORTATION**.

☐ Committee Substitute for
H.B. 789 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS IN CERTAIN CIRCUMSTANCES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #)~~, (and recommendation that the committee substitute bill #) be re-referred to the Committee on Rules

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H133-CSRW-004
PROPOSED COMMITTEE SUBSTITUTE
House Bill 133
THIS IS A DRAFT 23-JUN-99 09:48:48
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Exempt Disabled Veteran Vehicles. (Public)

Sponsors:

Referred to: Transportation.

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX MODIFIED MOTOR VEHICLES OWNED BY DISABLED VETERANS WHO ARE ELIGIBLE FOR FEDERAL SPECIAL EQUIPMENT ALLOWANCES. The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(5a) A motor vehicle owned by a disabled veteran that is altered with special equipment to accommodate a service-connected disability. As used in this section, disabled veteran means a person as defined in 38 U.S.C. § 101(2) who is entitled to special automotive equipment for a service-connected disability, as provided in 38 U.S.C. § 3901.

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 133*

Short Title: Exempt Disabled Veteran Vehicles. (Public)

Sponsors: Representatives Rogers; Barefoot, Brown, Cox, Culpepper, Dedmon, Edwards, Fox, Gibson, Haire, Horn, Hurley, Justus, Kinney, Kiser, McCrary, McLawhorn, Melton, Morris, Ramsey, Sherrill, Smith, Sutton, Thomas, Tolson, Wainwright, Warner, and Warren.

Referred to: Transportation.

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX MOTOR VEHICLES OWNED BY TOTALLY DISABLED VETERANS AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(5a) A motor vehicle owned by a veteran, as defined in 38 U.S.C. § 1101, who is entitled to benefits for total disability under 38 U.S.C. § 1110."

Section 2. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-275.3. Reimbursement for exclusion of disabled veterans' vehicles.**

(a) On September 1, 2000, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified during the previous fiscal year for the exemption provided in G.S. 105-275(5a). The list shall also contain for each name the total value of vehicles exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The list shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(b) Before May 31, 2001, the Secretary of Revenue shall distribute to the county or city the total for the list provided pursuant to subsection (a) of this section of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this subsection in 2001 the amount it was entitled to receive in 2001.

(c) Any funds received by a county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(d) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue shall draw from collections received under Part 2 of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H789-CSRW-005
PROPOSED COMMITTEE SUBSTITUTE
House Bill 789
THIS IS A DRAFT 23-JUN-99 09:51:08
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Highway Utility Relocation Cost Study. (Public)

Sponsors:

Referred to: Transportation.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDY THE ISSUE OF NONBETTERMENT UTILITY RELOCATION COSTS.

The General Assembly of North Carolina enacts:

Section 1. The Joint Legislative Transportation Oversight Committee shall study the issue of nonbetterment utility relocation costs. As a part of its study, the Committee shall consider:

1. The current statutory procedure for allocation of relocation costs, found in G.S. 136-27.1;

2. The current population ceiling of 5,500 for municipalities to receive utility relocation assistance from the Department of Transportation, and the appropriateness of this ceiling;

3. The current procedure used by the Department of Transportation to notify and advise affected municipalities of future utility relocation costs, and the need to improve this procedure; and

4, Any other issue related to nonbetterment utility relocation costs.

Section 2. The Committee shall report its findings and recommendations on or before the convening of the Regular Session of the 2000 General Assembly.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 789
Proposed Committee Substitute H789-PCS3448-RW

Short Title: Highway Utility Relocation Cost Study. (Public)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDY THE ISSUE OF NONBETTERMENT UTILITY RELOCATION COSTS.

The General Assembly of North Carolina enacts:

Section 1. The Joint Legislative Transportation Oversight Committee shall study the issue of nonbetterment utility relocation costs. As a part of its study, the Committee shall consider:

(1) The current statutory procedure for allocation of relocation costs, found in G.S. 136-27.1;

(2) The current population ceiling of 5,500 for municipalities to receive utility relocation assistance from the Department of Transportation, and the appropriateness of this ceiling;

(3) The current procedure used by the Department of Transportation to notify and advise affected municipalities of future utility relocation costs, and the need to improve this procedure; and

(4) Any other issue related to nonbetterment utility relocation costs.

Section 2. The Committee shall report its findings and recommendations on or before the convening of the 2000 Regular Session of the 1999 General Assembly.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 789

Short Title: Highway Utility Nonbetterment Cost-2. (Public)

Sponsors: Representative Goodwin.

Referred to: Transportation.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PAY THE NONBETTERMENT COSTS OF UTILITY RELOCATIONS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State highway right-of-way, that are necessary to be relocated for a State highway improvement project and that are ~~owned by:~~ any of the following:

(1) ~~(i) a~~ Owned by a municipality with a population of 5,500 or less according to the latest decennial ~~census; (ii)~~ census.

(2) ~~a~~ Owned by a nonprofit water or sewer association or ~~corporation; (iii)~~ corporation.

(3) ~~any~~ Owned by any water or sewer system organized pursuant to Chapter 162A of the General ~~Statutes; (iv)~~ Statutes.

(4) ~~a~~ Owned by a rural water system operated by county as an enterprise ~~system; (v)~~ system.

(5) ~~any~~ Owned by any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General ~~Statutes; or (vi)~~ Statutes.

(6) ~~constructed~~ Constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or

transferred to a municipality with a population of greater than 5,500 according to the latest decennial census.

(7) Owned by any municipality with a population of 20,000 or less according to the latest decennial census when all of the following conditions apply:

a. The line or lines were ordered to be installed by one State agency, construction was started, and then the line or lines were ordered to be relocated by the Department within four years in connection with reconstruction of a federal primary highway.

b. The municipality operates its water or sewer system as an enterprise system and has not used any of the proceeds from its water or sewer enterprise fund for any purposes other than water or sewer purposes during the previous five years."

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

HOUSE BILL 789:
Highway Utility Nonbetterment Cost -2

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Goodwin
Date:	May 12, 1999	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

CURRENT LAW: Current law requires DOT to reimburse the following six types of entities for the cost of moving (but not improving) their utility lines located on DOT right-of-way:

--a municipality of 5,500 or less

--a nonprofit water and sewer association

--a water or sewer system organized under Chapter 162A

--a rural water system operated by a county as an enterprise system

--a sanitary district organized under Chapter 130A, Art 2, Part 2

--a water or sewer system constructed under Chapter 162A, and sold to municipality with a population greater than 5,500

HOUSE BILL 789: House Bill 789 would require DOT to pay the cost of moving (but not improving) water and sewer lines on DOT right of way constructed owned by a municipality with a population of 20,000 or less, when:

--the lines were ordered installed by one State agency, construction began, and then the lines were ordered relocated within four years in connection with reconstruction of a federal aid primary highway; and

--the municipality operates its water an sewer system as an enterprise system and has not used any of its proceeds for any purposes other than water and sewer purposes in the previous five years.

Effective Date: when it becomes law.

HOUSE BILL 789:
Highway Utility Nonbetterment Cost -2

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Goodwin
Date:	April 21, 1999	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

CURRENT LAW: Current law requires DOT to reimburse the following six types of entities for the cost of moving (but not improving) their utility lines located on DOT right-of-way:

--a municipality of 5,500 or less

--a nonprofit water and sewer association

--a water or sewer system organized under Chapter 162A

--a rural water system operated by a county as an enterprise system

--a sanitary district organized under Chapter 130A, Art 2, Part 2

--a water or sewer system constructed under Chapter 162A, and sold to municipality with a population greater than 5,500

HOUSE BILL 789: House Bill 789 would require DOT to pay the cost of moving (but not improving) water and sewer lines on DOT right of way constructed owned by a municipality with a population of 20,000 or less, when:

--the lines were ordered installed by one State agency, construction began, and then the lines were ordered relocated within four years in connection with reconstruction of a federal aid primary highway; and

--the municipality operates its water an sewer system as an enterprise system and has not used any of its proceeds for any purposes other than water and sewer purposes in the previous five years.

Effective Date: when it becomes law.

VISITOR REGISTRATION SHEET

Transportation — 6-23

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	NC Assoc. of County Commrs,
Jerry Schill	NC Fisheries Assoc.
Steve Woodson	NC Farm Bureau
Charlie Smith	N.C. Div. of Veterans Affairs

1999

HOUSE TRANSPORTATION COMMITTEE

MINUTES

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

June 30, 1999

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS TO BE DISCUSSED

SB 254 Outdoor Advertising Control Act

Bill Sponsor: Sen. Wib Gulley

QUESTIONS AND ANSWERS

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

June 30, 1999

The House Committee on Transportation met on June 30, 1999, at 11:00 AM in Room 643 of the Legislative Office Building. Members present were: Representatives Baker, Bridgeman, Buchanan, Cole, Crawford, Culp, Gillespie, Hill, McLawhorn, McComas, Nye, Rayfield, Setzer, Sherrill, Sutton, and Scott. Giles Perry, Staff Counsel, was also present. The Visitor Registration Sheet is attached and made a part of the minutes.

The meeting was called to order by Representative Charles Buchanan. He then welcomed Pages: Brandon Brooks from Wake County, sponsored by Representative Daughtry; Daniel Ruff from Polk County, sponsored by Representative Hensley, Tamara Warren from Durham County, sponsored by Representative Michaux. Martha Parrish and Matt Myers from the Sergeant of Arms Office were also recognized.

The bill to be discussed was SB 254 Outdoor Advertising Control Act. Senator Wib Gulley, bill sponsor, was not present to explain the bill so the bill will be rescheduled to be heard next week. John McMillan with North Carolina Outdoor Advertisers and Ruth Sappie with the Department of Transportation were recognized to comment on the bill. A question and answer period followed.

The meeting adjourned at 11:14 AM.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Ruth Fish, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 254*
Commerce Committee Substitute Adopted 4/7/99

Short Title: Outdoor Advertising Control Act/AB. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE VARIOUS OUTDOOR ADVERTISING PERMIT FEES, CHANGE THE ADMINISTRATIVE REVIEW AND JUDICIAL REVIEW OF OUTDOOR ADVERTISING DECISIONS, EXPAND CURRENT NOTIFICATION REQUIREMENTS, AND MODIFY AND UPDATE THE OUTDOOR ADVERTISING CONTROL ACT WITH RESPECT TO VENUE REQUIREMENTS, DEFINITIONS, AND PARTIES RESPONSIBLE FOR PAYMENT OF REMOVAL OF ILLEGAL OUTDOOR ADVERTISING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-133 reads as rewritten:

"**§ 136-133. Permits required.**

No person shall 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, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules and regulations promulgated by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules and regulations promulgated by the Department of Transportation thereunder. Any person aggrieved by the decision of the Department of Transportation or its agents in refusing to grant or in revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Department

of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal. The Department of Transportation shall have the authority to charge permit fees to defray the costs of administering the permit procedures under this Article. The fees for directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a ~~twenty dollar ($20.00)~~ forty dollar ($40.00) initial fee and a ~~fifteen dollar ($15.00)~~ thirty dollar ($30.00) annual renewal fee. The fees for outdoor advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a ~~sixty dollar ($60.00)~~ one hundred twenty dollar ($120.00) initial fee and a ~~thirty dollar ($30.00)~~ sixty dollar ($60.00) annual renewal fee."

Section 2. G.S. 136-134 reads as rewritten:

"**§ 136-134. Illegal advertising.**

Any outdoor advertising erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this Article as determined by G.S. 136-140, in violation of the provisions of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation, or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance. The Department of Transportation or its agents shall give 30 days' notice to the owner of the illegal outdoor advertising with the exception of the owner of unlawful portable outdoor advertising for which the Department of Transportation shall give five days' notice, if such owner is known or can by reasonable diligence be ascertained, to remove the outdoor advertising or to make it conform to the provisions of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation hereunder. The Department of Transportation or its agents shall have the right to remove the illegal outdoor advertising at the expense of the ~~said~~ owner if the ~~said~~ owner fails to ~~act~~ remove the outdoor advertising or to make it conform to the provisions of this Article or rules issued by the Department of Transportation within 30 days after receipt of such notice or five days for owners of portable outdoor advertising. The Department of Transportation or its agents may enter upon private property for the purpose of removing the outdoor advertising prohibited by this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation hereunder without civil or criminal liability. The costs of removing the outdoor advertising, whether by the Department of Transportation or its agents, shall be assessed against the owner of the illegal outdoor advertising by the Department of Transportation. Any person aggrieved by the decision declaring the outdoor advertising structure illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal."

Section 3. G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly

exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).

(2) Repealed by Session Laws 1993, c. 501, s. 29.

(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.

(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.

(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.

(6) The Department of Revenue.

(7) The Department of Correction.

(8) The Department of Transportation, except as provided in ~~G.S. 136-29.~~ G.S. 136-29, 136-133.1, and 136-134.1.

(9) The Occupational Safety and Health Review Board.

(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

Section 4. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-133.1. Administrative review of outdoor advertising decisions.**

(a) An applicant for an outdoor advertising permit, an outdoor advertising permit holder, or an outdoor advertising owner, who is dissatisfied with the initial decision of the Department of Transportation, may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes within 30 days after the decision is made by the Department of Transportation.

(b) If outdoor advertising is under construction and the Department determines that a permit has not been issued for the outdoor advertising, the Department of Transportation may require that all work on the outdoor advertising cease until the owner of the outdoor advertising shows that the outdoor advertising does not violate G.S. 136-133. The stop work order shall be prominently posted on the outdoor

advertising structure, and no further notice of the stop work order is required. The failure of an owner of outdoor advertising to comply immediately with the stop work order shall subject the outdoor advertising to removal by the Department of Transportation or its agents. Outdoor advertising is under construction when it is in any phase of construction prior to the attachment and display of the advertising message in final position for viewing by the traveling public. The cost of removing outdoor advertising by the Department of Transportation or its agents pursuant to this section shall be assessed against the owner of the unpermitted outdoor advertising by the Department of Transportation. No stop work order may be issued when the Department of Transportation process agent has been served with a court order allowing the sign to be constructed. The party subject to a stop work order may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes within 30 days after the stop work order is issued.

(c) As used in this section, the term 'initial decision' shall be defined by the Department in the rules issued pursuant to this Article."

Section 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-134.2. Notification requirements.**

When the Department of Transportation notifies a permit applicant, permit holder, or the owner of an outdoor advertising structure that the application is denied, the permit revoked, or the structure is in violation of this Article or rules issued pursuant to this Article, it shall do so in writing by certified mail, return receipt requested, and shall include a copy of this Article and all rules issued pursuant to this Article.

If the Department of Transportation fails to include a copy of this Article and the rules, the time period during which the permit applicant, permit holder, or owner of the outdoor advertising structure has to request a review hearing shall be tolled until the Department of Transportation provides the required materials."

Section 6. G.S. 136-134.1 reads as rewritten:

"**§ 136-134.1. Judicial review.**

~~Any person who is aggrieved by a final decision of the Secretary of Transportation after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of such decision under this Article. In order to obtain judicial review of the Secretary of Transportation's decision under this Article, the person seeking review must file a petition in the Superior Court of Wake County within 30 days after written copy of the decision of the Secretary of Transportation is served upon the person seeking review. Failure to file such a petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter.~~

~~The petition shall state explicitly what exceptions are taken to the decision of the Secretary of Transportation and what relief petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the Department of Transportation. Within 30 days after receipt of the copy of the petition for review, or~~

~~within such additional time as the court may allow, the Department of Transportation shall transmit to the reviewing court a certified copy of the written decision.~~

~~At any time before or during the review proceeding, the aggrieved party may apply to the reviewing court for an order staying the operation of the decision of the Secretary of Transportation pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. The review of the decision of the Secretary of Transportation under this Article shall be conducted by the court without a jury and shall hear the matter de novo pursuant to the rules of evidence as applied in the General Court of Justice. The court, after hearing the matter may affirm, reverse or modify the decision if the decision is:~~

~~(1) In violation of constitutional provisions; or~~

~~(2) Not made in accordance with this Article or rules or regulations promulgated by the Department of Transportation; or~~

~~(3) Affected by other error of law.~~

~~The party aggrieved shall have the burden of showing that the decision was violative of one of the above.~~

~~A party to the review proceedings, including the agency, may appeal to the appellate division from the final judgment of the Superior Court under the rules of procedure applicable in civil cases. The appealing party may apply to the Superior Court for a stay for its final determination or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the appellate division.~~

Article 4 of Chapter 150B of the General Statutes shall govern judicial review of final agency decisions regarding outdoor advertising permits."

Section 7. G.S. 136-135 reads as rewritten:

"**§ 136-135. Enforcement provisions.**

Any person, firm, corporation or association, placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Transportation may seek injunctive relief in the Superior Court of Wake County or of the county where the outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article or rules ~~and regulations promulgated~~ adopted pursuant hereto, or require the removal of the said illegal outdoor advertising."

Section 8. Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-18.7. Fees.

The fee for a selective vegetation removal permit issued pursuant to G.S. 136-18(5), (7), and (9) is two hundred dollars ($200.00)."

Section 9. 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 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 ~~highways~~ highway systems within the State should be controlled and regulated 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. 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 10. G.S. 136-128 reads as rewritten:

"**§ 136-128. Definitions.**

As used in this Article:

(1) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(1a) "Illegal sign" means one which was erected and/or maintained in violation of State law.

(1b) "Information center" means 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 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) "Nonconforming sign" shall mean a sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(3) "Outdoor advertising" means 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 systems" ~~means that portion of connected main highways, as now officially designated, or as may hereafter be so designated by the Department of Transportation as primary system, or other appropriate authorities and are also so designated by N.C. or U.S. numbers.~~ means 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 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.

(6) "State law" means 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.

(7) "Unzoned area" shall mean an area where there is no zoning in effect.

(8) "Urban area" shall mean 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 of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

Section 11. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as

to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas."

Section 12. G.S. 136-129.1 reads as rewritten:

"**§ 136-129.1. Limitations of outdoor advertising devices beyond 660 feet.**

No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State outside of the urban areas so as to be visible and intended to be read from the main-traveled way except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located."

Section 13. G.S. 136-136 reads as rewritten:

"**§ 136-136. Zoning changes.**

All zoning authorities shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial

zones within 660 feet of the right-of-way of interstate or primary ~~highways.~~ highway systems. Notice shall be by registered mail sent to the offices of the Department of Transportation in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment."

Section 14. Sections 1 and 8 become effective July 1, 1999. The remaining sections become effective when this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 254*

Short Title: Outdoor Advertising Control Act/AB. (Public)

Sponsors: Senator Gulley.

Referred to: Commerce.

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY AND UPDATE THE OUTDOOR ADVERTISING CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-133 reads as rewritten:

"**§ 136-133. Permits required.**

No person shall 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, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules and regulations promulgated by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules and regulations promulgated by the Department of Transportation thereunder. Any person aggrieved by the decision of the Department of Transportation or its agents in refusing to grant or in revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal. The Department of Transportation shall have the authority to charge permit fees to defray the costs of administering the permit procedures under this Article. ~~The fees for directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a twenty dollar ($20.00) initial fee and a fifteen dollar ($15.00) annual renewal fee. The fees for~~

~~outdoor advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a sixty dollar ($60.00) initial fee and a thirty dollar ($30.00) annual renewal fee.~~

The permit fees established in the rules issued by the Department of Transportation shall be reviewed by the Board of Transportation on a biennial basis and adjusted when necessary.

If outdoor advertising is under construction and the Department determines that a permit has not been issued for the outdoor advertising as required under this section, the Department of Transportation may require that all work on the outdoor advertising cease until the owner of the outdoor advertising shows that the outdoor advertising does not violate this section. The stop work order shall be prominently posted on the outdoor advertising structure, and no further notice is required. The failure of an owner of outdoor advertising to comply immediately with the stop work order shall subject the outdoor advertising to removal by the Department of Transportation or its agents. Outdoor advertising is under construction when it is in any phase of construction prior to the attachment and display of the advertising message in final position for viewing by the traveling public. The cost of removing outdoor advertising by the Department of Transportation or its agents pursuant to this section shall be assessed against the owner of the unpermitted outdoor advertising by the Department of Transportation."

Section 2. G.S. 136-134 reads as rewritten:

"**§ 136-134. Illegal advertising.**

Any outdoor advertising erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this Article as determined by G.S. 136-140, in violation of the provisions of this Article or rules and regulations promulgated by the Department of Transportation, or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance. The Department of Transportation or its agents shall give 30 days' notice to the owner of the illegal outdoor advertising with the exception of the owner of unlawful portable outdoor advertising for which the Department of Transportation shall give five days' notice, if such owner is known or can by reasonable diligence be ascertained, to remove the outdoor advertising or to make it conform to the provisions of this Article or rules and regulations promulgated by the Department of Transportation hereunder. The Department of Transportation or its agents shall have the right to remove the illegal outdoor advertising at the expense of the said owner if the said owner fails to ~~act~~ remove the outdoor advertising or to make it conform to the provisions of this Article or rules issued by the Department of Transportation within 30 days after receipt of such notice or five days for owners of portable outdoor advertising. The Department of Transportation or its agents may enter upon private property for the purpose of removing the outdoor advertising prohibited by this Article or rules and regulations promulgated by the Department of Transportation hereunder without civil or criminal liability. The costs of removing the outdoor advertising, whether by the Department of Transportation or its agents, shall be assessed against the owner of the illegal outdoor advertising by the Department of Transportation. Any person

aggrieved by the decision declaring the outdoor advertising structure illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal."

Section 3. G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).

(2) Repealed by Session Laws 1993, c. 501, s. 29.

(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.

(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.

(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.

(6) The Department of Revenue.

(7) The Department of Correction.

(8) The Department of Transportation, except as provided in ~~G.S. 136-29.~~ G.S. 136-29, 136-133.1, and 136-134.1.

(9) The Occupational Safety and Health Review Board.

(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

Section 4. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-133.1. Administrative review of outdoor advertising decisions.**

(a) An applicant for an outdoor advertising permit, an outdoor advertising permit holder, or an outdoor advertising owner who is dissatisfied with the final decision of

the Department of Transportation may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes within 20 days after the decision is made by the Department of Transportation, except that the venue of the hearing shall not be determined pursuant to G.S. 150B-24, but shall be Wake County.

(b) The burden of proof shall be on the party petitioning for review."

Section 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-134.2. Notification requirements.**

When the Department of Transportation notifies a permit applicant, permit holder, or the owner of an outdoor advertising structure that the application is denied, the permit revoked, or the structure is in violation of this Article or rules issued pursuant to this Article, respectively, it shall do so in writing by certified mail, return receipt requested and shall include a copy of this Article and all rules issued pursuant to this Article.

If the Department of Transportation fails to include a copy of this Article and the rules, the time period during which the permit applicant, permit holder, or owner of the outdoor advertising structure has to request a review hearing shall be tolled, until the Department of Transportation provides the required materials."

Section 6. G.S. 136-134.1 reads as rewritten:

"**§ 136-134.1. Judicial review.**

~~Any person who is aggrieved by a final decision of the Secretary of Transportation after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of such decision under this Article. In order to obtain judicial review of the Secretary of Transportation's decision under this Article, the person seeking review must file a petition in the Superior Court of Wake County within 30 days after written copy of the decision of the Secretary of Transportation is served upon the person seeking review. Failure to file such a petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter.~~

~~The petition shall state explicitly what exceptions are taken to the decision of the Secretary of Transportation and what relief petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the Department of Transportation. Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the Department of Transportation shall transmit to the reviewing court a certified copy of the written decision.~~

~~At any time before or during the review proceeding, the aggrieved party may apply to the reviewing court for an order staying the operation of the decision of the Secretary of Transportation pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. The review of the decision of the Secretary of Transportation under this Article shall be conducted by the court without a jury and shall hear the matter de novo pursuant to the rules of evidence as applied in the General Court of Justice. The court, after hearing the matter may affirm, reverse or modify the decision if the decision is:~~

~~(1) In violation of constitutional provisions; or~~
~~(2) Not made in accordance with this Article or rules or regulations promulgated by the Department of Transportation; or~~
~~(3) Affected by other error of law.~~
~~The party aggrieved shall have the burden of showing that the decision was violative of one of the above.~~

~~A party to the review proceedings, including the agency, may appeal to the appellate division from the final judgment of the Superior Court under the rules of procedure applicable in civil cases. The appealing party may apply to the Superior Court for a stay for its final determination or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the appellate division.~~

Article 4 of Chapter 150B of the General Statutes shall govern judicial review of final agency decisions regarding outdoor advertising permits."

Section 7. G.S. 136-135 reads as rewritten:

"**§ 136-135. Enforcement provisions.**

Any person, firm, corporation or association, placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules and regulations promulgated by the Department of Transportation shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Transportation may seek injunctive relief in the Superior Court of Wake County or of the county where the outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article or rules and regulations promulgated pursuant hereto, or require the removal of the said illegal outdoor advertising."

Section 8. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-18.7. Fees.**

The Board of Transportation may establish fees to defray the costs of administering the permit procedures for the Department of Transportation's selective vegetation removal policy established pursuant to G.S. 136-18(5), (7), and (9). These fees shall be no more than necessary to ensure that the policy is entirely self-funded."

Section 9. 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 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 ~~highways~~ highway systems within the State should be controlled and regulated 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. 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 10. G.S. 136-128 reads as rewritten:

"**§ 136-128. Definitions.**

As used in this Article:

(1) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(1a) "Illegal sign" means one which was erected and/or maintained in violation of State law.

(1b) "Information center" means 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 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) "Nonconforming sign" shall mean a sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(3) "Outdoor advertising" means 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 systems" ~~means that portion of connected main highways, as now officially designated, or as may hereafter be so designated by the Department of Transportation as primary system, or other~~

~~appropriate authorities and are also so designated by N.C. or U.S. numbers.~~ means 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 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.

(6) "State law" means 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.

(7) "Unzoned area" shall mean an area where there is no zoning in effect.

(8) "Urban area" shall mean 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 of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

Section 11. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems ~~in this~~ State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any

side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas."

Section 12. G.S. 136-129.1 reads as rewritten:

"**§ 136-129.1. Limitations of outdoor advertising devices beyond 660 feet.**

No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State outside of the urban areas so as to be visible and intended to be read from the main-traveled way except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located."

Section 13. G.S. 136-136 reads as rewritten:

"**§ 136-136. Zoning changes.**

All zoning authorities shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial zones within 660 feet of the right-of-way of interstate or primary ~~highways.~~ highway systems. Notice shall be by registered mail sent to the offices of the Department of Transportation in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment."

Section 14. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Transportation — 6/30/99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charlie Diehl	NC Outdoor Adv. Assoc.
John McMillan	MF&S
Charles Fullwood	Wildlife
Richard Hamilton	Wildlife

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

July 7, 1999

OPENING REMARKS

Representative Charles Buchanan, Chair

INTRODUCTION OF DAVID McCOY, SECRETARY NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Representative Charles Buchanan

REMARKS BY SECRETARY McCOY

BILLS TO BE DISCUSSED

SB 254 OUTDOOR ADVERTISING CONTROL ACT

Bill Sponsor: Senator Wib Gulley

HB 1443 CITY PARTICIPATION-ROAD BUILDING

Bill Sponsor: Representative David Miner

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

July 7, 1999

The House Committee on Transportation met on July 7, 1999, at 11:00 AM in Room 643 of the Legislative Office Building. Members present were: Representatives Adams, Baker, Bridgeman, Brown, Buchanan, Church, Crawford, Eddins, Gibson, Hill, McComas, McLawhorn, Rayfield, Setzer, Sherrill, Sutton, Teague and Thomas. Giles Perry and Esther Manheimer, Staff Counsel, were also in attendance. The Visitor Registration Sheet is attached and made a part of the minutes.

The meeting was called to order by Representative Charles Buchanan, Chair. He introduced Pages: Mary Floyd from Wake County, sponsored by Representative Ellis; Rebekah Hampton from Forsyth County, sponsored by Representative Decker; and Scott Douglas from Haywood County, sponsored by Representative Haire. He also recognized Dusty Rhodes and Martha Parrish from the Sergeant of Arms Office.

Representative Buchanan introduced David McCoy, Secretary of the Department of Transportation, who spoke briefly about his experience with State Government and his priorities for the Department of Transportation. A copy of his remarks is attached. Following Secretary McCoy's remarks, questions were entertained from the Representatives. Lacy Love with the Department of Transportation assisted Secretary McCoy in answering questions.

The first bill to be discussed was HB 1443 City Participation—Road Building. Representative David Miner, bill sponsor, was recognized to explain the bill. After discussion, Representative Sherrill moved that the bill be given a favorable report and be re-referred to the Committee on Appropriations. The motion was approved.

The next bill to be considered was SB 254 Outdoor Advertising Control Act. Representative Brown sent forth a proposed committee substitute for committee discussion and requested that staff counsel explain the bill in the absence of the bill sponsor, Senator Wib Gulley. Several members expressed concern about the discussion of the bill in the absence of the bill sponsor. Representative Sutton made a motion to give the bill an unfavorable report. He later withdrew the motion. Representative McComas moved to give the bill a favorable report and offered an amendment. Counsel explained the amendment. A vote was taken to adopt the amendment, and the chair unable to determine the "ayes" and "noes" called division. Representative Crawford made a motion to adjourn. It was seconded by Representative Gibson.

The meeting adjourned at 11:50 AM.

Charles Buchanan
Representative Charles Buchanan, Chair

Drew Saunders
Representative Drew Saunders, Chair

Ruth Fish
Ruth Fish, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1443*

Short Title: City Participation--Road Building. (Public)

Sponsors: Representatives Miner; Blue (Primary Sponsors), Adams, Alexander, Bowie, Cansler, Capps, Cunningham, Decker, Earle, Easterling, Eddins, Ellis, Gray, Gulley, Hensley, Hurley, Jarrell, Jeffus, Kinney, McAllister, McComas, McCombs, McMahan, Morris, Mosley, Pope, Rayfield, Saunders, Sherrill, Starnes, Wainwright, Warner, C. Wilson, Womble, and Wright.

Referred to: Transportation.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE STATUTE GOVERNING MUNICIPAL PARTICIPATION IN IMPROVEMENTS TO THE STATE HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Municipal participation in improvements to the State highway system.**

~~(a) Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right-of-way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

(b) ~~The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by funds allocated by the General Assembly for the "Small Urban Construction Program".~~ The municipalities may, but shall not be required to, participate in the right-of-way and construction cost of ~~"Small Urban Construction Program"~~ highway improvements.

(c) A municipality ~~is authorized and empowered to~~ may acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that ~~purpose by a vote of the citizens of the municipality.~~ purpose. The governing body of the municipality may call a special referendum at any time to allow this use of funds. The ~~total cost of the~~ improvements authorized by this subsection shall be the responsibility of the municipality and shall not ~~be participated in by the Department of Transportation, nor shall the construction of improvements~~ be a consideration for any other project by the Department of Transportation. All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) When in the review and approval by a municipality of plans for the development of property abutting the State highway system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the municipality is authorized to construct, or have constructed, said improvements to the State highway system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the State highway system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) A municipality may pursuant to an agreement with the Department of Transportation reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that are in addition to those improvements that the Department of Transportation would normally include in the project.

~~(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).~~

~~Municipalities having a population of 10,000 or more according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer may, but shall not be required by the Department or Board of Transportation, participate up to a maximum percentage as shown below in the cost of rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:~~

~~Municipal Population~~	~~Maximum Participation In Right-of-Way Costs~~
~~10,000 - 25,000~~	~~5%~~
~~25,001 - 50,000~~	~~10%~~
~~50,001 - 100,000~~	~~15%~~
~~over 100,000~~	~~25%~~

Any participation shall be set forth in an agreement between the municipality and the Department of Transportation. Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs of rights-of-way necessary for the project. The Department of Transportation shall not charge a municipality ~~any interest on its agreed upon share of rights-of-way costs.~~ during the initial three years. The ~~Secretary~~ Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) In the acquisition of rights-of-way for any State highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

(i) Either the municipality or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities ~~for right-of-way acquisition~~ by giving notice to the other party, but no change shall be

effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Any municipality that agrees to contribute any part of the cost of ~~acquiring rights-of-way for~~ improvements to any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

D

S254-CSRW-001
PROPOSED COMMITTEE SUBSTITUTE
Senate Bill 254
THIS IS A DRAFT 29-JUN-99 17:25:21
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Outdoor Advertising Control Act/AB. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE VARIOUS OUTDOOR ADVERTISING PERMIT FEES, EXPAND CURRENT NOTIFICATION REQUIREMENTS, AND MODIFY AND UPDATE THE OUTDOOR ADVERTISING CONTROL ACT WITH RESPECT TO VENUE REQUIREMENTS, DEFINITIONS, AND PARTIES RESPONSIBLE FOR PAYMENT OF REMOVAL OF ILLEGAL OUTDOOR ADVERTISING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-133 reads as rewritten:

"**§ 136-133. Permits required.**

No person shall 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, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules and regulations promulgated by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or

rules and regulations promulgated by the Department of Transportation thereunder. Any person aggrieved by the decision of the Department of Transportation or its agents in refusing to grant or in revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal. The Department of Transportation shall have the authority to charge permit fees to defray the costs of administering the permit procedures under this Article. The fees for directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a ~~twenty dollar ($20.00)~~ forty dollar ($40.00) initial fee and a ~~fifteen dollar ($15.00)~~ thirty dollar ($30.00) annual renewal fee. The fees for outdoor advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a ~~sixty dollar ($60.00)~~ one hundred twenty dollar ($120.00) initial fee and a ~~thirty dollar ($30.00)~~ sixty dollar ($60.00) annual renewal fee."

Section 2. G.S. 136-134 reads as rewritten:

"**§ 136-134. Illegal advertising.**

Any outdoor advertising erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this Article as determined by G.S. 136-140, in violation of the provisions of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation, or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance. The Department of Transportation or its agents shall give 30 days' notice to the owner of the illegal outdoor advertising with the exception of the owner of unlawful portable outdoor advertising for which the Department of Transportation shall give five days' notice, if such owner is known or can by reasonable diligence be ascertained, to remove the outdoor advertising or to make it conform to the provisions of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation hereunder. The Department of Transportation or its agents shall have the right to remove the illegal outdoor advertising at the expense of the ~~said~~ owner if the ~~said~~ owner fails to ~~act~~ remove the outdoor advertising or to make it conform to the provisions of this Article or rules issued by the Department of Transportation within 30 days after receipt of such notice or five days for owners of portable outdoor advertising. The Department of Transportation or its agents may enter upon private property for the purpose of removing the

outdoor advertising prohibited by this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation hereunder without civil or criminal liability. The costs of removing the outdoor advertising, whether by the Department of Transportation or its agents, shall be assessed against the owner of the illegal outdoor advertising by the Department of Transportation. Any person aggrieved by the decision declaring the outdoor advertising structure illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal."

Section 3. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-134.2. Notification requirements.**

When the Department of Transportation notifies a permit applicant, permit holder, or the owner of an outdoor advertising structure that the application is denied, the permit revoked, or the structure is in violation of this Article or rules issued pursuant to this Article, it shall do so in writing by certified mail, return receipt requested, and shall include a copy of this Article and all rules issued pursuant to this Article.

If the Department of Transportation fails to include a copy of this Article and the rules, the time period during which the permit applicant, permit holder, or owner of the outdoor advertising structure has to request a review hearing shall be tolled until the Department of Transportation provides the required materials."

Section 4. G.S. 136-135 reads as rewritten:

"**§ 136-135. Enforcement provisions.**

Any person, firm, corporation or association, placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Transportation may seek injunctive relief in the Superior Court of Wake County or of the county where the outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article or rules ~~and regulations promulgated~~ adopted pursuant hereto, or require the removal of the said illegal outdoor advertising."

Section 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-18.7. Fees.

The fee for a selective vegetation removal permit issued pursuant to G.S. 136-18(5), (7), and (9) is two hundred dollars ($200.00)."

Section 6. 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 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 ~~highways~~ highway systems within the State should be controlled and regulated 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. 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 7. G.S. 136-128 reads as rewritten:

"§ 136-128. Definitions.

As used in this Article:

(1) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(1a) "Illegal sign" means one which was erected and/or maintained in violation of State law.

(1b) "Information center" means 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 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) "Nonconforming sign" shall mean a sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(3) "Outdoor advertising" means 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 systems" ~~means that portion of connected main highways, as now officially designated, or as may hereafter be so designated by the Department of Transportation as primary system, or other appropriate authorities and are also so designated by N.C. or U.S. numbers.~~ means 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 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.

(6) "State law" means 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.

(7) "Unzoned area" shall mean an area where there is no zoning in effect.

(8) "Urban area" shall mean 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 of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

Section 8. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any side; (ii) the sign is located on

property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas."

Section 9. G.S. 136-129.1 reads as rewritten:

"**§ 136-129.1. Limitations of outdoor advertising devices beyond 660 feet.**

No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State outside of the urban areas so as to be visible and intended to be read from the main-traveled way except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located."

Section 10. G.S. 136-136 reads as rewritten:

"**§ 136-136. Zoning changes.**

All zoning authorities shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial zones within 660 feet of the

right-of-way of interstate or primary ~~highways.~~ highway systems. Notice shall be by registered mail sent to the offices of the Department of Transportation in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment."

Section 11. This act becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 254*

Short Title: Outdoor Advertising Control Act/AB. (Public)

Sponsors: Senator Gulley.

Referred to: Commerce.

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY AND UPDATE THE OUTDOOR ADVERTISING CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-133 reads as rewritten:

"**§ 136-133. Permits required.**

No person shall 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, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules and regulations promulgated by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules and regulations promulgated by the Department of Transportation thereunder. Any person aggrieved by the decision of the Department of Transportation or its agents in refusing to grant or in revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal. The Department of Transportation shall have the authority to charge permit fees to defray the costs of administering the permit procedures under this Article. ~~The fees for directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a twenty dollar ($20.00) initial fee and a fifteen dollar ($15.00) annual renewal fee. The fees for~~

~~outdoor advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a sixty dollar ($60.00) initial fee and a thirty dollar ($30.00) annual renewal fee.~~

The permit fees established in the rules issued by the Department of Transportation shall be reviewed by the Board of Transportation on a biennial basis and adjusted when necessary.

If outdoor advertising is under construction and the Department determines that a permit has not been issued for the outdoor advertising as required under this section, the Department of Transportation may require that all work on the outdoor advertising cease until the owner of the outdoor advertising shows that the outdoor advertising does not violate this section. The stop work order shall be prominently posted on the outdoor advertising structure, and no further notice is required. The failure of an owner of outdoor advertising to comply immediately with the stop work order shall subject the outdoor advertising to removal by the Department of Transportation or its agents. Outdoor advertising is under construction when it is in any phase of construction prior to the attachment and display of the advertising message in final position for viewing by the traveling public. The cost of removing outdoor advertising by the Department of Transportation or its agents pursuant to this section shall be assessed against the owner of the unpermitted outdoor advertising by the Department of Transportation."

Section 2. G.S. 136-134 reads as rewritten:

"**§ 136-134. Illegal advertising.**

Any outdoor advertising erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this Article as determined by G.S. 136-140, in violation of the provisions of this Article or rules and regulations promulgated by the Department of Transportation, or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance. The Department of Transportation or its agents shall give 30 days' notice to the owner of the illegal outdoor advertising with the exception of the owner of unlawful portable outdoor advertising for which the Department of Transportation shall give five days' notice, if such owner is known or can by reasonable diligence be ascertained, to remove the outdoor advertising or to make it conform to the provisions of this Article or rules and regulations promulgated by the Department of Transportation hereunder. The Department of Transportation or its agents shall have the right to remove the illegal outdoor advertising at the expense of the said owner if the said owner fails to ~~act~~ remove the outdoor advertising or to make it conform to the provisions of this Article or rules issued by the Department of Transportation within 30 days after receipt of such notice or five days for owners of portable outdoor advertising. The Department of Transportation or its agents may enter upon private property for the purpose of removing the outdoor advertising prohibited by this Article or rules and regulations promulgated by the Department of Transportation hereunder without civil or criminal liability. The costs of removing the outdoor advertising, whether by the Department of Transportation or its agents, shall be assessed against the owner of the illegal outdoor advertising by the Department of Transportation. Any person

aggrieved by the decision declaring the outdoor advertising structure illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal."

Section 3. G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).

(2) Repealed by Session Laws 1993, c. 501, s. 29.

(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.

(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.

(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.

(6) The Department of Revenue.

(7) The Department of Correction.

(8) The Department of Transportation, except as provided in ~~G.S. 136-29.~~ G.S. 136-29, 136-133.1, and 136-134.1.

(9) The Occupational Safety and Health Review Board.

(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

Section 4. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-133.1. Administrative review of outdoor advertising decisions.**

(a) An applicant for an outdoor advertising permit, an outdoor advertising permit holder, or an outdoor advertising owner who is dissatisfied with the final decision of

the Department of Transportation may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes within 20 days after the decision is made by the Department of Transportation, except that the venue of the hearing shall not be determined pursuant to G.S. 150B-24, but shall be Wake County.

(b) The burden of proof shall be on the party petitioning for review."

Section 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-134.2. Notification requirements.**

When the Department of Transportation notifies a permit applicant, permit holder, or the owner of an outdoor advertising structure that the application is denied, the permit revoked, or the structure is in violation of this Article or rules issued pursuant to this Article, respectively, it shall do so in writing by certified mail, return receipt requested and shall include a copy of this Article and all rules issued pursuant to this Article.

If the Department of Transportation fails to include a copy of this Article and the rules, the time period during which the permit applicant, permit holder, or owner of the outdoor advertising structure has to request a review hearing shall be tolled, until the Department of Transportation provides the required materials."

Section 6. G.S. 136-134.1 reads as rewritten:

"**§ 136-134.1. Judicial review.**

~~Any person who is aggrieved by a final decision of the Secretary of Transportation after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of such decision under this Article. In order to obtain judicial review of the Secretary of Transportation's decision under this Article, the person seeking review must file a petition in the Superior Court of Wake County within 30 days after written copy of the decision of the Secretary of Transportation is served upon the person seeking review. Failure to file such a petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter.~~

~~The petition shall state explicitly what exceptions are taken to the decision of the Secretary of Transportation and what relief petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the Department of Transportation. Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the Department of Transportation shall transmit to the reviewing court a certified copy of the written decision.~~

~~At any time before or during the review proceeding, the aggrieved party may apply to the reviewing court for an order staying the operation of the decision of the Secretary of Transportation pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. The review of the decision of the Secretary of Transportation under this Article shall be conducted by the court without a jury and shall hear the matter de novo pursuant to the rules of evidence as applied in the General Court of Justice. The court, after hearing the matter may affirm, reverse or modify the decision if the decision is:~~

~~(1) In violation of constitutional provisions; or~~
~~(2) Not made in accordance with this Article or rules or regulations promulgated by the Department of Transportation; or~~
~~(3) Affected by other error of law.~~
~~The party aggrieved shall have the burden of showing that the decision was violative of one of the above.~~

~~A party to the review proceedings, including the agency, may appeal to the appellate division from the final judgment of the Superior Court under the rules of procedure applicable in civil cases. The appealing party may apply to the Superior Court for a stay for its final determination or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the appellate division.~~

Article 4 of Chapter 150B of the General Statutes shall govern judicial review of final agency decisions regarding outdoor advertising permits."

Section 7. G.S. 136-135 reads as rewritten:

"**§ 136-135. Enforcement provisions.**

Any person, firm, corporation or association, placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules and regulations promulgated by the Department of Transportation shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Transportation may seek injunctive relief in the Superior Court of Wake County or of the county where the outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article or rules and regulations promulgated pursuant hereto, or require the removal of the said illegal outdoor advertising."

Section 8. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-18.7. Fees.**

The Board of Transportation may establish fees to defray the costs of administering the permit procedures for the Department of Transportation's selective vegetation removal policy established pursuant to G.S. 136-18(5), (7), and (9). These fees shall be no more than necessary to ensure that the policy is entirely self-funded."

Section 9. 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 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 ~~highways~~ highway systems within the State should be controlled and regulated 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. 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 10. G.S. 136-128 reads as rewritten:

"**§ 136-128. Definitions.**

As used in this Article:

(1) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(1a) "Illegal sign" means one which was erected and/or maintained in violation of State law.

(1b) "Information center" means 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 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) "Nonconforming sign" shall mean a sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(3) "Outdoor advertising" means 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 systems" ~~means that portion of connected main highways, as now officially designated, or as may hereafter be so designated by the Department of Transportation as primary system, or other~~

~~appropriate authorities and are also so designated by N.C. or U.S. numbers.~~ means 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 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.

(6) "State law" means 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.

(7) "Unzoned area" shall mean an area where there is no zoning in effect.

(8) "Urban area" shall mean 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 of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

Section 11. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any

side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas."

Section 12. G.S. 136-129.1 reads as rewritten:

"**§ 136-129.1. Limitations of outdoor advertising devices beyond 660 feet.**

No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State outside of the urban areas so as to be visible and intended to be read from the main-traveled way except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located."

Section 13. G.S. 136-136 reads as rewritten:

"**§ 136-136. Zoning changes.**

All zoning authorities shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial zones within 660 feet of the right-of-way of interstate or primary ~~highways.~~ highway systems. Notice shall be by registered mail sent to the offices of the Department of Transportation in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment."

Section 14. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 254*
Commerce Committee Substitute Adopted 4/7/99

Short Title: Outdoor Advertising Control Act/AB. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE VARIOUS OUTDOOR ADVERTISING PERMIT FEES, CHANGE THE ADMINISTRATIVE REVIEW AND JUDICIAL REVIEW OF OUTDOOR ADVERTISING DECISIONS, EXPAND CURRENT NOTIFICATION REQUIREMENTS, AND MODIFY AND UPDATE THE OUTDOOR ADVERTISING CONTROL ACT WITH RESPECT TO VENUE REQUIREMENTS, DEFINITIONS, AND PARTIES RESPONSIBLE FOR PAYMENT OF REMOVAL OF ILLEGAL OUTDOOR ADVERTISING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-133 reads as rewritten:

"**§ 136-133. Permits required.**

No person shall 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, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules and regulations promulgated by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules and regulations promulgated by the Department of Transportation thereunder. Any person aggrieved by the decision of the Department of Transportation or its agents in refusing to grant or in revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Department

of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal. The Department of Transportation shall have the authority to charge permit fees to defray the costs of administering the permit procedures under this Article. The fees for directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a ~~twenty dollar ($20.00)~~ forty dollar ($40.00) initial fee and a ~~fifteen dollar ($15.00)~~ thirty dollar ($30.00) annual renewal fee. The fees for outdoor advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a ~~sixty dollar ($60.00)~~ one hundred twenty dollar ($120.00) initial fee and a ~~thirty dollar ($30.00)~~ sixty dollar ($60.00) annual renewal fee."

Section 2. G.S. 136-134 reads as rewritten:

"**§ 136-134. Illegal advertising.**

Any outdoor advertising erected or maintained adjacent to the right-of-way of the interstate or primary highway system after the effective date of this Article as determined by G.S. 136-140, in violation of the provisions of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation, or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance. The Department of Transportation or its agents shall give 30 days' notice to the owner of the illegal outdoor advertising with the exception of the owner of unlawful portable outdoor advertising for which the Department of Transportation shall give five days' notice, if such owner is known or can by reasonable diligence be ascertained, to remove the outdoor advertising or to make it conform to the provisions of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation hereunder. The Department of Transportation or its agents shall have the right to remove the illegal outdoor advertising at the expense of the ~~said~~ owner if the ~~said~~ owner fails to ~~act~~ remove the outdoor advertising or to make it conform to the provisions of this Article or rules issued by the Department of Transportation within 30 days after receipt of such notice or five days for owners of portable outdoor advertising. The Department of Transportation or its agents may enter upon private property for the purpose of removing the outdoor advertising prohibited by this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation hereunder without civil or criminal liability. The costs of removing the outdoor advertising, whether by the Department of Transportation or its agents, shall be assessed against the owner of the illegal outdoor advertising by the Department of Transportation. Any person aggrieved by the decision declaring the outdoor advertising structure illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Department of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal."

Section 3. G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly

exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

(1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).

(2) Repealed by Session Laws 1993, c. 501, s. 29.

(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.

(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.

(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.

(6) The Department of Revenue.

(7) The Department of Correction.

(8) The Department of Transportation, except as provided in ~~G.S. 136-29.~~ G.S. 136-29, 136-133.1, and 136-134.1.

(9) The Occupational Safety and Health Review Board.

(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

Section 4. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-133.1. Administrative review of outdoor advertising decisions.**

(a) An applicant for an outdoor advertising permit, an outdoor advertising permit holder, or an outdoor advertising owner, who is dissatisfied with the initial decision of the Department of Transportation, may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes within 30 days after the decision is made by the Department of Transportation.

(b) If outdoor advertising is under construction and the Department determines that a permit has not been issued for the outdoor advertising, the Department of Transportation may require that all work on the outdoor advertising cease until the owner of the outdoor advertising shows that the outdoor advertising does not violate G.S. 136-133. The stop work order shall be prominently posted on the outdoor

advertising structure, and no further notice of the stop work order is required. The failure of an owner of outdoor advertising to comply immediately with the stop work order shall subject the outdoor advertising to removal by the Department of Transportation or its agents. Outdoor advertising is under construction when it is in any phase of construction prior to the attachment and display of the advertising message in final position for viewing by the traveling public. The cost of removing outdoor advertising by the Department of Transportation or its agents pursuant to this section shall be assessed against the owner of the unpermitted outdoor advertising by the Department of Transportation. No stop work order may be issued when the Department of Transportation process agent has been served with a court order allowing the sign to be constructed. The party subject to a stop work order may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes within 30 days after the stop work order is issued.

(c) As used in this section, the term 'initial decision' shall be defined by the Department in the rules issued pursuant to this Article."

Section 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-134.2. Notification requirements.**

When the Department of Transportation notifies a permit applicant, permit holder, or the owner of an outdoor advertising structure that the application is denied, the permit revoked, or the structure is in violation of this Article or rules issued pursuant to this Article, it shall do so in writing by certified mail, return receipt requested, and shall include a copy of this Article and all rules issued pursuant to this Article.

If the Department of Transportation fails to include a copy of this Article and the rules, the time period during which the permit applicant, permit holder, or owner of the outdoor advertising structure has to request a review hearing shall be tolled until the Department of Transportation provides the required materials."

Section 6. G.S. 136-134.1 reads as rewritten:

"**§ 136-134.1. Judicial review.**

~~Any person who is aggrieved by a final decision of the Secretary of Transportation after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of such decision under this Article. In order to obtain judicial review of the Secretary of Transportation's decision under this Article, the person seeking review must file a petition in the Superior Court of Wake County within 30 days after written copy of the decision of the Secretary of Transportation is served upon the person seeking review. Failure to file such a petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter.~~

~~The petition shall state explicitly what exceptions are taken to the decision of the Secretary of Transportation and what relief petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the Department of Transportation. Within 30 days after receipt of the copy of the petition for review, or~~

~~within such additional time as the court may allow, the Department of Transportation shall transmit to the reviewing court a certified copy of the written decision.~~

~~At any time before or during the review proceeding, the aggrieved party may apply to the reviewing court for an order staying the operation of the decision of the Secretary of Transportation pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. The review of the decision of the Secretary of Transportation under this Article shall be conducted by the court without a jury and shall hear the matter de novo pursuant to the rules of evidence as applied in the General Court of Justice. The court, after hearing the matter may affirm, reverse or modify the decision if the decision is:~~

~~(1) In violation of constitutional provisions; or~~

~~(2) Not made in accordance with this Article or rules or regulations promulgated by the Department of Transportation; or~~

~~(3) Affected by other error of law.~~

~~The party aggrieved shall have the burden of showing that the decision was violative of one of the above.~~

~~A party to the review proceedings, including the agency, may appeal to the appellate division from the final judgment of the Superior Court under the rules of procedure applicable in civil cases. The appealing party may apply to the Superior Court for a stay for its final determination or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the appellate division.~~

Article 4 of Chapter 150B of the General Statutes shall govern judicial review of final agency decisions regarding outdoor advertising permits."

Section 7. G.S. 136-135 reads as rewritten:

"**§ 136-135. Enforcement provisions.**

Any person, firm, corporation or association, placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules ~~and regulations promulgated~~ adopted by the Department of Transportation shall be guilty of a Class 1 misdemeanor. In addition thereto, the Department of Transportation may seek injunctive relief in the Superior Court of Wake County or of the county where the outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article or rules ~~and regulations promulgated~~ adopted pursuant hereto, or require the removal of the said illegal outdoor advertising."

Section 8. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-18.7. Fees.**

The fee for a selective vegetation removal permit issued pursuant to G.S. 136-18(5), (7), and (9) is two hundred dollars ($200.00)."

Section 9. 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 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 ~~highways~~ highway systems within the State should be controlled and regulated 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. 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 10. G.S. 136-128 reads as rewritten:

"**§ 136-128. Definitions.**

As used in this Article:

(1) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(1a) "Illegal sign" means one which was erected and/or maintained in violation of State law.

(1b) "Information center" means 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 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) "Nonconforming sign" shall mean a sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(3) "Outdoor advertising" means 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 systems" ~~means that portion of connected main highways, as now officially designated, or as may hereafter be so designated by the Department of Transportation as primary system, or other appropriate authorities and are also so designated by N.C. or U.S. numbers.~~ means 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 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.

(6) "State law" means 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.

(7) "Unzoned area" shall mean an area where there is no zoning in effect.

(8) "Urban area" shall mean 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 of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

Section 11. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as

to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas."

Section 12. G.S. 136-129.1 reads as rewritten:

"**§ 136-129.1. Limitations of outdoor advertising devices beyond 660 feet.**

No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary ~~highways~~ highway systems in this State outside of the urban areas so as to be visible and intended to be read from the main-traveled way except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located."

Section 13. G.S. 136-136 reads as rewritten:

"**§ 136-136. Zoning changes.**

All zoning authorities shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial

zones within 660 feet of the right-of-way of interstate or primary ~~highways.~~ highway systems. Notice shall be by registered mail sent to the offices of the Department of Transportation in Raleigh, North Carolina, within 15 days after the effective date of the zoning change or establishment."

Section 14. Sections 1 and 8 become effective July 1, 1999. The remaining sections become effective when this act becomes law.

Members of the General Assembly, Good Morning. LET me thank you for this opportunity to speak with you.

I appreciate being asked to introduce myself to you and to share with you some of the priorities I envision for the Department.

First let me tell you a little bit about myself. I am a graduate of the Law School at Carolina.

Ronnie Sutton and I were classmates.

I am licensed to practice in the state and federal courts.

I have a Master's in Public Health also from Carolina.

In addition, I have a Masters in Education in Educational Psychology and a Bachelor's in Education from the University of Georgia.

I first moved to North Carolina in 1965 and attended the sixth and seventh grades here. After being away for 13 years, I moved back and have lived in Orange County for the past 20 years.

Prior to being named Secretary of Transportation, I was Governor Hunt's Deputy Chief of Staff. In that capacity I managed the Governor's Office -- operations, personnel, and so on.

Before that I was the Chief Deputy Secretary of Administration. In that capacity, I supervised the State Property Office; State Construction, Purchase and Contract, Motor Fleet Management, Facility Management, and State Capitol Police.

Before that I was the General Counsel to the Department of Administration.

My career in state government has been all about making the operations of government perform efficiently and effectively.

I will continue to do the same while at the Department of Transportation.

Enough about me, let me tell you a little about what I envision for the department over the next 18 months.

ROAD maintenance and mass transit are **critical to economic development and the excellent quality of life** we enjoy in North Carolina.

In order to continue the positive changes that are occurring, we must do a better job of maintaining our highways and providing alternative transportation choices for our citizens.

Paving roads, replacing bridges, filling potholes, picking up litter, putting up more safety barriers and increasing

nighttime visibility by putting down more reflective pavement markers are all activities that we will engage to promote our road system.

I'm looking forward to building stronger **partnerships with the environmental community** and helping to promote a clean sustainable environment based on smart growth for us now and for our children's future.

For all of our sakes, we must work to reduce air and water pollution and congestion across the state.

I will help the department further enhance its use of environmentally sustainable practices to promote economic growth while also preserving a healthy environment.

WE can't lose sight that road development is an essential component of commerce and is responsible in part for the tremendous growth we've enjoyed, but we need to continue to remind ourselves that there are two North Carolina's.

One that is prosperous and vital -- the Raleigh-Durham's, Charlotte-Mecklenburg's and so on.

On the other hand, there are rural counties that are not benefiting from the growth in the state.

We must be thinking of their needs as well.

WE must be mindful that all of our citizens use our services.

And, the Board, the staff and I need to make sure that to the extent possible everyone benefits equally.

The TIP was put in place to insure that all road requests are decided on the same basis without the negative influence of favoritism.

The concept is sound and the department has in place a TIP process that is more open now than it has ever been.

GOVERNOR HUNT'S commitment to the reforms that he helped put in place at DOT is widely known and I share his commitment.

I will work with the public, the staff and the Board to maintain those positive changes and to improve the transportation systems that North Carolinians have a right to expect.

Finally, let me say that Safety is an absolute priority for me. We have a responsibility to the motoring public and to our employees to make every effort to make them as safe as possible while they are on our roadways.

Last year, we had almost 1700 fatalities on our highways. In addition, the department had four employees killed while working in a construction zone.

We can make work zones safer by increasing fines, lowering speed limits, and increasing enforcement.

We are currently running our "100 Safe Days of Summer" campaign in which we are trying to make the public aware of the need to slow down and be cautious while in construction zones.

While you and I will never be able to put an end to accidents and deaths on the highways, we need to use every means available to us, so that when an accident occurs, the risk to the public and our employees is minimized.

I am looking forward to working with the General Assembly, the Board of Transportation, and DOT Staff to make sure the department continues to move in a positive direction.

I hope this is helpful. My staff and I will be glad to answer any questions, you might have. Thank you.

VISITOR REGISTRATION SHEET

Transportation — July 7-99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Lacy Love	NCDOT
Brenda Grady	NCDOT
Jan. T. Pearman	NCDOT
BILL WHITEHEART	WHITEHEART OUTDOOR ADV. CO.
Charlie Dsell	NCOAA
Kim Hubbard	NCLM
Calvin Leggett	NCDOT
Ozz Roy	NCDOT
Dale McKeel	Scenic NC
David Knight	NC Wildlife Fed, NC Sierra Club
Cleo Smith	Paddler
John Peterson	GRCC
Walter Price	Charlotte Chamber
John Cyrus	N.C. State Grange
Steve Woodson	NC Farm Bureau

VISITOR REGISTRATION SHEET

Transportation — Name of Committee

July 7, 1999 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	MF+S
Ruth Sappie	NCDOT
Bailey Waller	Wilson & Waller, PA, Raleigh
Paul Wilms	NCMBA
Jim Blackburn	Association of County Commr's.
Arlen Pulley	NC Assoc of Colleges

2000

HOUSE TRANSPORTATION COMMITTEE

MINUTES

NORTH CAROLINA HOUSE OF REPRESENTATIVES

TRANSPORTATION COMMITTEE

2000 SESSION

NORTH CAROLINA GENERAL ASSEMBLY

CHAIRS

Representative Charles F. Buchanan
Representative Drew P. Saunders

STAFF ATTORNEYS

Giles Perry
Wendy Graf

COMMITTEE ASSISTANTS

Glenda Jones
Ruth Fish

HOUSE COMMITTEE ON TRANSPORTATION
2000 SESSION

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
BUCHANAN, Charles, Chair	Glenda Jones Committee Assistant	733-5825	536	41
SAUNDERS, Drew, Chair	Ruth Fish Committee Assistant	733-5776	1219	82
ADAMS, Alma	Marjorie Conner	733-5902	542	67
ALLRED, Cary	Jean Allred	733-5607	609	65
BAKER, Rex	Dawn Ellis	733-5787	608	86
BRIDGEMAN, John	Joyce Langdon	733-4948	1204	94
BROWN, John	Anna Kidd	733-5935	1111	25
CHURCH, Walt	Joyce Fuller	733-5805	1311	33
CLARY, Debbie	Heather Landis	733-5654	1211	97
COLE, Nelson	Suzanne Smith	733-5779	1218	45
CRAWFORD, Jim	Linda Winstead	733-5824	1301	24
CULP, Arlie	Waneta Lord	733-5865	1010	50
EARLE, Beverly	Ann Raeford	733-5747	535	95
EDDINS, Rick	Dorie Monroe	733-5800	1319	74
GIBSON, Pryor	Shirlyn MacPherson	715-3007	419A	108
GILLESPIE, Mitch	Bonnie Jones	733-5987	1201	116
HILL, Dewey	Ginny McCann	733-5830	1309	21
HOLMES, George	Glenda Jacobs	733-5771	2119	29
KINNEY, Ted	Eryn Gee	733- 5758	2123	22

McCOMAS, Danny	Jayne Walton	733-5786	606	111
McLAWHORN, Marian	Daphne McLawhorn	715-3017	417B	104
NYE, Edd	Jo Bobbitt	733-5477	639	1
RAYFIELD, John	Brenda Olls	733-5823	1305	114
SETZER, Mitchell	Joanna Mills	733-5886	1015	117
SHERRILL, Wilma	Rosa Kelley	715-4466	602	37
SOSSAMON, Leonard B., Jr.	Susan Burleson	733-5746	1220	15
SUTTON, Ron	Juanita Coley	733-5752	1321	71
TEAGUE, W. B. Jr.	Linda Hines	733-5530	1017	118
THOMAS, Scott	Dianne Dagenhart	733-5863	531	103
WAINWRIGHT, William	Blinda Edwards	715-3001	420	8
WARWICK, Nurham	Carolyn Honeycutt	715-3003	419C	14

STAFF

Giles Perry	733-2578	545	
Wendy Graf	733-2578	545	

House Transportation Committee Members

2000 Session



Chairman – Charles F. Buchanan



Chairman – Drew P. Saunders



Rep. Alma S. Adams



Rep. Cary Allred



Rep. Rex Baker



Rep. John D. Bridgeman



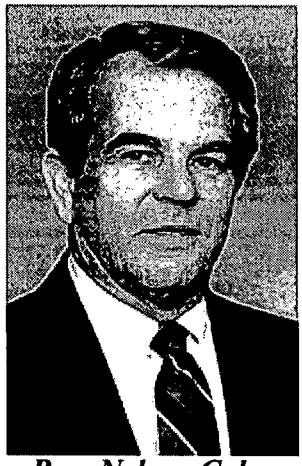
Rep. John W. Brown



Rep. Walter Church



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Rep. Nelson Cole



Rep. James W. Crawford



Rep. Arlie F. Culp



Rep. Beverly Earle



Rep. Rick L. Eddins



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Rep. Dewey L. Hill



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Rep. Ted Kinney



Rep. Daniel L. McComas



Rep. Marian N. McLawhorn



Rep. Edd Nye



Rep. John M. Rayfield



Rep. Mitchell S. Setzer



Rep. Wilma M. Sherrill

Picture Not Available

Rep. Leonard B. Sossamon, Jr.



Rep. Ronnie Sutton



Rep. W. B. Teague, Jr.



Rep. Scott Thomas



Rep. William Wainwright



Rep. Nurham Warwick

ATTENDANCE

HOUSE COMMITTEE ON TRANSPORTATION

(Name of Committee)

DATES	5/24	5/31	6/7	6/14	6/21	6/28	7/6								
BUCHANAN, Charles, Chair	X	✓	✓	✓		✓									
SAUNDERS, Drew, Chair	✓	X	✓	✓		✓	✓								
ADAMS, Alma	✓	✓	✓	✓	✓										
ALLRED, Cary	✓	✓	✓	X											
BAKER, Rex	✓	✓	✓	✓	✓	✓	✓								
BRIDGEMAN, John	✓	✓	✓	✓		✓	✓								
BROWN, John	✓	✓	✓	✓	ex	✓	✓								
CHURCH, Walt	X	✓	X	X		✓									
CLARY, Debbie	X	X	✓	✓	✓	✓	✓								
COLE, Nelson	✓	✓	✓	✓	✓	✓	✓								
CRAWFORD, Jim	✓	✓	✓	✓	✓	✓	✓								
CULP, Arlie	✓	✓	✓	✓	✓	✓	✓								
EARLE, Beverly	X	X	X	X											
EDDINS, Rick	X	✓	✓	✓	✓	✓	✓								
GIBSON, Pryor	✓	✓	✓	X	✓										
GILLESPIE, Mitch	✓	✓	✓	✓	X	✓									
HILL, Dewey	✓	✓	✓	✓		✓									
HOLMES, George	X	✓	X	X											
KINNEY, Ted	X	X	X	X											
McCOMAS, Danny	X	✓	X	X			✓								
McLAWHORN, Marian	✓	✓	✓	✓		✓	✓								
NYE, Edd	✓	✓	✓	X		✓	✓								
RAYFIELD, John	✓	✓	✓	✓	✓	✓	✓								
SETZER, Mitchell	✓	✓	X	✓	✓	✓	✓								
SHERRILL, Wilma	✓	✓	✓	✓	✓		✓								
SOSSAMON, Leonard	✓	✓	✓	✓	✓	✓	✓								

ATTENDANCE

HOUSE COMMITTEE ON TRANSPORTATION – Page 2

(Name of Committee)

DATES	5/24	5/31	6/7	6/14	6/21	6/28	7/6								
SUTTON, Ron	✓	✓	✓	✓		✓	✓								
TEAGUE, Jr.	✓	✓	✓	✓	✓	✓	✓								
THOMAS, Scott	✓	✓	X	✓	✓										
WAINWRIGHT, William	X	X	✓	X											
WARWICK, Nurham	✓	X	X	✓	✓										

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: TRANSPORTATION Valid Through 14-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 128	CANSLER	NONBETTERMENT RELOCATION COSTS	*HF-POSTPONED INDEFINITELY	02-23-99	05-13-99
H 133	ROGERS	EXEMPT DISABLED VETERAN VEHICLES	*R -CH. SL 00-0018	02-23-99	06-24-99
H 247	WAINWRIGHT	FUNERAL PROCESSIONS	*R -CH. SL 99-0441	03-04-99	04-05-99
H 280	COLE	MOTOR VEHICLE TECH. AMENDMENTS	*R -CH. SL 99-0452	03-04-99	04-12-99
H 299=	HACKNEY	OUTDOOR ADVERTISING CONTROL ACT	H -REF TO COM ON TRANSPOR	03-04-99	
H 317	REDWINE	SAFETY CHAINS FOR TRAILERS	*H -RE-REF COM ON TRANSPOR	03-04-99	03-24-99
H 317	REDWINE	SAFETY CHAINS FOR TRAILERS	*H -RE-REF COM ON TRANSPOR	03-31-99	
H 333	HURLEY	TIP FUNDING ALLOCATIONS/LOANS - 2	H -REF TO COM ON TRANSPOR	03-04-99	
H 723	INSKO	DARK WINDOW INSPECTION FEE	*R -CH. SL 00-0075	03-30-99	04-22-99
H 748	GOODWIN	HIGHWAY UTILITY NONBETTERMENT COST	H -REF TO COM ON TRANSPOR	03-31-99	
H 789	GOODWIN	HIGHWAY UTILITY NONBETTERMENT STUDY	*HF-POSTPONED INDEFINITELY	04-01-99	06-24-99
H 937	GRAY	REGIONAL TRANSPORTATION AUTH. AMD.	*R -CH. SL 99-0445	04-06-99	04-28-99
H1029	DECKER	MUNICIPAL SECONDARY ROADS PAVED	HF-POSTPONED INDEFINITELY	04-14-99	04-28-99
H1085	MCMAHAN	TRANSITWAYS	*R -CH. SL 99-0350	04-15-99	04-28-99
H1191	ROGERS	NONBETTERMENT RELOCATION COSTS - 2	H -REF TO COM ON TRANSPOR	04-15-99	
H1273=	LUEBKE	FEDERAL CMAQ FUNDS USE/PUB. TRANS.	H -RE-REF COM ON ENVIRON	04-15-99	06-10-99
H1274	LUEBKE	DURHAM NORTHERN LOOP FUNDS	H -REF TO COM ON TRANSPOR	04-15-99	
H1288=	LUEBKE	ESTABLISH METROPOLITAN PLANNING BDS.	*R -CH. SL 00-0080	00-06-26	
H1288=	LUEBKE	ESTABLISH METROPOLITAN PLANNING BDS.	*R -CH. SL 00-0080	04-15-99	04-28-99
H1386	MCALLISTER	LRS STUDY FERRY DIV. PRIVATIZATION	*HF-POSTPONED INDEFINITELY	04-29-99	06-14-99
H1443=	MINER	CITY PARTICIPATION-ROAD BUILDING	HF-POSTPONED INDEFINITELY	04-29-99	07-07-99
H1498=	CRAWFORD	BUTNER/POWELL BILL CHANGE	*H -PRES. TO GOV. 07-11	00-05-10	00-05-24
H1501=	SUTTON	DMV LIENS/VEHICLE WIDTH	H -PRES. TO GOV. 07-12	00-06-29	
H1513=	SAUNDERS	EXCLUDE CMAQ FUNDS FROM FORMULA	H -REF TO COM ON TRANSPOR	00-05-11	
H1557=	MELTON	DOT ESTABLISH RURAL PLANNING ORGS.	*S -REF TO COM ON TRANSPRT	00-05-17	00-05-25
H1565=	COLE	MUNICIPAL PARTICIPATION	H -RE-REF COM ON TRANSPOR	00-05-17	00-05-31
H1565=	COLE	MUNICIPAL PARTICIPATION	H -RE-REF COM ON TRANSPOR	00-06-08	
H1630=	CRAWFORD	TOLL ROADS	H -RATIFIED	00-05-18	00-06-15
H1731	RAYFIELD	GASTON RAIL BANKING	H -REF TO COM ON TRANSPOR	00-05-25	
H1801=	EARLE	MECKLENBURG RAIL BANKING	H -REF TO COM ON TRANSPOR	00-05-25	

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: TRANSPORTATION Valid Through 14-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H1836=	**GARDNER**	**GOOD ROADS FOR NORTH CAROLINA**	**H -REF TO COM ON TRANSPOR**	**00-05-30**	
S 27	KERR	REPEAL DOT BERMUDA GRASS PROHIB.	R -CH. SL 99-0029	03-16-99	03-31-99
S 51	SHAW L	HIGHWAY CONTRACT BONDING REQ'MENTS	R -CH. SL 99-0025	03-03-99	03-25-99
S 233	SHAW L	ROW PLANS/TIP FUNDING ALLOCATIONS	*R -CH. SL 99-0422	04-01-99	05-13-99
S 254=	GULLEY W	OUTDOOR ADVERTISING CONTROL ACT	R -CH. SL 99-0404	06-01-99	07-12-99
S 328	WELLONS	DOT RIGHT-OF-WAY PLAN FILING	*R -CH. SL 00-0068	00-05-30	00-06-07
S 368	GULLEY W	PUBLIC ACCESS TO RIVERS AND STREAMS	*HF-REPTD UNFAV	04-27-99	00-07-05
S1081	ALBERTSON	AGGREGATE WEIGHT CHANGE	*R -CH. SL 00-0057	05-03-99	00-06-22
S1140	EAST	SURRY BILLBOARD BAN	*R -CH. SL 99-0218	04-29-99	06-09-99
S1195=	GULLEY W	DOT ESTABLISH RURAL PLANNING ORGS	*S -PRES. TO GOV. 07-06	00-06-08	00-06-28
S1200=	GULLEY W	MUNICIPAL PARTICIPATION	*S -PRES. TO GOV. 07-12	00-06-20	00-06-22
S1544	**GARROU**	**TOURIST DIRECTIONAL SIGN PROGRAM**	***H -REF TO COM ON TRANSPOR**	**00-06-29**	
S1545	SHAW L	OFFICERS MEMORIAL SIGN FUNDS	H -RE-REF COM ON APPROP	00-06-28	00-07-05

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Transportation** will meet as follows:

DAY & DATE: **Wednesday, 24, 2000**

TIME: **11:00 A.M.**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):

HB 1498 Butner/Powell Bill Change

HB 1557 DOT Establish Rural Planning Orgs.

Respectfully,

Representatives Buchanan & Saunders
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **4:00 P.M.** on **May 17, 2000**.

___Principal Clerk
___Reading Clerk - House Chamber

Ruth Fish & Glenda Jones (Committee Clerks)

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

May 24, 2000

The House Committee on Transportation met on May 24, 2000, at 11:00 A.M. in Room 643 of the Legislative Office Building. Members present were:

Representative Drew Saunders, Chair	Representative Dewey Hill
Representative Alma Adams	Representative Marian McLawhorn
Representative Cary Allred	Representative Edd Nye
Representative Rex Baker	Representative John Rayfield
Representative John Bridgeman	Representative Mitchell Setzer
Representative John Brown	Representative Wilma Sherrill
Representative Nelson Cole	Representative Leonard Sossamon
Representative Jim Crawford	Representative Ron Sutton
Representative Arlie Culp	Representative W. B. Teague
Representative Pryor Gibson	Representative Scott Thomas
Representative Mitch Gillespie	Representative Nurham Warwick

Giles Perry, Staff Counsel, and Wendy Graf were also present. A Visitor Registration Sheet is attached and made a part of the minutes.

The meeting was called to order by Representative Saunders, Presiding Chair. Representative Saunders introduced Pages: Cal Marshall, Jr., sponsored by Representative Cansler; Ashley Hartge, sponsored by Representative Thomas; and Tristan Wright, sponsored by Representative Creech. He also recognized Wendy Graf, as Staff Counsel, and Dusty Rhodes and John Goodman from the Sergeant of Arms Staff.

The first bill to be discussed was HB 1498 Butner/Powell Bill Change. House Bill 1498 would authorize the Butner Town Manager to administer Butner's Powell Bill funds. There was no discussion on the bill, and Representative Baker made a motion to give the bill a favorable report. It was voted on and passed without objection.

Representative Max Melton was recognized to explain HB 1557 DOT Establish Rural Planning Organization. The bill directs the Board of Transportation, with the assistance of the Secretary and the Department, to develop a plan for establishing Rural Planning Organizations, and report to the Joint Legislative Transportation Oversight Committee. Representative Baker proposed an amendment to the bill on page 2, line 8 to change the spelling of "planing" to "planning." The amendment was approved by vote. A question and answer period followed. Ruth Sappie with the Department of Transportation assisted in answering questions. Representative Crawford called for a favorable report for a committee substitute, which included the approved amendment. A vote was taken, and the committee substitute bill was given a favorable report.

There being no further business, the meeting adjourned at 11:17 A.M.

Rep. Drew Saunders, Presiding Chair

Ruth Fish, Committee Assistant

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

May 24, 2000

OPENING REMARKS

Representative Drew Saunders, Chair

BILLS FOR DISCUSSION

HB 1498 Butner/Powell Bill Change

Bill Sponsor: Representative Jim Crawford

HB 1557 DOT Establish Rural Planning Orgs.

Bill Sponsor: Representative Max Melton

ADJOURNMENT

VISITOR REGISTRATION SHEET

Transportation — May 24, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry M Lancaster	NCLM
Craig Lapf	DENR
Nat Mott	CCNC
Emily Meeker	CCNC
Kim Hibbard	NCLM
Steve Woodson	NCFB
D Moyn	ENR
Jim Caldwell	M-C COG
VL McBride	[illegible]
Paul D. Hyler	Isothermal PDC
Ed Hart	Southern Health Care Hoke Co

VISITOR REGISTRATION SHEET

Transportation — May 24, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BURT TASAICO	NC DOT
Calvin Leggett	NCDOT
Lois Frace	Sierra Club
Christie Barbee	CAPA
David Knight	NC Sierra, NCPTA
Ed Regan	N.C. Assoc. of B. Comm.
Ruth Sappie	NCDOT
R. ROGERS	NC DENR
Natalie English	Charlotte Chamber
Richard Westbrook	UTU
Doris Weaver	NC CWA Political Council

VISITOR REGISTRATION SHEET

Transportation — May 24, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Glenn Lamm	U.T.U.
PG	NUFD

HOUSE BILL 1498:
Butner/Powell Bill Change

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Crawford
Date:	May 24, 2000	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

SUMMARY:

Under current law, the unincorporated area known as Butner is eligible for State street aid to municipalities commonly referred to as "Powell Bill" funds. Butner's funds are administered through the Board of Transportation member from the Butner area. Butner's 1999 Powell Bill allocation was $143,000.

House Bill 1498 would authorize the Butner Town Manager (who is under the direction of the Secretary of the Department of Health and Human Services) to administer Butner's Powell Bill funds.

House Bill 1498 becomes effective July 1, 2000, and applies to allocations that occur on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1498*

Short Title: Butner/Powell Bill Change. (Public)

Sponsors: Representatives Crawford; Allen, Bowie, Buchanan, Cole, Dedmon, Dockham, Melton, and Saunders.

Referred to: Transportation.

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN MANAGER OF BUTNER TO ADMINISTER ITS ANNUAL POWELL BILL STATE STREET AID ALLOCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-41.1(c) reads as rewritten:

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section and of G.S. 136-41.2, the unincorporated area known as Butner qualifies in all respects for allocation of funds under this section and certification of the population and street mileage of Butner by the North Carolina Department of Health and Human Services is acceptable. Funds allocated to the area for this purpose shall be administered by the ~~member of the State Board of Transportation administering the Highway Fund in Granville County.~~ Butner Town Manager."

Section 2. This act becomes effective July 1, 2000, and applies to allocations authorized under G.S. 136-41.1 that occur on or after the effective date.

HOUSE BILL 1557:
DOT Establish Rural Planning Organizations

BILL ANALYSIS

Committee: House Transportation
Date: May 24, 2000
Version: First Edition

Introduced by: Representatives Melton, Crawford; and Wainwright
Summary by: Giles S. Perry
Staff Attorney

BACKGROUND:

The 1998 General Assembly, as a part of its Board of Transportation reform bill, directed the Board of Transportation, with the assistance of the Secretary and the Department, to develop a plan for establishing Rural Planning Organizations, and report to the Joint Legislative Transportation Oversight Committee.

House Bill 1557 is a recommendation of the Joint Legislative Transportation Oversight Committee.

SUMMARY:

Section 1 of the bill authorizes the Department of Transportation to establish Rural Planning Organizations.

Section 2 sets out the details for how the RPOS are to be established:

--new G.S. 136-210 defines RPOs as voluntary organizations of local elected officials and representatives of local transit systems formed by agreement with the Department.

--new G.S. 136-211 authorizes the Department to establish RPOs by memorandum of understanding with interested local elected officials and representatives of local transit systems, and requires the area of any RPO created to include 3 to 15 counties, and at least 50,000 persons.

--new G.S. 136-212 sets out the duties of an RPO, to include: (1) developing long range transportation plans; (2) providing a forum for public participation in rural transportation planning; (3) developing and prioritizing suggestions for TIP projects; and (4) providing transportation-related information to local governments.

--new G.S. 136-213 provides a procedure to set up the administration of any RPO formed pursuant to the act, and authorizes DOT to make grants to RPOs for planning staff if funds are appropriated for that purpose.

Section 3 of the bill provides that nothing in the act shall require the General Assembly to appropriate funds to implement it.

Section 4 requires DOT to report to the Joint Legislative Transportation Oversight Committee on the implementation of the act on or before December 1, 2000.

Section 5 provides that the act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1557*

Short Title: DOT Establish Rural Planning Orgs. (Public)

Sponsors: Representatives Melton, Crawford; and Wainwright.

Referred to: Transportation.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(35) To establish rural planning organizations, as provided in Article 17 of this Chapter."

Section 2. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Rural Transportation Planning Organizations.

"**§ 136-210. Definitions.**

As used in this Article, 'Rural Transportation Planning Organization' means a voluntary organization of local elected officials or their designees and representatives of local transportation systems formed by a memorandum of understanding with the Department of Transportation to work cooperatively with the Department to plan rural transportation systems and to advise the Department on rural transportation policy.

"**§ 136-211. Department authorized to establish Rural Public Transportation Planning Organizations.**

(a) Authorization. -- The Department of Transportation is authorized to form Rural Transportation Planning Organizations.

(b) Area Represented. -- Rural Transportation Planning Organizations shall include representatives from contiguous areas in three to fifteen counties, with a total population of the entire area represented of at least 50,000 persons according to the latest population estimate of the Office of State Planning. Areas already included in a Metropolitan Planning Organization shall not be included in the area represented by a Rural Planing Organization.

(c) Membership. -- The Rural Transportation Planning Organization shall consist of local elected officials or their designees and representatives of local transportation systems in the area as agreed to by all parties in a memorandum of understanding.

(d) Formation; Memorandum of Understanding. -- The Department shall notify local elected officials and representatives of local transportation systems around the State of the opportunity to form Rural Transportation Planning Organizations. The Department shall work cooperatively with interested local elected officials, their designees, and representatives of local transportation systems to develop a proposed area, membership, functions, and responsibilities of a Rural Transportation Planning Organization. The agreement of all parties shall be included in a memorandum of understanding approved by the membership of a proposed Rural Transportation Planning Organization and the Secretary of the Department of Transportation.

"**§ 136-212. Duties of Rural Transportation Planning Organizations.**

The duties of a Rural Transportation Planning Organization shall include, but not be limited to:

(1) Developing, in cooperation with the Department, long-range local and regional multimodal transportation plans.

(2) Providing a forum for public participation in the transportation planning process.

(3) Developing and prioritizing suggestions for transportation projects the organization believes should be included in the State's Transportation Improvement Program.

(4) Providing transportation-related information to local governments and other interested organizations and persons.

"**§ 136-213. Administration and staff.**

(a) Administrative Entity. -- Each Rural Transportation Planning Organization, working in cooperation with the Department, shall select an appropriate administrative entity for the organization. Eligible administrative entities include, but are not limited to, regional economic development agencies, regional councils of government, chambers of commerce, and local governments.

(b) Professional Staff. -- The Department and each Rural Transportation Planning Organization shall cooperatively determine the appropriate professional planning staff needs of the organization.

(c) Funding. -- If funds are appropriated for that purpose, the Department may make grants to Rural Transportation Planning Organizations for professional planning staff. The members of the Rural Transportation Planning Organization shall

contribute at least twenty percent (20%) of the cost of any staff resources employed by the organization. The Department may make additional planning grants to economically distressed counties, as designated by the North Carolina Department of Commerce."

Section 3. Nothing in this act shall require the General Assembly to appropriate funds to implement it.

Section 4. The Department shall report to the Joint Legislative Transportation Oversight Committee on the implementation of this act on or before December 1, 2000.

Section 5. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1557*

Short Title: DOT Establish Rural Planning Orgs. (Public)

Sponsors: Representatives Melton, Crawford; and Wainwright.

Referred to: Transportation.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(35) To establish rural planning organizations, as provided in Article 17 of this Chapter."

Section 2. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Rural Transportation Planning Organizations.

"**§ 136-210. Definitions.**

As used in this Article, 'Rural Transportation Planning Organization' means a voluntary organization of local elected officials or their designees and representatives of local transportation systems formed by a memorandum of understanding with the Department of Transportation to work cooperatively with the Department to plan rural transportation systems and to advise the Department on rural transportation policy.

"**§ 136-211. Department authorized to establish Rural Public Transportation Planning Organizations.**

(a) Authorization. -- The Department of Transportation is authorized to form Rural Transportation Planning Organizations.

(b) Area Represented. -- Rural Transportation Planning Organizations shall include representatives from contiguous areas in three to fifteen counties, with a total population of the entire area represented of at least 50,000 persons according to the latest population estimate of the Office of State Planning. Areas already included in a Metropolitan Planning Organization shall not be included in the area represented by a Rural Planing Organization.

(c) Membership. -- The Rural Transportation Planning Organization shall consist of local elected officials or their designees and representatives of local transportation systems in the area as agreed to by all parties in a memorandum of understanding.

(d) Formation; Memorandum of Understanding. -- The Department shall notify local elected officials and representatives of local transportation systems around the State of the opportunity to form Rural Transportation Planning Organizations. The Department shall work cooperatively with interested local elected officials, their designees, and representatives of local transportation systems to develop a proposed area, membership, functions, and responsibilities of a Rural Transportation Planning Organization. The agreement of all parties shall be included in a memorandum of understanding approved by the membership of a proposed Rural Transportation Planning Organization and the Secretary of the Department of Transportation.

"§ 136-212. Duties of Rural Transportation Planning Organizations.

The duties of a Rural Transportation Planning Organization shall include, but not be limited to:

(1) Developing, in cooperation with the Department, long-range local and regional multimodal transportation plans.

(2) Providing a forum for public participation in the transportation planning process.

(3) Developing and prioritizing suggestions for transportation projects the organization believes should be included in the State's Transportation Improvement Program.

(4) Providing transportation-related information to local governments and other interested organizations and persons.

"§ 136-213. Administration and staff.

(a) Administrative Entity. -- Each Rural Transportation Planning Organization, working in cooperation with the Department, shall select an appropriate administrative entity for the organization. Eligible administrative entities include, but are not limited to, regional economic development agencies, regional councils of government, chambers of commerce, and local governments.

(b) Professional Staff. -- The Department and each Rural Transportation Planning Organization shall cooperatively determine the appropriate professional planning staff needs of the organization.

(c) Funding. -- If funds are appropriated for that purpose, the Department may make grants to Rural Transportation Planning Organizations for professional planning staff. The members of the Rural Transportation Planning Organization shall

contribute at least twenty percent (20%) of the cost of any staff resources employed by the organization. The Department may make additional planning grants to economically distressed counties, as designated by the North Carolina Department of Commerce."

Section 3. Nothing in this act shall require the General Assembly to appropriate funds to implement it.

Section 4. The Department shall report to the Joint Legislative Transportation Oversight Committee on the implementation of this act on or before December 1, 2000.

Section 5. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1557*
Committee Substitute Favorable 5/26/00

Short Title: DOT Establish Rural Planning Orgs. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(35) To establish rural planning organizations, as provided in Article 17 of this Chapter."

Section 2. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Rural Transportation Planning Organizations.

"**§ 136-210. Definitions.**

As used in this Article, 'Rural Transportation Planning Organization' means a voluntary organization of local elected officials or their designees and representatives of local transportation systems formed by a memorandum of understanding with the Department of Transportation to work cooperatively with the Department to plan rural transportation systems and to advise the Department on rural transportation policy.

"**§ 136-211. Department authorized to establish Rural Public Transportation Planning Organizations.**

(a) Authorization. -- The Department of Transportation is authorized to form Rural Transportation Planning Organizations.

(b) Area Represented. -- Rural Transportation Planning Organizations shall include representatives from contiguous areas in three to fifteen counties, with a total population of the entire area represented of at least 50,000 persons according to the latest population estimate of the Office of State Planning. Areas already included in a Metropolitan Planning Organization shall not be included in the area represented by a Rural Planning Organization.

(c) Membership. -- The Rural Transportation Planning Organization shall consist of local elected officials or their designees and representatives of local transportation systems in the area as agreed to by all parties in a memorandum of understanding.

(d) Formation; Memorandum of Understanding. -- The Department shall notify local elected officials and representatives of local transportation systems around the State of the opportunity to form Rural Transportation Planning Organizations. The Department shall work cooperatively with interested local elected officials, their designees, and representatives of local transportation systems to develop a proposed area, membership, functions, and responsibilities of a Rural Transportation Planning Organization. The agreement of all parties shall be included in a memorandum of understanding approved by the membership of a proposed Rural Transportation Planning Organization and the Secretary of the Department of Transportation.

"**§ 136-212. Duties of Rural Transportation Planning Organizations.**

The duties of a Rural Transportation Planning Organization shall include, but not be limited to:

(1) Developing, in cooperation with the Department, long-range local and regional multimodal transportation plans.

(2) Providing a forum for public participation in the transportation planning process.

(3) Developing and prioritizing suggestions for transportation projects the organization believes should be included in the State's Transportation Improvement Program.

(4) Providing transportation-related information to local governments and other interested organizations and persons.

"**§ 136-213. Administration and staff.**

(a) Administrative Entity. -- Each Rural Transportation Planning Organization, working in cooperation with the Department, shall select an appropriate administrative entity for the organization. Eligible administrative entities include, but are not limited to, regional economic development agencies, regional councils of government, chambers of commerce, and local governments.

(b) Professional Staff. -- The Department and each Rural Transportation Planning Organization shall cooperatively determine the appropriate professional planning staff needs of the organization.

(c) Funding. -- If funds are appropriated for that purpose, the Department may make grants to Rural Transportation Planning Organizations for professional planning staff. The members of the Rural Transportation Planning Organization shall

contribute at least twenty percent (20%) of the cost of any staff resources employed by the organization. The Department may make additional planning grants to economically distressed counties, as designated by the North Carolina Department of Commerce."

Section 3. Nothing in this act shall require the General Assembly to appropriate funds to implement it.

Section 4. The Department shall report to the Joint Legislative Transportation Oversight Committee on the implementation of this act on or before December 1, 2000.

Section 5. This act becomes effective July 1, 2000.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation**.

☐ Committee Substitute for
H.B. 1498 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN MANAGER OF BUTNER TO ADMINISTER ITS ANNUAL POWELL BILL STATE STREET AID ALLOCATION

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/24/2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation.**

☐ Committee Substitute for
H.B. 1557 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to (original bill) ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **TRANSPORTATION** will meet as follows:

DAY & DATE: **Wednesday, May 31, 2000**

TIME: **11:00 a.m.**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):

HB 1565 Municipal Participation (Representative Cole)

HB 1630 Toll Roads (Representative Crawford

Respectfully,

Representatives Buchanan and Saunders
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **2:15 P.M.** on **May 24, 2000**

___Principal Clerk
___Reading Clerk - House Chamber

Glenda Jones and Ruth Fish (Committee Assistants)

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

May 31, 2000

The House Committee on Transportation met at 11:00 AM in Room 643 of the Legislative Office Building on May 31, 2000. Members present were: Representatives Adams, Allred, Baker, Bridgeman, Brown, Buchanan, Church, Cole, Crawford, Culp, Eddins, Gibson, Gillespie, Hill, Holmes, McComas, McLawhorn, Nye, Rayfield, Setzer, Sherrill, Sossamon, Sutton, Teague and Thomas., Giles Perry, staff counsel for the committee was present. The visitor register is attached.

Representative Buchanan, Presiding Chair, called the meeting to order at 11:00 AM and introduced the pages, Allison Wonsick from Catawba County and Taylor Knauf from Rowan County. Dusty Rhodes and Wendy Graf from the Sergeant of Arms office were also recognized. Chairman Buchanan welcomed newcomer, Representative Sossamon.

House Bill 1565, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION, was explained by bill sponsor, Representative Cole. The bill analysis is attached. Mr. David King from the Department of Transportation spoke in support of the bill. Representative Brown made a motion that the bill be given a favorable report. A vote was taken and the motion was approved.

House Bill 1630, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICLY FUNDED TOLL ROAD OR BRIDGE PROJECTS, was explained by bill sponsor, Representative Crawford. Representative Crawford sent forth a committee substitute and Representative Brown made a motion that the proposed committee substitute be brought before the committee. The motion was voted on and approved. Analysis of the committee substitute for this bill is attached. Former Secretary of the Department of Transportation, Jim Harrington, and David King, from the Department of Transportation spoke in favor of the legislation. Jane Pinsky from AAA Carolinas spoke in opposition to the bill. Chairman Buchanan recognized members of the committee for comments.. Representative Rayfield stated he would like to present an amendment. Chairman Buchanan said the staff would prepare this. Because of the many questions from the members and comments for and against and because of others wanting to speak, Chairman Buchanan stated that further consideration of the bill would have to be carried over until next week.

The meeting was adjourned at 11:55 AM.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Mary Moore, Acting Committee Assistant

HOUSE TRANSPORTATION COMMITTEE MEETING

MAY 31, 2000

AGENDA

OPENING REMARKS

Representative Charles M. Buchanan, Co-Chair

BILLS TO BE CONSIDERED

HB 1565 Municipal Participation
Sponsor Representative Cole

HB 1630 Toll Roads
Sponsor Representative Crawford

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation**.

☐ Committee Substitute for
H.B. 1565 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

HOUSE BILL 1565:
Municipal Participation

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Cole
Date:	May 31, 2000	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

Current Law:
Under current law (G.S. 136-66.3) municipalities are limited to the following types of participation in State highway system improvements:

1. A sliding scale participation of between 5-25% of the costs of right-of-way and construction, depending on the municipal population;
2. Full municipal right of way and construction funding of a project, if approved in a municipal election;
3. Part of the right-of-way and construction costs for projects funded by the State "small urban construction program";
4. Part or full funding of development access projects (new travel lanes, turn lanes, curb and gutter, and drainage) projects "
5. Funding of "projects extras" that DOT would not normally include in a project.

House Bill 1565:
House Bill 1565 changes the current restrictions on municipal funding of State highway projects by:
--removing the percentage restrictions on municipal participation in the funding of State highway system improvements; and
--removing the requirement for a municipal election to approve any 100% municipally funded improvement to the State system.

House Bill 1556 also specifies that municipal participation in State highway construction will not be considered in calculating regional funding under the equity distribution formula. This language is intended to insure that the existing regional equity formula allocations would be unaffected by this bill.

House Bill 1565 becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1565*

Short Title: Municipal Participation. (Public)

Sponsors: Representatives Cole; Bowie and Dockham.

Referred to: Transportation.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Municipal participation in improvements to the State highway system.**

(a) ~~Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right-of-way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

~~(b) The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by funds allocated by the General Assembly for the "Small Urban Construction Program". The municipalities~~ When any one or more street construction or highway improvement projects are proposed on the State highway system in and around a municipality, the Department of Transportation and the municipal governing body shall reach agreement on their respective responsibilities for such project or projects. In reaching such agreement, the Department of Transportation and the municipality shall take into consideration:

(1) The relative importance of the project to a coordinated statewide system of highways.
(2) The relative benefit of the project to the municipality.
(3) The degree to which the cost of acquisition of rights-of-way can be reduced or minimized through action by the municipality and/or the Department of Transportation to acquire all or part of the rights-of-way for proposed projects well in advance of construction of such projects. Municipalities may, but shall not be required to, participate in the right-of-way and construction cost of ~~"Small Urban Construction Program"~~ State highway system improvements.

(c) A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that ~~purpose by a vote of the citizens of the municipality. The governing body of the municipality may call a special referendum at any time to allow this use of funds.~~ purpose. The ~~total cost of the~~ improvements authorized by this subsection shall be the responsibility of the municipality and shall not ~~be participated in by the Department of Transportation, nor shall the construction of improvements~~ be a consideration for any other project by the Department of Transportation. All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) When in the review and approval by a municipality of plans for the development of property abutting the State highway system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the municipality is authorized to construct, or have constructed, said improvements to the State highway system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the State highway system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) A municipality may pursuant to an agreement with the Department of Transportation reimburse the Department of Transportation for the cost of all improvements, including ~~additional~~ right-of-way, for a street or highway improvement project approved by the Board of Transportation under ~~G.S. 143B-350(f)(4) that are in addition to those improvements that the Department of Transportation would normally include in the project.~~ G.S. 143B-350(f)(4). Funds expended by a municipality pursuant to an agreement with the Department of Transportation shall not be considered in calculating distribution of construction funds under G.S. 136-17.2A.

(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).

~~Municipalities having a population of 10,000 or more according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer may, but shall not be required by the Department or Board of Transportation, participate up to a maximum percentage as shown below in the cost of rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:~~

~~Municipal Population~~	~~Maximum Participation In Right-of-Way Costs~~
~~10,000 - 25,000~~	~~5%~~
~~25,001 - 50,000~~	~~10%~~
~~50,001 - 100,000~~	~~15%~~
~~over 100,000~~	~~25%~~

Any participation shall be set forth in an agreement between the municipality and the Department of Transportation. Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs ~~of rights-of-way~~ necessary for the project. The Department of Transportation shall not charge a municipality any interest ~~on its agreed upon share of rights-of-way costs.~~ during the initial three years. The ~~Secretary~~ Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) In the acquisition of rights-of-way for any State highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those

powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

(i) Either the municipality or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities ~~for right-of-way acquisition~~ by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way."

Section 2. This act becomes effective July 1, 2000.

HOUSE BILL 1630:
Toll Roads

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Crawford and others
Date:	May 31, 2000	**Summary by:**	Giles S. Perry Committee Counsel
Version:	Proposed Committee Substitute H1630-CSRW-001		

Bill Summary

House Bill 1630 (Proposed Committee Substitute) adds a new Article to Chapter 136 (Roads and Highways). The new Article, entitled "Private and Public Pilot Toll Projects", authorizes the construction and operation of three private toll projects and three State-owned toll projects in the State.

Private Toll Projects

The Department of Transportation may issue up to three licenses to persons to finance, design, construct, maintain, improve, own, or operate a toll highway, road, bridge, or other transportation-related facility. Authorized licenses must be issued on or before July 1, 2005.

Requirements for Issuance of License

- DOT must make written determination that proposed project is necessary, in the public interest, and unlikely to be constructed in the foreseeable future as a non-toll project.
- Applicant must submit detailed financial data to DOT showing ability to finance the project

DOT must receive a resolution of support for project approved by the county commissioners of each county in which project will be located.

Terms of License – DOT is granted discretion to include conditions in any license issued under this section, including design, maintenance, connections to the existing highway system, and location of the project.

Methods of Acquiring Project Property – A licensee must acquire all right-of–way interests required for the project through private negotiation. However, DOT may exercise its power of eminent domain to acquire necessary property rights if the licensee cannot acquire these interests at a reasonable price. Licensee must reimburse DOT its full costs, including attorney fees, for acquiring the property interests by eminent domain for the privately owned portion of the project. DOT may convey property it holds to licensee at fair market value if property is needed for project.

Exemptions -- DOT is exempted from conflicting laws (bidding requirements and advertisement) for the purpose of entering into contractual licensing agreements.

Motor Vehicle laws -- would apply on any project licensed under this section. The Highway Patrol and Division of Motor Vehicles would have the same powers on a project licensed under this section as any other road.

Reporting Requirements – DOT must report to Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001 and every year thereafter on any toll project.

State-Owned and Operated Toll Projects

DOT may construct and operate up to three state-owned toll projects in the State if it determines that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a non-toll project. DOT Board must authorize toll projects under this section on or before July 1, 2005.

Reporting Requirements – same as for private toll projects.

Effective date: when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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H1630-CSRW-001
PROPOSED COMMITTEE SUBSTITUTE
House Bill 1630
THIS IS A DRAFT 30-MAY-00 20:03:38
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Toll Roads. (Public)

Sponsors:

Referred to: Transportation.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private and Public Pilot Toll Projects.

"§ 136-89.168. Private toll projects.

(a) Authority to License. -- The Department of Transportation is authorized to issue up to three licenses to applicants to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a transportation project within the State of North Carolina. One of the three licenses authorized by this section may be issued to an applicant for a bridge facility connecting two counties over a major river. Any license authorized by this section must be issued on or before July 1, 2005.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a

written determination that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a nontoll project.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department concerning the ability of applicant to finance the proposed project. The Department shall independently analyze the data submitted for each project proposal.

(d) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and may include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project.

(3) Provisions requiring that appropriate traffic signs and other traffic control devices be erected and maintained on the project.

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control, if any, that may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions concerning location of the project.

(e) Acquisition of Project Property. -- A person licensed to construct a project under this section shall, to the extent possible, acquire all right-of-way interests required for the project through private negotiation. The Department is authorized to exercise its power of eminent domain to acquire property rights necessary for construction and maintenance of the project only as to those property interests that cannot be acquired by the licensee at a reasonable price through private negotiation. A licensee requesting that the Department exercise its power of eminent domain shall be required to reimburse the Department in the full amount of its costs incurred in acquiring the necessary property interests for the private portion of the project, including any negotiated settlement or jury verdict, and

any attorneys' fees that may be awarded. The acquisition of property interests necessary for inclusion in a project licensed under this section is hereby declared to be for a public transportation purpose.

(f) Transfer of Department Property to Licensee. -- Notwithstanding the provisions of G.S. 136-19, should the Department determine that a licensed project requires property interests held by the Department, such interests as the Department determines to be necessary may be conveyed to the licensee for fair market value.

(g) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S. 143B-350(f)(4).

(h) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). The State Highway Patrol and the Division of Motor Vehicles shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(i) Resolution of Support Required. -- The Department shall not license any project under this section prior to receiving a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

(j) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(k) Definitions. -- The following definitions shall apply as used in this section:

(1) 'Person' shall mean any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' shall mean a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'License' shall mean a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(l) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article.

§ 136-89.169. State-owned and operated toll projects.

(a) Authority to Construct and Operate. -- The Department of Transportation is authorized to construct and operate up to three toll transportation projects within the State. Any project authorized by this section must be approved by the Board of Transportation on or before July 1, 2005.

(b) Requirement for Finding of Need. -- Prior to the construction of any project authorized under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a nontoll project.

(c) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article."

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

HOUSE BILL 1630

Short Title: Toll Roads. (Public)

Sponsors: Representatives Crawford; Barefoot, Allen, Mitchell, Hill, and McMahan.

Referred to: Transportation.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICALLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private and Public Pilot Toll Projects.

"**§ 136-89.168. Private toll projects.**

(a) Authority to License. -- The Department of Transportation is authorized to issue up to three licenses to persons to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a transportation project within the State of North Carolina.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a nontoll project.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department concerning the ability of applicant to finance the proposed project and the projected time for the licensee to recover the cost of the licensee's investment and to make a

reasonable rate of return. The Department shall independently analyze the data submitted for each project proposal and determine the appropriate license period.

(d) License Period. -- A license issued under this section shall not exceed 30 years in length.

(e) State Ownership at End of License Period. -- A license issued pursuant to this section shall include an agreement from the applicant to transfer all property rights to the project to the State at the end of the license period.

(f) State Use for Other Purposes. -- A license issued pursuant to this section shall authorize the State or its designee to enter and utilize the project right-of-way for other transportation or utility-related purposes, as long as those purposes do not interfere with the use by the licensee.

(g) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and may include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project.

(3) Provisions requiring that necessary traffic signs and other traffic control devices be erected and maintained in conformity with the Manual on Uniform Traffic Control Devices as defined in G.S. 136-30(d).

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control which may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions requiring that the State of North Carolina, its agencies, officials and employees be indemnified and held harmless by the licensee for any liability incurred on the project in connection with project construction, maintenance, or operation.

(8) Provisions concerning the circumstances under which the Department will exercise its power of eminent domain.

(9) Provisions concerning location of the project.

(h) Acquisition of Project Property. -- A person licensed to construct a project under this section shall, to the extent possible, acquire all right-of-way interests required for the project through private negotiation. The Department is authorized to exercise its power of eminent domain to acquire property rights necessary for construction and maintenance of the project only as to those property interests that cannot be acquired by the licensee at a reasonable price through private negotiation. A licensee requesting that the Department exercise its power of eminent domain shall

be required to reimburse the Department in the full amount of its costs incurred in acquiring the necessary property interests, including any negotiated settlement or jury verdict, and any attorneys' fees that may be awarded. The acquisition of property interests necessary for inclusion in a project licensed under this section is hereby declared to be for a public transportation purpose.

(i) Transfer of Department Property to Licensee. -- Notwithstanding the provisions of G.S. 136-19, should the Department determine that a licensed project requires property interests held by the Department, such interests as the Department determines to be necessary may be conveyed to the licensee for fair market value.

(j) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S. 143B-350(f)(4).

(k) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). The State Highway Patrol and the Division of Motor Vehicles shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(l) Resolution of Support Required. -- The Department shall not license any project under this section prior to receiving a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

(m) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(n) Definitions. -- The following definitions shall apply as used in this section:

(1) 'Person' shall mean any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' shall mean a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'License' shall mean a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(o) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by

February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article.

"**§ 136-89.169. State-owned and operated toll projects.**

(a) Authority to Construct and Operate. -- The Department of Transportation is authorized to construct and operate up to three toll transportation projects within the State.

(b) Requirement for Finding of Need. -- Prior to the construction of any project authorized under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a nontoll project.

(c) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article."

Section 2. This act is effective when it becomes law and expires July 1, 2003.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Transportation** will meet as follows:

DAY & DATE: **Wednesday, June 7, 2000**

TIME: **11:00 A.M.**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):
HB 1630 Toll Roads (Representative Crawford, Bill Sponsor)

Respectfully,

Representatives Buchanan & Saunders
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **9:00 A.M.** on **June 1, 2000**.

___Principal Clerk
___Reading Clerk - House Chamber

Ruth Fish & Glenda Jones (Committee Clerks)

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

June 7, 2000
Room 643 LOB
11:00 A.M.

Opening Remarks

Representative Charles Buchanan, Chair

Bills for Discussion

SB 328 DOT Right-of-Way Plan Filing

Senator Allen Wellons, Sponsor

HB 1630 Tolls Roads

Representative Jim Crawford, Sponsor

Adjournment

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

June 7, 2000
Room 643 LOB
11:00 A.M.

The House Committee on Transportation met on June 7, 2000, in Room 643 of the Legislative Office Building at 11:00 A.M. Members present were:

Rep. Charles Buchanan, Co-Chair
Rep. Drew Saunders, Co-Chair
Rep. Alma Adams
Rep. Cary Allred
Rep. Rex Baker
Rep. John Bridgeman
Rep. John Brown
Rep. Debbie Clary
Rep. Nelson Cole
Rep. Jim Crawford
Rep. Arlie Culp
Rep. Rick Eddins
Rep. Pryor Gibson
Rep. Mitch Gillespie
Rep. Dewey Hill
Rep. Marina McLawhorn
Rep. Edd Nye
Rep. John Rayfield
Rep. Wilma Sherrill
Rep. Leonard Sossamon
Rep. Ron Sutton
Rep. W.B. Teague
Rep. William Wainwright

Representative Charles Buchanan, Presiding Co-Chair, called the meeting to order and recognized Pages: Lauren Rothwell from Wayne County, sponsored by Representative Baddour; David Kronenfeld from Guilford County, sponsored by Representative Bowie; and Jim Cross from Granville County, sponsored by Representative Fox. He also thanked Dusty Rhodes and Martha Parrish from the Sergeant of Arms Office for their work with the Committee. A Visitor Registration Sheet is attached and made a part of the minutes (Attachment #1.)

The first bill to be considered was SB 328 D.O.T. Right-of-Way Plan Filing. Rep. Brown made a motion to adopt a committee substitute and re-refer the bill to the Finance Committee (Attachment #2.) Following an explanation of the bill by Senator Wellons, bill sponsor, and discussion by members, the motion was approved by vote.

A discussion continued from last week on HB 1630 Toll Roads. Representative Cole made a motion to consider a committee substitute. Representative Crawford, bill sponsor, assisted by Mr. Jim Harrington, formerly with Department of Transportation, and Mr. David King with Department of Transportation responded to questions. Representative Sherrill offered an amendment to Page 4 of the committee substitute bill. Following discussion, the amendment was adopted and will be rolled into the committee substitute bill. The bill will be considered again at the next meeting on June 14.

The meeting adjourned at 11:55 A.M.

Rep. Charles Buchanan, Presiding Co-Chair

Ruth Fish, Committee Assistant

Rep. Drew Saunders, Co-Chair

Attachment #1

VISITOR REGISTRATION SHEET

House Committee on Transportation — **Name of Committee**

June 7, 2000 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andrew Chris	John Foster Fan...
Phil Conrad	Lt. Governor's Office
Doug Howey	NCPMA
Gary Harris	NCPMA
BERRY JENKINS	Carolinas AGC
Jerry Roberts	C.U.C.A.
Jan Lansley	AAA Carolinas
Travis Hill	Lt. Governor's Office
Stuart Albright	Lt. Gov's office
BRUCE THOMPSON	CONSULTING ENGINEERS
DAVID BRODY	Commerce Board
Dan Lyle	SEANC

VISITOR REGISTRATION SHEET

House Committee on Transportation — June 7, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Lantz	Commerce Board
John Phelps	NC League of Municipalities
Calvin Leggett	DOT
Doris Weaver	N.C. CWA Political Council
Lauren Trustman	Patterson, Harkavy & Lawrence
Glenn Lamar	UTU.
Tommy Harrelson	Enterprise Rent-a-Car
Jim Harrington	Transp. Finance Study Comm.
Sandra Long	Marsh Marietta
John Long	Marsh Marietta
Nat Mund	CCNC

VISITOR REGISTRATION SHEET

House Committee on Transportation — June 7, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Ham	NC State AFL-CIO

Attachment #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

S328-CSRW-001
PROPOSED COMMITTEE SUBSTITUTE
Senate Bill 328
THIS IS A DRAFT 6-JUN-00 21:29:03
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: D.O.T. Right-of-Way Plan Filing. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE PAYABLE TO THE REGISTER OF DEEDS FOR THE FILING OF RIGHT-OF-WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-19.4 reads as rewritten:

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

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

(b) The copy of the plans certified to the register of deeds shall consist of a Xerox, photographic, or other permanent copy, except for plans electronically transmitted pursuant to subsection (b1) of this section, and shall measure approximately

17 inches by 11 inches including no less than one and one-half inches binding space on the left-hand side.

(b1) With the approval of the county in which the right-of-way plans are to be filed, the Department may transmit the plans electronically.

(c) Notwithstanding any other provision in the law, upon receipt of said original certified copy of the right-of-way plans, the register of deeds shall record said right-of-way plans and place the same in a book maintained for that purpose, and the register of deeds shall maintain a cross-index to said right-of-way plans by number of road affected, if any, and by identification number. No probate before the clerk of the superior court shall be required.

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

(e) The register of deeds in each county shall collect a fee from the Department of Transportation of <u>twenty-one dollars ($21.00) for the first page and</u> five dollars ($5.00) <u>for each additional page</u> for each original or amended plan and profile sheet recorded."

Section 2. This act becomes effective January 1, 2001.

HOUSE BILL 1630:
Toll Roads

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Crawford and others
Date:	June 7, 2000	**Summary by:**	Giles S. Perry
Version:	Proposed Committee Substitute H1630-CSRW-002		Committee Counsel

Bill Summary

House Bill 1630 (Proposed Committee Substitute) adds a new Article to Chapter 136 (Roads and Highways). The new Article, entitled "Private and Public Pilot Toll Projects", authorizes the construction and operation of three private toll projects and three State-owned toll projects in the State.

Private Toll Projects

The Department of Transportation may issue up to three licenses to persons to finance, design, construct, maintain, improve, own, or operate a toll highway, road, bridge, or other transportation-related facility. Authorized licenses must be issued on or before July 1, 2005.

Requirements for Issuance of License

- DOT must make written determination that proposed project is necessary, in the public interest.
- Applicant must submit detailed financial data to DOT showing ability to finance the project

DOT must receive a resolution of support for project approved by the county commissioners of each county in which project will be located.

Terms of License – DOT is granted discretion to include conditions in any license issued under this section, but is required to include provisions concerning design, maintenance, connections to the existing highway system, and location of the project.

Methods of Acquiring Project Property – A licensee must acquire all right-of–way interests required for the project through private negotiation. However, DOT may exercise its power of eminent domain to acquire necessary property rights if the licensee cannot acquire these interests at a reasonable price. Licensee must reimburse DOT its full costs, including attorney fees, for acquiring the property interests by eminent domain for the privately owned portion of the project. DOT may convey property it holds to licensee at fair market value if property is needed for project.

Exemptions -- DOT is exempted from conflicting laws (bidding requirements and advertisement) for the purpose of entering into contractual licensing agreements.

Motor Vehicle laws -- would apply on any project licensed under this section. The Highway Patrol and Division of Motor Vehicles would have the same powers on a project licensed under this section as any other road.

Reporting Requirements – DOT must report to Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001 and every year thereafter on any toll project.

State-Owned and Operated Toll Projects

DOT may construct and operate up to three state-owned toll projects in the State if it determines that the proposed project is necessary and in the public interest. DOT Board must authorize toll projects under this section on or before July 1, 2005.

Reporting Requirements – same as for private toll projects.

Effective date: when it becomes law.

Attachment #3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H1630-CSRW-002
PROPOSED COMMITTEE SUBSTITUTE
House Bill 1630
THIS IS A DRAFT 6-JUN-00 17:04:19
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Toll Roads. (Public)

Sponsors:

Referred to: Transportation.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private and Public Pilot Toll Projects.

"§ 136-89.168. Private toll projects.

(a) Authority to License. -- The Department of Transportation is authorized to issue up to three licenses to applicants to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a transportation project within the State of North Carolina. One of the three licenses authorized by this section may be issued to an applicant for a bridge facility connecting two counties over a major river. Any license authorized by this section must be issued on or before July 1, 2005.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a

written determination that the proposed project is necessary and in the public interest.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department concerning the ability of applicant to finance the proposed project. The Department shall independently analyze the data submitted for each project proposal.

(d) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and shall include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project.

(3) Provisions requiring that appropriate traffic signs and other traffic control devices be erected and maintained on the project.

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control, if any, that may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions concerning location of the project.

(e) Acquisition of Project Property. -- A person licensed to construct a project under this section shall, to the extent possible, acquire all right-of-way interests required for the project through private negotiation. The Department is authorized to exercise its power of eminent domain to acquire property rights necessary for construction and maintenance of the project only as to those property interests that cannot be acquired by the licensee at a reasonable price through private negotiation. A licensee requesting that the Department exercise its power of eminent domain shall be required to reimburse the Department in the full amount of its costs incurred in acquiring the necessary property interests for the private portion of the project, including any negotiated settlement or jury verdict, and any attorneys' fees that may be awarded. The acquisition of

property interests necessary for inclusion in a project licensed under this section is hereby declared to be for a public transportation purpose.

(f) Transfer of Department Property to Licensee. -- Notwithstanding the provisions of G.S. 136-19, should the Department determine that a licensed project requires property interests held by the Department, such interests as the Department determines to be necessary may be conveyed to the licensee for fair market value.

(g) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S. 143B-350(f)(4).

(h) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). The State Highway Patrol and the Division of Motor Vehicles shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(i) Resolution of Support Required. -- The Department shall not license any project under this section prior to receiving a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

(j) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(k) Definitions. -- The following definitions shall apply as used in this section:

(1) 'Person' shall mean any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' shall mean a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'License' shall mean a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(l) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article.

§ 136-89.169. State-owned and operated toll projects.

(a) Authority to Construct and Operate. -- The Department of Transportation is authorized to construct and operate up to three toll transportation projects within the State. Any project authorized by this section must be approved by the Board of Transportation on or before July 1, 2005.

(b) Requirement for Finding of Need. -- Prior to the construction of any project authorized under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest.

(c) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article."

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

SENATE BILL 328:
DOT Right-of-Way Plan Filing

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Senator Wellons
Date:	June 7, 2000	**Summary by:**	Giles S. Perry Committee Counsel
Version:	Proposed Committee Substitute S328-CSRW-001		

SUMMARY: ***Senate Bill 328 (PCS) increases the fee that DOT must pay to registers of deeds when filing right of way plans.***

CURRENT LAW: DOT is required to register right-of-way plans for its projects with the register of deeds in the county or counties where a project is located. DOT is required to pay the register of deeds $5 a page for each page of a right-of-way plan submitted for registration.

BILL ANALYSIS: Senate Bill 328 would increase the fee payable by DOT to the register of deeds to $12 for the first page of the right-of-way plan, and $5 for each additional page.

Senate Bill 328 would become effective January 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 328
Finance Committee Substitute Adopted 5/19/99

Short Title: D.O.T. Right-of-Way Plan Filing. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE TRANSMISSION AND FILING OF RIGHT-OF-WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-19.4 reads as rewritten:

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

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

(b) The copy of the plans certified to the register of deeds shall consist of a Xerox, photographic, or other permanent ~~copy~~ copy, except for plans electronically transmitted pursuant to subsection (b1) of this section, and shall measure approximately ~~20 inches by 12 inches~~ 17 inches by 11 inches including no less than one and one-half inches binding space on the left-hand side.

(b1) With the approval of the county in which the right-of-way plans are to be filed, the Department may transmit the plans electronically.

(c) Notwithstanding any other provision in the law, upon receipt of said original certified copy of the right-of-way plans, the register of deeds shall record said right-of-way plans and place the same in a book maintained for that purpose, and the

register of deeds shall maintain a cross-index to said right-of-way plans by number of road affected, if any, and by ~~project~~ identification number. No probate before the clerk of the superior court shall be required.

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

(e) The register of deeds in each county shall collect a fee from the Department of Transportation of twenty-one dollars ($21.00) for the first page and five dollars ($5.00) for each additional page for each original or amended plan and profile sheet recorded."

Section 2. This act becomes effective January 1, 2000.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **TRANSPORTATION**.

☐ Committee Substitute for
~~H.B.~~ S.B. 328 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE TRANSMISSION AND FILING OF RIGHT OF WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill ~~(#)~~, ☐ which changes the title, unfavorable as to Senate committee substitute bill, (and recommendation that the House committee substitute bill be re-referred to the Committee on Finance.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 328
Finance Committee Substitute Adopted 5/19/99
Proposed Committee Substitute S328-PCS3968-RW001

Short Title: D.O.T. Right-of-Way Plan Filing. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE PAYABLE TO THE REGISTER OF DEEDS FOR THE FILING OF RIGHT-OF-WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-19.4 reads as rewritten:

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

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

(b) The copy of the plans certified to the register of deeds shall consist of a Xerox, photographic, or other permanent copy, except for plans electronically transmitted pursuant to subsection (b1) of this section, and shall measure approximately 17 inches by 11 inches including no less than one and one-half inches binding space on the left-hand side.

(b1) With the approval of the county in which the right-of-way plans are to be filed, the Department may transmit the plans electronically.

(c) Notwithstanding any other provision in the law, upon receipt of said original certified copy of the right-of-way plans, the register of deeds shall record said right-of-way plans and place the same in a book maintained for that purpose, and the register of deeds shall maintain a cross-index to said right-of-way plans by number of road affected, if any, and by identification number. No probate before the clerk of the superior court shall be required.

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

(e) The register of deeds in each county shall collect a fee from the Department of Transportation of twenty-one dollars ($21.00) for the first page and five dollars ($5.00) for each additional page for each original or amended plan and profile sheet recorded."

Section 2. This act becomes effective January 1, 2001.

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

June 14, 2000
Room 643 LOB
11:00 A.M.

The House Committee on Transportation met on June 14, 2000, in Room 643 of the Legislative Office Building at 11:00 A.M. Members present were: Representatives Adams, Baker, Bridgeman, Brown, Buchanan, Clary, Cole, Crawford, Culp, Eddins, Gillespie, Hill, McLawhorn, Rayfield, Setzer, Sherrill, Sossamon, Sutton, Teague, Thomas, Warwick, and Saunders, Chair. Staff Counsels, Giles Perry and Terry Sullivan were also present. A Visitor Registration Sheet is attached and made a part of the minutes.

Representative Saunders, Presiding Chair, called the meeting to order and introduced the pages, Will Bowman and Allen Schmitt from Mecklenburg County, George Guthrie from Durham, and Morgan Watsord from Davidson County. He also recognized Sergeant of Arms, Dusty Rhodes.

HB 1630 Toll Roads was continued from last week. Chairman Saunders recognized Giles Perry who presented a new committee substitute for consideration by the committee. Representative Buchanan moved that the committee substitute be adopted for discussion. The motion passed. Representative Crawford, sponsor of the bill ,was recognized to debate the bill. Representative Bridgeman made a motion that House Bill 1630 be given an unfavorable report and that the proposed committee substitute for HB 1630 be given a favorable report. A discussion followed. Representative Sutton presented an amendment which was approved by the committee. Representative Gillespie presented an amendment that failed on a roll-call vote. Representative Eddings sent forth an amendment and requested a roll call vote but, after discussion by the members, withdrew his amendment. Representative Adams suggested an amendment that was prepared and read by staff. The committee voted to include the amendment. The Chairman called for a vote on the bill. The committee voted in favor of giving the original bill an unfavorable report and the committee substitute as amended a favorable report.

The meeting was adjourned at 12:00 A.M.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Glenda Jones, Committee Assistant

HOUSE TRANSPORTATION COMMITTEE MEETING

JUNE 14, 2000

AGENDA

OPENING REMARKS

Representative Charles M. Buchanan, Co-Chair

BILLS TO BE CONSIDERED

HB 1836 Good Roads for North Carolina
Representative Charlotte Gardner, Sponsor

HB 1630 Toll Roads
Representative James W. Crawford, Jr., Sponsor

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Sanders** for the Committee on **Transportation.**

☐ Committee Substitute for
H.B. 1630 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICALLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

Atlantic Jackie

ROLL CALL VOTE

Com. Sub
HB# 1630
SB# ____

4 YES 16 NO = 20 (TOTAL)

HOUSE STANDING COMMITTEE ON TRANSPORTATION
1999-2000 SESSION

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	✓	Buchanan, Chair	___	✓	Sherrill
___	✓	Saunders, Chair	___	✓	Sossamon, Jr.
___	✓	Adams	___	✓	Sutton
___	___	Allred	___	✓	Teague
✓	___	Baker	___	✓	Thomas
___	✓	Bridgeman	___	___	Wainwright
___	✓	Brown	___	___	Warwick
___	___	Church	___	___	
___	✓	Clary	___	___	
___	✓	Cole	___	___	
___	✓	Crawford	___	___	
___	✓	Culp	___	___	
___	___	Earle, Ex Officio-Maj.Whip	___	___	
✓	___	Eddins	___	___	
___	___	Gibson	___	___	
✓	___	Gillespie	___	___	
___	✓	Hill	___	___	
___	___	Holmes	___	___	
___	___	Kinney	___	___	
___	___	McComas	___	___	
___	___	McLawhorn	Ex officio Members		
___	___	Nye	___	___	Speaker Pro Tem, Hackney
___	✓	Rayfield	___	___	Majority Leader, Baddour
✓	___	Setzer	___	___	Majority Whip, Dedmon
					Cunningham

(1st) amendment by Gillespie failed

File copy passed June 14, 2000 the House Substitute for HB 1630

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1630
Proposed Committee Substitute H1630-PCS2435-RW004

Short Title: Toll Roads. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED TOLL ROAD OR BRIDGE PROJECTS AND TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF STATE-OWNED AND OPERATED TOLL ROADS OR BRIDGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private Pilot Toll Projects.

"**§ 136-89.168. Private toll projects.**

(a) Authority to License. -- The Department of Transportation is authorized to issue up to three licenses to applicants to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a transportation project within the State of North Carolina. One of the three licenses authorized by this section may be issued to an applicant for a bridge facility connecting two counties over a major river. Any license authorized by this section must be issued on or before July 1, 2005.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department

concerning the ability of applicant to finance the proposed project. The Department shall independently analyze the data submitted for each project proposal.

(d) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and shall include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project.

(3) Provisions requiring that appropriate traffic signs and other traffic control devices be erected and maintained on the project.

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control, if any, that may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions concerning location of the project.

(e) Acquisition of Project Property. -- A person licensed to construct a project under this section shall, to the extent possible, acquire all right-of-way interests required for the project through private negotiation. The Department is authorized to exercise its power of eminent domain to acquire property rights necessary for construction and maintenance of the project only as to those property interests that cannot be acquired by the licensee at a reasonable price through private negotiation. A licensee requesting that the Department exercise its power of eminent domain shall be required to reimburse the Department in the full amount of its costs incurred in acquiring the necessary property interests for the private portion of the project, including any negotiated settlement or jury verdict, and any attorneys' fees that may be awarded. The acquisition of property interests necessary for inclusion in a project licensed under this section is hereby declared to be for a public transportation purpose.

(f) Transfer of Department Property to Licensee. -- Notwithstanding the provisions of G.S. 136-19, should the Department determine that a licensed project requires property interests held by the Department, such interests as the Department determines to be necessary may be conveyed to the licensee for fair market value.

(g) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S.

143B-350(f)(4). A licensee under this section shall endeavor to comply with the provisions of G.S. 136-28.4 concerning participation by disadvantaged businesses.

(h) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State Highway Patrol and the Division of Motor Vehicles, shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(i) Resolution of Support Required. -- The Department shall not license any project under this section prior to receiving a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

(j) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(k) Definitions. -- The following definitions shall apply as used in this section:

(1) 'Person' shall mean any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' shall mean a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'License' shall mean a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(l) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article."

Section 2. The Department shall study the feasibility of construction of State-owned and operated toll roads and the areas where any State-owned and operated toll roads are proposed and report its findings to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001.

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

New

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H1630-CSRW-003
PROPOSED COMMITTEE SUBSTITUTE
House Bill 1630
THIS IS A DRAFT 13-JUN-00 16:10:20
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Toll Roads. (Public)

Sponsors:

Referred to: Transportation.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED TOLL ROAD OR BRIDGE PROJECTS AND TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF STATE-OWNED AND OPERATED TOLL ROADS OR BRIDGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private Pilot Toll Projects.

"§ 136-89.168. Private toll projects.

(a) Authority to License. -- The Department of Transportation is authorized to issue up to three licenses to applicants to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a transportation project within the State of North Carolina. One of the three licenses authorized by this section may be issued to an applicant for a bridge facility connecting two counties over a major river. Any license authorized by this section must be issued on or before July 1, 2005.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department concerning the ability of applicant to finance the proposed project. The Department shall independently analyze the data submitted for each project proposal.

(d) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and shall include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project.

(3) Provisions requiring that appropriate traffic signs and other traffic control devices be erected and maintained on the project.

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control, if any, that may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions concerning location of the project.

(e) Acquisition of Project Property. -- A person licensed to construct a project under this section shall, to the extent possible, acquire all right-of-way interests required for the project through private negotiation. The Department is authorized to exercise its power of eminent domain to acquire property rights necessary for construction and maintenance of the project only as to those property interests that cannot be acquired by the licensee at a reasonable price through private negotiation. A licensee requesting that the Department exercise its power of eminent domain shall be required to reimburse the Department in the full amount of its costs incurred in acquiring the necessary property interests for the private portion of the

project, including any negotiated settlement or jury verdict, and any attorneys' fees that may be awarded. The acquisition of property interests necessary for inclusion in a project licensed under this section is hereby declared to be for a public transportation purpose.

(f) Transfer of Department Property to Licensee. -- Notwithstanding the provisions of G.S. 136-19, should the Department determine that a licensed project requires property interests held by the Department, such interests as the Department determines to be necessary may be conveyed to the licensee for fair market value.

(g) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S. 143B-350(f)(4).

(h) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). The State Highway Patrol and the Division of Motor Vehicles shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(i) Resolution of Support Required. -- The Department shall not license any project under this section prior to receiving a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

(j) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(k) Definitions. -- The following definitions shall apply as used in this section:

(1) 'Person' shall mean any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' shall mean a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'License' shall mean a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(l) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article.

Section 2. The Department shall study the feasibility of construction of State-owned and operated toll roads and the areas where any State-owned and operated toll roads are proposed, and report its findings to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001.

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1630-ARW-002A

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

H1630-ARW-002A

Date_____,2000

Comm. Sub. [YES]
Amends Title []

Rep. Gillespie

moves to amend the bill on
page 2, line 33 through page 3, line 5
by deleting those lines and substituting the following:

"(e) Acquisition of project property.-- A person licensed to construct a project under this section shall acquire all right-of-way interests required for the project through private negotiation.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1630-ARW-001A

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

H1630-ARW-001A

Date_____,2000

Comm. Sub. [YES]
Amends Title [ ]

Rep. Eddins

moves to amend the bill on page 4, line 20-21, by adding between those lines a new section to read:

"Section 2.1. No toll road projects shall be approved by the Department of Transportation pursuant to the provisions of this act if any funds in the Highway Fund or the Highway Trust Fund are designated in the current biennial appropriations act for purposes other than transportation.".

HOUSE BILL 1630:
Toll Roads

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Crawford and others
Date:	May 31, 2000	**Summary by:**	Giles S. Perry Committee Counsel
Version:	Proposed Committee Substitute H1630-CSRW-001		

Bill Summary

House Bill 1630 (Proposed Committee Substitute) adds a new Article to Chapter 136 (Roads and Highways). The new Article, entitled "Private and Public Pilot Toll Projects", authorizes the construction and operation of three private toll projects and three State-owned toll projects in the State.

Private Toll Projects

The Department of Transportation may issue up to three licenses to persons to finance, design, construct, maintain, improve, own, or operate a toll highway, road, bridge, or other transportation-related facility. Authorized licenses must be issued on or before July 1, 2005.

Requirements for Issuance of License

- DOT must make written determination that proposed project is necessary, in the public interest, and unlikely to be constructed in the foreseeable future as a non-toll project.
- Applicant must submit detailed financial data to DOT showing ability to finance the project

DOT must receive a resolution of support for project approved by the county commissioners of each county in which project will be located.

Terms of License – DOT is granted discretion to include conditions in any license issued under this section, including design, maintenance, connections to the existing highway system, and location of the project.

Methods of Acquiring Project Property – A licensee must acquire all right-of–way interests required for the project through private negotiation. However, DOT may exercise its power of eminent domain to acquire necessary property rights if the licensee cannot acquire these interests at a reasonable price. Licensee must reimburse DOT its full costs, including attorney fees, for acquiring the property interests by eminent domain for the privately owned portion of the project. DOT may convey property it holds to licensee at fair market value if property is needed for project.

Exemptions -- DOT is exempted from conflicting laws (bidding requirements and advertisement) for the purpose of entering into contractual licensing agreements.

Motor Vehicle laws -- would apply on any project licensed under this section. The Highway Patrol and Division of Motor Vehicles would have the same powers on a project licensed under this section as any other road.

Reporting Requirements – DOT must report to Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001 and every year thereafter on any toll project.

State-Owned and Operated Toll Projects

DOT may construct and operate up to three state-owned toll projects in the State if it determines that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a non-toll project. DOT Board must authorize toll projects under this section on or before July 1, 2005.

Reporting Requirements – same as for private toll projects.

Effective date: when it becomes law.

HOUSE BILL 1630:
Toll Roads

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Crawford and others
Date:	June 7, 2000	**Summary by:**	Giles S. Perry Committee Counsel
Version:	Proposed Committee Substitute H1630-CSRW-002		

Bill Summary

House Bill 1630 (Proposed Committee Substitute) adds a new Article to Chapter 136 (Roads and Highways). The new Article, entitled "Private and Public Pilot Toll Projects", authorizes the construction and operation of three private toll projects and three State-owned toll projects in the State.

Private Toll Projects

The Department of Transportation may issue up to three licenses to persons to finance, design, construct, maintain, improve, own, or operate a toll highway, road, bridge, or other transportation-related facility. Authorized licenses must be issued on or before July 1, 2005.

Requirements for Issuance of License

- DOT must make written determination that proposed project is necessary, in the public interest.
- Applicant must submit detailed financial data to DOT showing ability to finance the project

DOT must receive a resolution of support for project approved by the county commissioners of each county in which project will be located.

Terms of License – DOT is granted discretion to include conditions in any license issued under this section, but is required to include provisions concerning design, maintenance, connections to the existing highway system, and location of the project.

Methods of Acquiring Project Property – A licensee must acquire all right-of–way interests required for the project through private negotiation. However, DOT may exercise its power of eminent domain to acquire necessary property rights if the licensee cannot acquire these interests at a reasonable price. Licensee must reimburse DOT its full costs, including attorney fees, for acquiring the property interests by eminent domain for the privately owned portion of the project. DOT may convey property it holds to licensee at fair market value if property is needed for project.

Exemptions -- DOT is exempted from conflicting laws (bidding requirements and advertisement) for the purpose of entering into contractual licensing agreements.

Motor Vehicle laws -- would apply on any project licensed under this section. The Highway Patrol and Division of Motor Vehicles would have the same powers on a project licensed under this section as any other road.

Reporting Requirements – DOT must report to Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001 and every year thereafter on any toll project.

State-Owned and Operated Toll Projects

DOT may construct and operate up to three state-owned toll projects in the State if it determines that the proposed project is necessary and in the public interest. DOT Board must authorize toll projects under this section on or before July 1, 2005.

Reporting Requirements – same as for private toll projects.

Effective date: when it becomes law.

HOUSE BILL 1630

Short Title: Toll Roads. (Public)

Sponsors: Representatives Crawford; Barefoot, Allen, Mitchell, Hill, and McMahan.

Referred to: Transportation.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICALLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private and Public Pilot Toll Projects.

"**§ 136-89.168. Private toll projects.**

(a) Authority to License. -- The Department of Transportation is authorized to issue up to three licenses to persons to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a transportation project within the State of North Carolina.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a nontoll project.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department concerning the ability of applicant to finance the proposed project and the projected time for the licensee to recover the cost of the licensee's investment and to make a

reasonable rate of return. The Department shall independently analyze the data submitted for each project proposal and determine the appropriate license period.

(d) License Period. -- A license issued under this section shall not exceed 30 years in length.

(e) State Ownership at End of License Period. -- A license issued pursuant to this section shall include an agreement from the applicant to transfer all property rights to the project to the State at the end of the license period.

(f) State Use for Other Purposes. -- A license issued pursuant to this section shall authorize the State or its designee to enter and utilize the project right-of-way for other transportation or utility-related purposes, as long as those purposes do not interfere with the use by the licensee.

(g) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and may include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project.

(3) Provisions requiring that necessary traffic signs and other traffic control devices be erected and maintained in conformity with the Manual on Uniform Traffic Control Devices as defined in G.S. 136-30(d).

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control which may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions requiring that the State of North Carolina, its agencies, officials and employees be indemnified and held harmless by the licensee for any liability incurred on the project in connection with project construction, maintenance, or operation.

(8) Provisions concerning the circumstances under which the Department will exercise its power of eminent domain.

(9) Provisions concerning location of the project.

(h) Acquisition of Project Property. -- A person licensed to construct a project under this section shall, to the extent possible, acquire all right-of-way interests required for the project through private negotiation. The Department is authorized to exercise its power of eminent domain to acquire property rights necessary for construction and maintenance of the project only as to those property interests that cannot be acquired by the licensee at a reasonable price through private negotiation. A licensee requesting that the Department exercise its power of eminent domain shall

be required to reimburse the Department in the full amount of its costs incurred in acquiring the necessary property interests, including any negotiated settlement or jury verdict, and any attorneys' fees that may be awarded. The acquisition of property interests necessary for inclusion in a project licensed under this section is hereby declared to be for a public transportation purpose.

(i) Transfer of Department Property to Licensee. -- Notwithstanding the provisions of G.S. 136-19, should the Department determine that a licensed project requires property interests held by the Department, such interests as the Department determines to be necessary may be conveyed to the licensee for fair market value.

(j) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S. 143B-350(f)(4).

(k) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). The State Highway Patrol and the Division of Motor Vehicles shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(l) Resolution of Support Required. -- The Department shall not license any project under this section prior to receiving a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

(m) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(n) Definitions. -- The following definitions shall apply as used in this section:

(1) 'Person' shall mean any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' shall mean a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'License' shall mean a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(o) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by

February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article.

"**§ 136-89.169. State-owned and operated toll projects.**

(a) Authority to Construct and Operate. -- The Department of Transportation is authorized to construct and operate up to three toll transportation projects within the State.

(b) Requirement for Finding of Need. -- Prior to the construction of any project authorized under this section, the Department shall make a written determination that the proposed project is necessary and in the public interest, and that it is unlikely to be constructed in the foreseeable future as a nontoll project.

(c) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article."

Section 2. This act is effective when it becomes law and expires July 1, 2003.

VISITOR REGISTRATION SHEET

Transportation — Name of Committee

6/14/07 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gary Hewis	NCPMA
Steve Varnedoe	NCDOT
Lacy Love	NCDOT
Danny Rogers	NCDOT
Doris Weaver	NC CWA Political Council
R E McNair	Georgia Pacific Corp
Tom Cagnolo	Vulcan Construction Materials
Cissie Neal	DENR
Berry Jenkins	Carolinas AGC
Jane Pillsay	AAA Carolinas
Robert Glover	NC Auto Dealers.

May 18, 2000

H 1630. TOLL ROADS (=S 1197). *TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.* Identical to S 1197, introduced 5/10/00.

Intro. by Crawford.

Ref. to Transportation	GS 136

May 10, 2000

S 1197. TOLL ROADS. *TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.* Adds new Art. 6G to GS Ch. 136 to authorize the Dep't of Transportation (DOT) to issue up to three licenses to persons to construct a toll highway, road, bridge or other transportation-related facility after making a finding of need. Provides that the license period may not exceed 30 years at the conclusion of which the person must transfer all property rights to the project to the state. Authorizes the state or its designee to enter and use the project right-of-way for transportation and utility-related purposes during the license period. Allows DOT to establish other terms and conditions of any license issued. Requires the licensee, to the extent possible, to acquire all right-of-way interests through private negotiation. Provides that if the licensee cannot acquire the property at a reasonable price through private negotiation, DOT may exercise its power of eminent domain. Allows DOT to convey property it holds to the licensee at fair market value if the property is needed for the project. Exempts DOT from conflicting laws for the purpose of entering into contractual licensing agreements. Provides that any project licensed will be considered a highway and a public vehicular area and as such, the State Highway Patrol and the Division of Motor Vehicles will have their usual powers and duties on any such project. Requires DOT to get a resolution of support for the project from the county commissioners of each county in which the project will be located before issuing any license and provides that no further license other than the one issued by DOT will be required. Authorizes DOT to operate up to three toll transportation projects within the state. Requires DOT to report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by Feb. 1, 2001. Expires July 1, 2003.

Intro. by Gulley.

Ref. to Finance	GS 136

82

Saunders

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Sanders** for the Committee on **Transportation.**

☐ Committee Substitute for
H.B. 1630 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY FUNDED AND THREE PUBLICALLY FUNDED TOLL ROAD OR BRIDGE PROJECTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

AGENDA CORRECTION

SB 1081 RECYCLED MATERIALS IN ROAD MAINTENANCE
WILL NOT BE CONSIDERED AT THIS MEETING

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **TRANSPORTATION** will meet as follows:

DAY & DATE: **WEDNESDAY, JUNE 21, 2000**

TIME: **11:00 A.M.**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):
HB 1565 MUNICIPAL PARTICIPATION-Rep. Cole
SB 1200 MUNICIPAL PARTICIPATION-Sen. Gulley

Respectfully,

Representative BUCHANAN & SAUNDERS
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **5:00 P.M.** on **JUNE 19, 2000**.

___Principal Clerk
___Reading Clerk - House Chamber

(Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **TRANSPORTATION** will meet as follows:

DAY & DATE: **WEDNESDAY, JUNE 21, 2000**

TIME: **11:00 A.M.**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):
HB 1565 MUNICIPAL PARTICIPATION-Rep. Cole
SB 1200 MUNICIPAL PARTICIPATION-Sen. Gulley
SB 1081 RECYCLED MATERIALS IN ROAD MAINTENANCE-Sen. Albertson

Respectfully,

Representative BUCHANAN & SAUNDERS
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **5:00 P.M.** on **JUNE 19, 2000**.

___Principal Clerk
___Reading Clerk - House Chamber

(Committee Assistant)

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

June 21, 2000
Room 643 LOB
11:00 A.M.

The House Committee on Transportation met on June 21, 2000, in Room 643 of the Legislative Office Building at 11:00 A.M. Members present were Representatives Adams, Baker, Clary, Cole, Crawford, Culp, Eddins, Gibson, Rayfield, Setzer, Sherrill, Sossamon, Teague, Thomas, Warwick, and Saunders, Chair. Staff Counsels, Giles Perry and Wendy Graf were also present. A Visitor Registration Sheet is attached and made a part of the minutes.

Representative Saunders, Presiding Chair, called the meeting to order and introduced the pages, Bryan Buck sponsored by Representative Edwards and Jeffrey Womble sponsored by Representative Eddins from Wake County and Brent Baker from Carteret County. He also recognized Sergeant of Arms, Martha Parrish and Brett Wilkins.

Senate Bill 1200 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION was the first bill on the agenda. Chairman Saunders recognized Senator Wib Gulley, bill sponsor, to explain the bill. After a brief explanation of the bill, Representative Saunders explained that HB 1565 was originally in the Transportation Committee and sent to the House and re-referred back to the committee. HB 1565 and Senate Bill 1200 were similar bills, therefore, HB 1565 would not be heard. Representative Saunders ask Senator Gulley to explain differences between the two bills. Senator Gulley called upon Giles Perry to give a brief explanation of the differences. SB 1200 contains the following provisions that are not in HB 1565: Provisions to clarify that there can be no TIP disadvantage to another project for municipal participation. Funds made available by municipal participation will stay in the same funding region, and that there can be no side agreements by DOT and a municipality to gain advantage for municipal participation. Authorization for three counties to participate in State road construction: Burke, Cabarrus, and Mecklenburg. Senator Gulley with the assistance of Ruth Sappie with the Department of Transportation answered questions from members. Chairman Saunders asked if there were any County Commissioners in the meeting that would like to speak on the bill. No commissioners were present but Natalie English with the Charlotte Chamber of Commerce spoke in favor of the bill. Representative Baker offered an amendment to-the bill on page 3, line 37 deleting the words, not less than. A vote was taken and the amendment was approved. Representative Cole also offered an amendment to the bill on page 3, line 41, deleting the word, initial. A vote was taken and the amendment was approved. Chairman Saunders made a motion that both amendments be rolled into a committee substitute. The motion carried. Representative Cole made a motion for a favorable report as to the House committee substitute, unfavorable to the Senate committee substitute. A vote was taken and the motion carried.

The second bill to be considered was **Senate Bill 1081 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO EXPAND THE USE OF RECYCLED MATERIALS IN ROAD MAINTENANCE** sponsored by Senator Charlie Albertson. Senate Bill 1081 was originally on the agenda but was taken off and then replaced on the agenda immediately before the meeting. Representative Baker made a motion to adopt the proposed House committee substitute for discussion and the motion carried. In the absence of Senator Albertson, Chairman Saunders recognized Representative Jim Crawford to explain the proposed House committee substitute for SB 1081. Representative Sherrill made a motion to give a favorable report to the proposed House committee substitute and unfavorable to the original bill. A vote was taken and motion carreid.

The meeting was adjourned at 12:00 noon.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Glenda Jones, Committee Assistant

HOUSE TRANSPORTATION COMMITTEE MEETING

JUNE 21, 2000

AGENDA

OPENING REMARKS

Representative Charles M. Buchanan, Co-Chair

BILLS TO BE CONSIDERED

HB 1565 MUNICIPAL PARTICIPATION
Representative Nelson Cole, Sponsor
SB 1200 MUNICIPAL PARTICIPATION
Senator Wib Gulley

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 4

HOUSE BILL 979
Committee Substitute Favorable 4/20/99
Senate Judiciary II Committee Substitute Adopted 6/30/00
Fourth Edition Engrossed 7/5/00

Short Title: Modify Rights of Decedent's Spouse. (Public)

Sponsors:

Referred to:

April 12, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE RIGHTS OF A DECEDENT'S SPOUSE.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 30 of the General Statutes is repealed.

Section 2. Chapter 30 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1A.

"Elective Share.

"**§ 30-3.1. Right of elective share.**

(a) Elective Share. -- The surviving spouse of a decedent who dies domiciled in this State has a right to claim an 'elective share', which means an amount equal to (i) the applicable share of the Total Net Assets, as defined in G.S. 30-3.2(c), less (ii) the value of Property Passing to Surviving Spouse, as defined in G.S. 30-3.3(a). The applicable share of the Total Net Assets is as follows:

(1) If the decedent is not survived by any lineal descendants, one-half of the Total Net Assets.

(2) If the decedent is survived by one child, or lineal descendants of one deceased child, one-half of the Total Net Assets.

(3) If the decedent is survived by two or more children, or by one or more children and the lineal descendants of one or more deceased

children, or by the lineal descendants of two or more deceased children, one-third of the Total Net Assets.

(b) Reduction of Applicable Share. -- In those cases in which the surviving spouse is a second or successive spouse, and the decedent has one or more lineal descendants surviving by a prior marriage but there are no lineal descendants surviving by the surviving spouse, the applicable share as determined in subsection (a) of this section shall be reduced by one-half.

(c) Death Taxes. -- Death taxes shall be taken into account as a claim against the estate in determining Total Net Assets only to the extent that such taxes are increased because the assets received by the surviving spouse do not qualify for the federal estate tax marital deduction pursuant to section 2056 of the Code or similar provisions under the laws of any other applicable taxing jurisdiction.

"**§ 30-3.2. Definitions.**

(a) 'Code' means the Internal Revenue Code in effect at the time of the decedent's death.

(b) 'Death taxes' means any estate, inheritance, succession, and similar taxes imposed by any taxing authority, reduced by any applicable credits against those taxes.

(c) 'Nonadverse trustee' means a trustee who would be deemed nonadverse under section 672 of the Code.

(d) 'Total Net Assets' means, after the payment or provision for payment of the decedent's funeral expenses, year's allowances to persons other than to the surviving spouse, debts, claims, and administration expenses, the sum of the following:

(1) All property to which the decedent had legal and equitable title immediately prior to death;

(2) All property received by the decedent's personal representative by reason of the decedent's death, other than wrongful death proceeds;

(3) One-half of the value of any property held by the decedent and the surviving spouse as tenants by the entirety, or as joint tenants with rights of survivorship;

(4) The entire value of any interest in property held by the decedent and another person, other than the surviving spouse, as joint tenants with right of survivorship, except to the extent that contribution can be proven by clear and convincing evidence;

(5) The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, 2040, or 2042 of the Code;

(6) Any donative transfers of property made by the decedent to donees other than the surviving spouse within six months of the decedent's death, excluding:

a. Any gifts within the annual exclusion provisions of section 2503 of the Code;

b. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and

c. Any gifts made prior to marriage;

(7) Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;

(8) Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and

(9) In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value.

"**§ 30-3.3. Property Passing to Surviving Spouse.**

(a) Property Passing to Surviving Spouse. -- For purposes of this Article, 'Property Passing to Surviving Spouse' means the sum of the following:

(1) One-half of the value of any interest in property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with rights of survivorship;

(2) The value of any interest in property (outright or in trust, including any interest subject to a general power of appointment held by the surviving spouse, as defined in section 2041 of the Code) devised by the decedent to the surviving spouse, or which passes to the surviving spouse by intestacy, or by beneficiary designation, or by exercise of or in default of the exercise of the decedent's testamentary general or limited power of appointment, or by operation of law or otherwise by reason of the decedent's death, excluding any benefits under the federal social security system;

(3) Any year's allowance awarded to the surviving spouse;

(4) The value of any property renounced by the surviving spouse;

(5) The value of the surviving spouse's interest, outright or in trust, in any life insurance proceeds on the life of the decedent;

(6) The value of any interest in property, outright or in trust, transferred from the decedent to the surviving spouse during the lifetime of decedent for which (i) a gift tax return is timely filed reporting such gift, or (ii) the surviving spouse signs a statement acknowledging such a gift. For purposes of this subdivision, any gift to the surviving spouse by the decedent of the decedent's interest in any property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with right of survivorship shall be valued at one-half of the entire value of that interest in property at the time the gift is made; and

(7) The entire value of any property held in trust for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, where the trust requires a Nonadverse Trustee to utilize the principal and income of the trust for the support and maintenance of the surviving spouse.

(b) Death Taxes. -- The value of Property Passing to Surviving Spouse shall be reduced by any death taxes that are a charge against or apportioned against the surviving spouse on property interests included in Property Passing to Surviving Spouse.

(c) No Duplication. -- In case of overlapping application of the same property under more than one provision, the property shall be included only once, under the provision yielding the greatest value.

"§ 30-3.4. Procedure for determining the elective share.

(a) Exercisable Only During Lifetime. -- The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, the surviving spouse's agent under a power of attorney, or the guardian of the surviving spouse's estate. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.

(b) Time Limitations. -- A claim for an elective share must be made within six months after the issuance of letters testamentary or letters of administration by (i) filing a petition with the clerk of superior court of the county in which the primary administration of the decedent's estate lies, and (ii) mailing or delivering a copy of that petition to the personal representative of the decedent's estate. A surviving spouse's incapacity shall not toll the six-month period of limitations.

(c) Time for Hearing. -- Unless waived by the personal representative and the surviving spouse, the clerk shall set the matter for hearing no earlier than two months and no later than six months after the filing of the petition. However, the clerk may extend the time of hearing as the clerk sees fit. The surviving spouse shall give notice of the hearing to the personal representative, and to any person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share.

(d) Preparation of Tax Form. -- In every case in which a petition to determine an elective share has been filed, and within two months of the filing of the petition, the personal representative shall prepare and submit to the clerk a proposed Form 706, federal estate tax return, for the estate, regardless of whether that form is required to be filed with the Internal Revenue Service. The clerk may extend the time for submission of the proposed Form 706 as the clerk sees fit.

(e) Valuation. -- The valuation of interests in property for purposes of G.S. 30-3.2 and G.S. 30-3.3 shall be determined as follows:

(1) Basic principles. -- Each interest shall be valued at its fair market value, reduced by all liens, claims, or encumbrances against the interest. For interests passing at the decedent's death, valuation shall be as of the date of death, and for interests transferred during the decedent's lifetime, valuation shall be as of the date of transfer.

(2) Valuation of partial and contingent interests in property. -- The valuation of interests in property, outright or in trust, which are limited to commence or terminate upon the death of one or more persons, upon the expiration of a period of time, or upon the occurrence of one or more contingencies, shall be determined by computations based upon the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, and upon the basis of six percent (6%) of the gross value of the underlying property in which those interests are limited. However, in valuing interests passing to the surviving spouse, the following special rules apply:

a. To the extent that the interest is dependent upon the exercise of discretion by a fiduciary, the interest shall have no value unless the spouse is serving as that fiduciary and the power to distribute the trust property constitutes a general power of appointment held by the spouse, as defined in section 2041 of the Code or the fiduciary is a Nonadverse Trustee required to utilize the income and principal for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime;

b. To the extent that the interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest that will terminate only upon the earlier of the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage; and

c. To the extent that the valuation of an interest is dependent upon the life expectancy of the surviving spouse, that life expectancy shall be conclusively presumed to be no less than 10 years, regardless of the actual attained age of the surviving spouse at the decedent's death.

(3) Determination of fair market value. -- The fair market value of each asset comprising Total Net Assets shall be determined as follows:

a. Probate assets and assets passing to spouse. -- The value of each probate asset and Property Passing to Surviving Spouse, other than assets held in trust, shall be established by the good faith agreement of the surviving spouse and the personal representative, unless either (i) the surviving spouse is the personal representative, or (ii) the clerk determines

that the personal representative may not be able to represent the estate adversely to the surviving spouse.

b. Trust assets. -- The value of each trust asset shall be established by good faith agreement of the surviving spouse and the trustee, unless either (i) the surviving spouse is the trustee, or (ii) the clerk determines that the trustee may not be able to represent the trust adversely to the surviving spouse.

c. Other assets. -- The value of any other asset shall be established by the good faith agreement of the surviving spouse and each person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share because of that person's interest in the asset, unless the clerk determines that valuation under sub-subdivision d. of this subdivision is more appropriate.

d. Use of disinterested persons. -- If the value of any asset is not established by agreement, the clerk shall appoint one or more qualified and disinterested persons to determine a value of each asset. That determination of the value of an asset shall be final for the exclusive purposes of this Article.

(f) Findings and Conclusions. -- After notice and hearing, the clerk shall determine whether or not the surviving spouse is entitled to an elective share, and if so, the clerk shall then determine the elective share and shall order the personal representative to transfer that amount to the surviving spouse. The clerk's order shall recite specific findings of fact and conclusions of law in arriving at the decedent's Total Net Assets, Property Passing to Surviving Spouse, and the elective share.

(g) Appeals. -- Any party in interest may appeal from the decision of the clerk to the superior court. If an appeal is taken from the decision of the clerk, that appeal shall have the effect of staying the judgment and order of the clerk until the cause is heard and determined by the superior court upon the appeal taken. Upon an appeal taken from the clerk to the superior court, the judge may review the findings of fact by the clerk and may find the facts or take other evidence, but the facts found by the judge shall be final and conclusive upon any appeal to the Appellate Division.

"§ 30-3.5. Recovery of assets by personal representative.

(a) Recovery of Assets. -- The personal representative is entitled to recover proportionately from all persons, other than the surviving spouse, receiving or in possession of any of the decedent's Total Net Assets a sufficient amount to enable the personal representative to pay the elective share. The apportionment shall be made in the proportion that the value of the interest of each person receiving or in possession of any of Total Net Assets bears to Total Net Assets, excluding any Property Passing to Surviving Spouse. The only persons subject to contribution to make up the elective share are (i) original recipients of property comprising the decedent's Total Net Assets, and subsequent gratuitous inter vivos donees or persons claiming by testate or intestate succession to the extent those persons have the

property or its proceeds on or after the date of decedent's death, and (ii) a fiduciary, as to the property under the fiduciary's control at or after the time a fiduciary receives notice that a surviving spouse has claimed an elective share. A fiduciary shall not be considered to have notice until it receives notice at its address as shown in the decedent's estate papers in the clerk's office or, if there are no such papers or no such address is shown in those papers, at the fiduciary's residence or the office of its registered agent.

The personal representative may withhold from any property of the decedent in his possession, distributable to any person subject to apportionment, the amount of the elective share apportioned to such person. If the property in possession of the personal representative and distributable to any person subject to apportionment is insufficient to satisfy the proportionate amount of the elective share determined to be due from that person, the personal representative may recover the deficiency from that person. If the property is not in possession of the personal representative, the personal representative may recover from the person the amount of the elective share apportioned to that person in accordance with this Article. If the personal representative cannot reasonably collect from any person subject to apportionment the amount of the elective share apportioned to that person, the amount not reasonably recoverable shall, with the approval of the clerk, be apportioned among the other persons who are subject to apportionment. The apportionment shall be made in the proportion that the value of the interest of each remaining person bears to the total value of the interests of all remaining persons.

(b) Standstill Order. -- After the filing of the petition demanding an elective share, either the personal representative or surviving spouse may request the clerk to issue an order that any recipients not dispose of any of the decedent's Total Net Assets pending the hearing. The decision to issue such an order shall be in the discretion of the clerk.

(c) Satisfaction of Liability. -- A person receiving or in possession of any of the decedent's Total Net Assets may pay his proportionate elective share liability with respect to that property by any of the following methods:

(1) Conveyance of the property included in the decedent's Total Net Assets;

(2) Payment of the value of his liability in cash or, upon agreement of the surviving spouse, other property; or

(3) Partial conveyance and partial payment under subdivisions (1) and (2) of this subsection, provided the value conveyed and paid is equal to his liability.

(d) Expenses. -- The expenses reasonably incurred by the personal representative in connection with the appraisal or recovery of assets shall be apportioned as provided for the elective share under this Article. If the personal representative finds that it is inequitable to apportion the expenses because those expenses were incurred because of the fault of one or more persons subject to apportionment, the personal representative may direct other more equitable apportionment, with the approval of the clerk.

(e) Bond. -- If property held by the personal representative is distributed prior to final apportionment of the elective share, the personal representative may require the distributee to provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative, with the approval of the clerk.

"**§ 30-3.6. Waiver of rights.**

(a) The right of a surviving spouse to claim an elective share may be waived, wholly or partially, before or after marriage, with or without consideration, by a written waiver signed by the surviving spouse.

(b) A waiver is not enforceable if the surviving spouse proves that:

(1) The waiver was not executed voluntarily; or

(2) The surviving spouse was not provided a fair and reasonable disclosure of the property and financial obligations of the decedent, unless the surviving spouse waived, in writing, the right to that disclosure."

Section 3. G.S. 29-30 reads as rewritten:

"**§ 29-30. Election of surviving spouse to take life interest in lieu of intestate share provided.**

(a) In lieu of the intestate share provided in G.S. 29-14 or ~~29-21,~~ G.S. 29-21, or of the elective share provided in G.S. 30-3.1, the surviving spouse of an intestate or the surviving spouse who ~~dissents from the will of a testator~~ has petitioned for an elective share shall be entitled to take as his or her intestate share or elective share a life estate in one third in value of all the real estate of which the deceased spouse was seised and possessed of an estate of inheritance at any time during coverture, except that real estate as to which the surviving spouse:

(1) Has waived his or her rights by joining with the other spouse in a conveyance thereof, or

(2) Has release or quitclaimed his or her interest therein in accordance with G.S. 52-10, or

(3) Was not required by law to join in conveyance thereof in order to bar the elective life estate, or

(4) Is otherwise not legally entitled to the election provided in this section.

(b) Regardless of the value thereof and despite the fact that a life estate therein might exceed the fractional limitation provided for in subsection (a), the life estate provided for in subsection (a) shall at the election of the surviving spouse include a life estate in the usual dwelling house occupied by the surviving spouse at the time of the death of the deceased spouse if such dwelling house were owned by the deceased spouse at the time of his or her death, together with the outbuildings, improvements and easements thereunto belonging or appertaining, and lands upon which situated and reasonably necessary to the use and enjoyment thereof, as well as a fee simple ownership in the household furnishings therein.

(c) The election provided for in subsection (a) shall be made by the filing of a notice thereof with the clerk of the superior court of the county in which the

administration of the estate is pending, or, if no administration is pending, then with the clerk of the superior court of any county in which the administration of the estate could be commenced. Such election shall be made:

(1) At any time within one month after the expiration of the time fixed for the filing of ~~a dissent,~~ the petition for elective share under Article 1A of Chapter 30, or

(2) In case of intestacy, then within 12 months after the death of the deceased spouse if letters of administration are not issued within that period, or

(3) If letters of administration are issued within 12 months after the date of the death of the deceased spouse, then within one month after the expiration of the time limited for filing claims against the estate, or

(4) If litigation that affects the share of the surviving spouse in the estate is pending, then within such reasonable time as may be allowed by written order of the clerk of the superior court.

The notice of election shall:

(1) Be directed to the clerk with whom filed;

(2) State that the surviving spouse making the same elects to take under this section rather than under the provisions of ~~G.S. 29-14 or 29-21,~~ G.S. 29-14, 29-21, or 30-3.1, as applicable;

(3) Set forth the names of all heirs, devisees, legatees, personal representatives and all other persons in possession of or claiming an estate or an interest in the property described in subsection (a); and

(4) Request the allotment of the life estate provided for in subsection (a).

The notice of election may be in person, or by attorney authorized in a writing executed and duly acknowledged by the surviving spouse and attested by at least one witness. If the surviving spouse is a minor or an incompetent, the notice of election may be executed and filed by a general guardian or by the guardian of the person or estate of the minor or incompetent spouse. If the minor or incompetent spouse has no guardian, the notice of election may be executed and filed by a next friend appointed by the clerk. The notice of election, whether in person or by attorney, shall be filed as a record of the court, and a summons together with a copy of the notice shall be served upon each of the interested persons named in the notice of election.

(d) In case of election to take a life estate in lieu of an intestate ~~share,~~ share or elective share, as provided in either G.S. 29-14, 29-21, or ~~30-3(a),~~ 30-3.3(a), the clerk of superior court, with whom the notice of election has been filed, shall summon and appoint a jury of three disinterested persons who being first duly sworn shall promptly allot and set apart to the surviving spouse the life estate provided for in subsection (a) and make a final report of such action to the clerk.

(e) The final report shall be filed by the jury not more than 60 days after the summoning and appointment thereof, shall be signed by all jurors, and shall describe

by metes and bounds the real estate in which the surviving spouse shall have been allotted and set aside a life estate. It shall be filed as a record of court and a certified copy thereof shall be filed and recorded in the office of the register of deeds of each county in which any part of the real property of the deceased spouse, affected by the allotment, is located.

(f) In the election and procedure to have the life estate allotted and set apart provided for in this section, the rules of procedure relating to partition proceedings shall apply except insofar as the same would be inconsistent with the provisions of this section.

(g) Neither the household furnishings in the dwelling house nor the life estates taken by election under this section shall be subject to the payment of debts due from the estate of the deceased spouse, except those debts secured by such property as follows:

(1) By a mortgage or deed of trust in which the surviving spouse has waived his or her rights by joining with the other spouse in the making thereof; or

(2) By a purchase money mortgage or deed of trust, or by a conditional sales contract of personal property in which title is retained by the vendor, made prior to or during the marriage; or

(3) By a mortgage or deed of trust made prior to the marriage; or

(4) By a mortgage or deed of trust constituting a lien on the property at the time of its acquisition by the deceased spouse either before or during the marriage.

(h) If no election is made in the manner and within the time provided for in subsection (c) the surviving spouse shall be conclusively deemed to have waived his or her right to elect to take under the provisions of this section, and any interest which the surviving spouse may have had in the real estate of the deceased spouse by virtue of this section shall terminate."

Section 4. G.S. 30-15 reads as rewritten:

"**§ 30-15. When spouse entitled to allowance.**

Every surviving spouse of an intestate or of a testator, whether or not he has petitioned for an elective share, ~~dissented from the will,~~ shall, unless he has forfeited his right thereto, as provided by law, be entitled, out of the personal property of the deceased spouse, to an allowance of the value of ten thousand dollars ($10,000) for his support for one year after the death of the deceased spouse. Such allowance shall be exempt from any lien, by judgment or execution, acquired against the property of the deceased spouse, and shall, in cases of testacy, be charged against the share of the surviving spouse."

Section 5. G.S. 31-5.3 reads as rewritten:

"**§ 31-5.3. Will not revoked by marriage; dissent from will made prior to marriage.**

A will is not revoked by a subsequent marriage of the maker; and the surviving spouse may ~~dissent from such~~ petition for an elective share when there is a will made prior to the marriage in the same manner, upon the same conditions, and to the same

extent, as a surviving spouse may ~~dissent from~~ petition for an elective share when there is a will made subsequent to marriage."

Section 6. G.S. 31A-1(b) reads as rewritten:

"(b) The rights lost as specified in subsection (a) of this section shall be as follows:

(1) All rights of intestate succession in the estate of the other spouse;

(2) All right to claim or succeed to a homestead in the real property of the other spouse;

(3) All right to ~~dissent from the will~~ petition for an elective share of the estate of the other spouse and take either the elective intestate share provided or the life interest in lieu thereof;

(4) All right to any year's allowance in the personal property of the other spouse;

(5) All right to administer the estate of the other spouse; and

(6) Any rights or interests in the property of the other spouse which by a settlement before or after marriage were settled upon the offending spouse solely in consideration of the marriage."

Section 7. G.S. 31C-3 reads as rewritten:

"**§ 31C-3. Disposition of community property upon death.**

Upon death of a married person, one half of the property to which this Chapter applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws or succession of this State. One half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this State. With respect to property to which this Chapter applies, the one half of the property of the decedent is not subject to the surviving spouse's right to ~~dissent from the will~~ petition for an elective share under the provisions of Article ~~1~~ 1A of Chapter 30, and is not subject to the right to elect a life estate under the provisions of Article 8 of Chapter 29."

Section 8. G.S. 84-5(2) reads as rewritten:

"(2) When any of the following acts are to be performed in connection with the fiduciary activities of such a corporation, said acts shall be performed for the corporation by a duly licensed attorney, not a salaried employee of the corporation, retained to perform legal services required in connection with the particular estate, trust or other fiduciary matter:

a. Offering wills for probate.

b. Preparing and publishing notice of administration to creditors.

c. Handling formal court proceedings.

d. Drafting legal papers or giving legal advice to spouses concerning ~~dissent from their spouses' will.~~ rights to an elective share under Article 1A of Chapter 30 of the General Statutes.

e. Resolving questions of domicile and residence of a decedent.

f. Handling proceedings involving year's allowances of widows and children.
g. Drafting deeds, notes, deeds of trust, leases, options and other contracts.
h. Drafting instruments releasing deeds of trust.
i. Drafting assignments of rent.
j. Drafting any formal legal document to be used in the discharge of the corporate fiduciary's duty.
k. In matters involving estate and inheritance taxes, gift taxes, and federal and State income taxes:
1. Preparing and filing protests or claims for refund, except requests for a refund based on mathematical or clerical errors in tax returns filed by it as a fiduciary.
2. Conferring with tax authorities regarding protests or claims for refund, except those based on mathematical or clerical errors in tax returns filed by it as a fiduciary.
3. Handling petitions to the tax court.
l. Performing legal services in insolvency proceedings or before a referee in bankruptcy or in court.
m. In connection with the administration of an estate or trust:
1. Making application for letters testamentary or letters or administration.
2. Abstracting or passing upon title to property.
3. Handling litigation relating to claims by or against the estate or trust.
4. Handling foreclosure proceedings of deeds of trust or other security instruments which are in default."

Section 9. This act becomes effective January 1, 2001, and applies to estates of decedents dying on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1218
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/5/00

Short Title: Amend Env. Laws. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS: (1) TO PROMOTE WATER CONSERVATION BY PROVIDING FOR THE USE OF SUB-METERS IN CONSECUTIVE WATER SYSTEMS; (2) RELATED TO URBAN WATERFRONT REDEVELOPMENT; (3) TO PROVIDE FOR VARIANCES UNDER THE DREDGE AND FILL PERMIT PROGRAM; (4) TO CLARIFY THE AUTHORITY OF THE GOVERNOR TO MAKE APPOINTMENTS TO THE ENVIRONMENTAL MANAGEMENT COMMISSION; (5) TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CONSULT WITH STAKEHOLDERS PRIOR TO DEVELOPING RIPARIAN BUFFER RULES; (6) TO PROHIBIT THE MARINE FISHERIES COMMISSION FROM ESTABLISHING FEES FOR CERTAIN PERMITS AND TO ABOLISH CERTAIN EXISTING PERMIT FEES; AND (7) TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

PART I. USE OF SUB-METERS IN CONSECUTIVE WATER SYSTEMS

Section 1.1. G.S. 130A-315 is amended by adding a new subsection to read:

"(d) When a person that receives water from a public water system is authorized by the Utilities Commission, pursuant to G.S. 62-110(g), to install sub-meters and

resell water to persons who occupy the same contiguous premises, that person shall be regulated as a consecutive water system. The monitoring, analysis, and record-keeping requirements applicable to consecutive water systems under this section shall be satisfied by the monitoring, analysis, and record keeping performed by the supplying water system and submitted to the Department in compliance with this section. The supplying water system shall perform the same level of monitoring, analysis, and record keeping that the supplying system would perform if the person that receives the water had not been authorized to resell water under G.S. 62-110(g), but the supplying water system shall not be required to perform additional monitoring, analysis, and record keeping. A supplying water system is not responsible for operation, maintenance, or repair of the consecutive water system."

Section 1.2. In enacting Section 1.1 of this act, it is the intent of the General Assembly to promote water conservation while protecting public health, safety, welfare, and the environment and avoiding unduly burdensome requirements on consecutive water systems. Section 1.1 of this act shall not be construed to impose any requirement on a supplying water system other than the requirements that apply to the supplying water system on the date this act becomes effective and that would apply to the supplying water system if a consecutive water system had not been authorized.

PART II. URBAN WATERFRONT REDEVELOPMENT

Section 2.1. Section 3 of S.L. 1997-337, as amended by Section 55.2B of S.L. 1997-456, reads as rewritten:

"Section 3. This act is effective when it becomes law, expires ~~1 July 2000,~~ 1 April 2001, and applies to permits granted and applications submitted prior to ~~1 July 2000.~~ 1 April 2001. Any permits granted or applications issued prior to ~~July 1, 2000~~ 1 April 2001 shall be transferable."

Section 2.2. The Coastal Resources Commission shall adopt a temporary rule providing for and governing urban waterfront redevelopment in historically urban areas. The temporary rule shall become effective 1 April 2001 and shall remain in effect until a permanent rule that replaces the temporary rule becomes effective.

PART III. DREDGE AND FILL VARIANCES

Section 3.1. G.S. 113-229(c1) reads as rewritten:

"(c1) The Coastal Resources Commission may, by rule, designate certain classes of major and minor development for which a general or blanket permit may be issued. In developing these rules, the Commission shall ~~consider:~~ consider all of the following:

(1) The size of the ~~development;~~ development.

(2) The impact of the development on areas of environmental ~~concern;~~ concern.

(3) How often the class of development is carried ~~out;~~ out.
(4) The need for on-site oversight of the ~~development; and~~ development.
(5) The need for public review and comment on individual development projects.

(c2) General permits may be issued by the Commission as rules under the provisions of ~~G.S. 113A-107.~~ G.S. 113A-118.1. Individual development carried out under the provisions of general permits shall not be subject to the mandatory notice provisions of this section. The Commission may impose reasonable notice provisions and other appropriate conditions and safeguards on any general permit it issues. The variance, appeals, and enforcement provisions of this Article shall apply to any individual development projects undertaken under a general permit."

Section 3.2. G.S. 113-229(e) reads as rewritten:

"(e) Applications for permits except special emergency permit applications shall be circulated by the Department among all State agencies and, in the discretion of the Secretary, appropriate federal agencies having jurisdiction over the subject matter which might be affected by the project so that such agencies will have an opportunity to raise any objections they might have. The Department may deny an application for a dredge or fill permit upon finding: (1) that there will be significant adverse effect of the proposed dredging and filling on the use of the water by the public; or (2) that there will be significant adverse effect on the value and enjoyment of the property of any riparian owners; or (3) that there will be significant adverse effect on public health, safety, and welfare; or (4) that there will be significant adverse effect on the conservation of public and private water supplies; or (5) that there will be significant adverse effect on wildlife or fresh water, estuarine or marine fisheries. In the absence of such findings, a permit shall be granted. Such permit may be conditioned upon the applicant amending his proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the factors enumerated in this subsection. Permits may allow for projects granted a permit the right to maintain such project for a period of up to 10 years. The right to maintain such project shall be granted subject to such conditions as may be reasonably necessary to protect the public interest. The Coastal Resources Commission shall coordinate the issuance of permits under this section and G.S. 113A-118 and the granting of variances under this section and G.S. 113A-120.1 to avoid duplication and to create a single, expedited permitting process. The Coastal Resources Commission may adopt rules interpreting and applying the provisions of this section and rules specifying the procedures for obtaining a permit under this section. Maintenance work as defined in this subsection shall be limited to such activities as are required to maintain the project dimensions as found in the permit granted. The Department shall act on an application for permit within 75 days after the completed application is filed, provided the Department may extend such deadline by not more than an additional 75 days if necessary properly to consider the application, except for applications for a special emergency permit, in which case the Department shall act

within two working days after an application is filed, and failure to so act shall automatically approve the application."

PART IV. CLARIFY ENVIRONMENTAL MANAGEMENT COMMISSION APPOINTMENTS

Section 4.1. G.S. 143B-283(b) reads as rewritten:

"(b) Members ~~so~~ appointed by the Governor shall serve terms of office of six years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. ~~At the expiration of each member's term, the Governor shall replace the member with a new member of like qualifications.~~ The Governor may reappoint a member of the Commission to an additional term if, at the time of the reappointment, the member qualifies for membership on the Commission under subsection (a) of this section. ~~The initial members of the Environmental Management Commission shall be those members of the present Board of Water and Air Resources who shall meet the above standards for membership on the Environmental Management Commission and who shall serve on the Environmental Management Commission for a period equal to the remainder of their current terms on the Board of Water and Air Resources, four of whose appointments expire June 30, 1975, five of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1979. Any initial appointment to replace a member of the present Board of Water and Air Resources who does not meet the above standards for membership on the Environmental Management Commission shall be for a period equal to the replaced member's unexpired term.~~

(b1) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(b2) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b3) A majority of the Commission shall constitute a quorum for the transaction of business.

(b4) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources."

Section 4.2. G.S. 143B-283(d) reads as rewritten:

"(d) In addition to the members designated by subsection ~~(a),~~ (a) of this section, the General Assembly shall appoint four members, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. ~~The terms of initial appointees by the General Assembly shall expire on June 30, 1983. Thereafter, these members shall serve two-year terms.~~ Members appointed by the General Assembly shall serve terms of two years."

PART V. CONSULTATION WITH RIPARIAN BUFFER STAKEHOLDERS

Section 5.1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.24. Riparian Buffer Protection Program; Coordination with River Basin Associations.**

(a) Prior to drafting temporary or permanent rules that require the preservation of riparian buffers in a river basin, the Department shall consult with major stakeholders who may have an interest in the proposed rules, including the board of directors or representatives designated by the board of directors of any river basin association in the affected river basin that meets all of the following criteria:

(1) The association is a nonprofit corporation, as defined by G.S. 55A-1-40.

(2) The association has as its primary purpose the conservation, preservation, and restoration of the environmental and natural resources of the river basin in which it is located.

(3) Membership in the association is open on a nondiscriminatory basis to all citizens in the river basin.

(4) The membership of the board of directors of the association includes at least one representative from each county with a significant portion of its territory in the river basin.

(5) The membership of the association includes significant representation from each of the following categories of persons:

a. Elected local officials.

b. Persons involved in agriculture.

c. Persons involved in residential and commercial land development.

d. Persons involved in forestry.

e. Representatives of community-based organizations.

f. Representatives of organizations that advocate for protection of the environment and conservation of natural resources.

g. Persons with special training and scientific expertise in protection of water who are affiliated with colleges and universities.

h. Private property owners.

i. Persons with a general interest in water quality protection.

(b) The purpose of the consultation required by subsection (a) of this section is to assure that major stakeholders who may have an interest in the proposed rules have an opportunity to inform the Department of their concerns before the Department drafts the rules."

PART VI. FISHERIES PERMIT FEES

Section 6.1. G.S. 113-169.1 reads as rewritten:

"**§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. ~~The Commission shall establish a fee for each permit in an amount that compensates the Division for the actual administrative costs associated with the permit but that does not exceed fifty dollars ($50.00) per permit.~~"

Section 6.2. Any fee established by the Marine Fisheries Commission pursuant to G.S. 113-169.1, as amended by Section 6.1 of this act, shall expire 1 July 2000.

PART VII. TECHNICAL CORRECTIONS

Section 7.1. G.S. 143-215.94E(i) reads as rewritten:

"(i) An owner or operator who notifies the Department of an intention to close or upgrade a commercial underground storage tank as provided in G.S. 143-215.94B(b)(2a) shall commence the closure or upgrade prior to 1 July 1994 and shall complete the closure or upgrade prior to 1 January 1995. An owner who notifies the Department of an intention to close or upgrade a commercial underground storage tank and who fails to commence and complete the closure as specified in this subsection is subject to a civil penalty as provided in ~~G.S. 143-215.94K.~~ G.S. 143-215.94W. The provisions of G.S. 143-215.94B(b)(2a) do not apply if an owner or operator who notifies the Department of an intention to close or upgrade a commercial underground storage tank fails to commence or complete the closure or upgrade within the dates specified in this subsection."

PART VIII. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Section 8.1. The headings to the Parts 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.

Section 8.2. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 8.3. Sections 2.1, 6.1, and 6.2 of this act are effective retroactively to 1 July 2000. Section 4.1 of this act is effective upon ratification and applies retroactively to all appointments by the Governor to the Environmental Management Commission. All other sections of this act are effective when this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 4

HOUSE BILL 1493*
Committee Substitute Favorable 5/31/00
Third Edition Engrossed 6/7/00
Senate Information Technology Committee Substitute Adopted 7/5/00

Short Title: Controlling Telephone Solicitations. (Public)

Sponsors:

Referred to:

May 9, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE CONSUMERS WITH CONTROL OVER TELEPHONE SOLICITATION CALLS TO THEIR HOMES.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that:

(1) The use of the telephone to market goods and services to consumers is increasing;

(2) Some citizens of this State wish to have a means of controlling these calls to their residences;

(3) The rights to privacy and commercial speech can be balanced in a way that accommodates both the privacy of individuals and legitimate telemarketing practices; and

(4) The public interest requires the establishment of a mechanism under which the citizens of this State can decide whether or not they wish to receive telemarketing calls in their homes.

Section 2. Chapter 75 of the General Statutes is amended by adding a new section to read:

"**§ 75-30.1. Restrictions on telephone solicitations.**

(a) For purposes of this section:

(1) 'Residential telephone subscriber' means a person who subscribes to residential telephone service from a local exchange company

and uses that service primarily for residential purposes, or the persons living or residing with that person.

(2) 'Telephone solicitation' means a voice communication over a telephone line to a residential telephone subscriber for the purpose of soliciting or encouraging the purchase or rental of, or investment in, property, goods, or services, or for the purpose of obtaining information that will or may be used for that purpose, but does not include the following communications:

a. To any person with that person's prior express invitation or permission;

b. To any person with whom the telephone solicitor has an established business relationship; or

c. By or on behalf of a tax-exempt nonprofit organization.

(3) 'Telephone solicitor' means any business or other legal entity doing business in this State that makes telephone solicitations or causes telephone solicitations to be made.

(b) Any telephone solicitor who makes a telephone solicitation to a residential telephone subscriber shall:

(1) At the beginning of the call, state clearly the identity of the business, individual, or other legal entity initiating the call, and identify the person making the call by that person's name.

(2) Upon request, provide the telephone subscriber with the telephone number or address at which the person or entity may be contacted.

(3) Terminate the call if the person does not consent to the call.

(4) If the person called requests to be taken off the contact list of the telephone solicitor, take all steps necessary to remove that person's name and telephone number from the contact records of the business, individual, or other legal entity initiating the call.

(c) Every telephone solicitor who makes telephone solicitations in this State shall implement in-house systems and procedures designed to prevent further calls to persons who have asked not to be called again. Compliance with section 47 C.F.R. § 64.1200(e) of the Federal Communications Commission's Restrictions on Telephone Solicitation constitutes compliance with this section.

(d) No telephone solicitor shall initiate a call to a residential telephone subscriber who has communicated to that telephone solicitor a desire to be taken off the contact list of that solicitor.

(e) No telephone solicitor shall initiate a call to a residential telephone subscriber after 9:00 P.M. or before 8:00 A.M. at the called party's location.

(f) No telephone solicitor who makes a telephone solicitation to the telephone line of a residential telephone subscriber in this State shall knowingly use any method to block or otherwise circumvent that subscriber's use of a caller identification service. A telephone solicitor who makes a telephone solicitation to the telephone line of a residential subscriber through the use of a private branch exchange (PBX) or other call-generating system that is not capable of transmitting caller identification

information shall not be in violation of this subsection. No provider of telephone caller identification services shall be held liable for violations of this subsection committed by other persons or entities.

(g) Every telephone solicitor who makes telephone solicitations in this State shall keep a record for a period of 24 months from the date a call is placed of the legal name and any fictitious name used, resident address, telephone number, and job title of each person who places a telephone solicitation for that telephone solicitor. If callers for a telephone solicitor use fictitious names, each fictitious name shall be traceable to only one specific caller.

(h) The Attorney General may investigate any complaints received alleging violations of subsections (b) through (g) of this section. If, after investigating a complaint, the Attorney General finds that there has been a violation of subsections (b) through (g) of this section, the Attorney General may bring an action to impose a civil penalty and to seek any other appropriate relief, including equitable relief to restrain the violation pursuant to G.S. 75-14. Actions for civil penalties under this section shall be consistent with the provisions of G.S. 75-15.2, except that the penalty imposed for a violation of this section shall not exceed five hundred dollars ($500.00) per violation.

(i) A person who has received more than one telephone solicitation within any 12-month period by or on behalf of the same telephone solicitor in violation of subsections (b) through (g) of this section may bring either or both of the following actions in the General Court of Justice:

(1) An action to enjoin further violations.

(2) An action to recover five hundred dollars ($500.00) in damages for each violation.

In an action brought pursuant to this section, a prevailing plaintiff shall be entitled to recover reasonable attorneys' fees, and the court may award reasonable attorneys' fees to a prevailing defendant if the court finds that the plaintiff knew, or should have known, that the action was frivolous and malicious.

(j) A citizen of this State is also entitled to bring an action in the General Court of Justice to enforce the private rights of action established by federal law under 47 U.S.C. § 227(b)(3) and 47 U.S.C. § 227(c)(5).

(k) Actions brought pursuant to subsections (i) and (j) of this section shall be tried in the county where the plaintiff resides at the time of the commencement of the action."

Section 3. Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-53. Notification of opportunity to object to telephone solicitation.**

The Commission shall require each local exchange company to notify all persons who subscribe to residential service from that company of the provisions of G.S. 75-30.1, of the federal laws allowing consumers to object to receiving telephone solicitations, and of programs made available by private industry that allow consumers to have their names removed from telemarketing lists, by enclosing that information, at least annually, in every telephone bill mailed to residential customers.

The Commission shall also ensure that this information is printed in a clear, conspicuous manner in the consumer information pages of each telephone directory distributed to residential customers."

Section 4. This act becomes effective October 1, 2000, and applies to telephone calls made on or after that date. Section 3 applies to all telephone directories printed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 4

HOUSE BILL 1748
Committee Substitute Favorable 6/22/00
Senate Finance Committee Substitute Adopted 6/30/00
Fourth Edition Engrossed 7/5/00

Short Title: Granville/Banner Elk Tax Use. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE PURPOSES FOR WHICH THE GRANVILLE COUNTY OCCUPANCY TAX CAN BE USED FOR A LIMITED PERIOD OF TIME, TO ESTABLISH A TOURISM DEVELOPMENT AUTHORITY, TO MAKE TECHNICAL CHANGES, TO CHANGE THE PURPOSES FOR WHICH THE BANNER ELK OCCUPANCY TAX MAY BE USED, AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

PART I. GRANVILLE COUNTY OCCUPANCY TAX REVISIONS

Section 1. Chapter 454 of the 1993 Session Laws reads as rewritten:

"Section 1. Occupancy tax.

(a) **Authorization and Scope.**

The Granville County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of ~~five percent (5%)~~ three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Granville County and any city or town that is located in

Granville County and is authorized to levy a room occupancy tax may not exceed six percent (6%).

(b) **Administration.**

A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(b) **Collection.**~~

~~Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) **Administration.**~~

~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) **Penalties.**~~

~~A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The board of commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(e) **Distribution and Use of Tax Revenue.**

~~Granville County shall use at least two-thirds of the proceeds of the tax revenue to promote travel and tourism and shall use the remaining tax proceeds for tourism-related expenditures. The term "promote travel and tourism" means to~~ The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority may use up to two-thirds of the funds remitted to it under this subsection for the following tourism-related expenditures designed to attract tourists and business travelers from outside the county into the county: (i) developing facilities for fishing tournaments, skiing tournaments, and boating events; (ii) constructing facilities for festivals; (iii)

constructing tournament grade multipurpose athletic facilities; and (iv) financing other similar capital expenditures. The Authority shall use the remaining net proceeds to promote travel and tourism in Granville County.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the ~~county; the~~ county. The term includes administrative expenses incurred in engaging in the listed activities. ~~The term "tourism-related expenditures" means expenditures that~~

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the ~~county and expenditures by the county to administer and collect the tax; it~~ county. The term includes ~~expenditures for the construction or maintenance of a convention or meeting facility to be used primarily by individuals who are not residents of the county and for the construction or maintenance of a coliseum or a visitors' center, but does not include other~~ tourism-related capital expenditures.

~~(f) Effective Date of Levy.~~

~~A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal.~~

~~A tax levied under this section may be repealed by a resolution adopted by the Granville County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 1.1. Granville Tourism Development Authority.

(a) **Appointment and Membership.**

The Board of County Commissioners shall adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of five members who shall serve for staggered three-year terms. The members shall be appointed as follows: three appointed by the Granville County Board of

Commissioners, one appointed by the Oxford City Council, and one appointed by the Creedmoor City Council. One of the three members appointed by the Granville County Board of Commissioners must be an owner or manager of a Granville County hotel or motel. The remaining members must be individuals who are currently active in the promotion of travel and tourism in the county. Vacancies shall be filled in the same manner as original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The resolution shall determine the compensation, if any, to be paid to the members of the Authority.

At the first meeting of each calendar year, the membership of the Authority shall elect one member to serve as chair until the first meeting of the following year. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Granville County shall be the ex officio finance officer of the Authority.

(b) **Duties.**

The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) **Reports.**

The Authority shall report quarterly and at the close of the fiscal year to the Granville County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 2. This act is effective upon ratification."

Section 2. To achieve the staggered terms required on the Granville County Tourism Development Authority, as provided in Section 1 of this act, the initial terms of the members of the Authority shall be as follows: The initial term of the member who is an owner or manager of a hotel or motel shall be three years. The Granville County Board of Commissioners must designate one of its remaining appointees to serve an initial term of two years and the other to serve an initial term of one year. The remaining initial members shall serve terms of three years each. Thereafter, all terms shall be three years.

Section 3. Section 1(a) of Chapter 454 of the 1993 Session Laws, as amended by Section 1 of this act, reads as rewritten:

"(a) **Authorization and Scope.**

The Granville County Board of Commissioners may levy a room occupancy tax of ~~three percent (3%)~~ five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Granville County and any city or town that is located in Granville County and is authorized to levy a room occupancy tax may not exceed six percent (6%)."

Section 4. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by Section 1 of this act, reads as rewritten:

"(e) **Distribution and Use of Tax Revenue.**

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority ~~may~~ shall use ~~up to~~ at least two-thirds of the funds remitted to it under this subsection ~~for the following tourism-related expenditures designed to attract tourists and business travelers from outside the county into the county: (i) developing facilities for fishing tournaments, skiing tournaments, and boating events; (ii) constructing facilities for festivals; (iii) constructing tournament grade multi-purpose athletic facilities; and (iv) financing other similar capital expenditures. The Authority shall use the remaining net proceeds~~ to promote travel and tourism in Granville ~~County.~~ County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

Section 5. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Counties."

PART II. BANNER ELK OCCUPANCY TAX REVISIONS

Section 6. Sections 1 through 6 of Chapter 318 of the 1989 Session Laws, as amended by Chapter 428 of the 1993 Session Laws, read as rewritten:

"**Section 1.** Occupancy Tax. The Town Council of Banner Elk may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development tax. ~~Collection of the tax and liability therefor shall begin and continue only on and after the first day of a calendar month set by the Town Council of Banner Elk in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

The occupancy and tourism development tax that may be levied under this act shall be three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation in the Town of Banner Elk that is subject to sales

tax imposed by the State under G.S. ~~105-164.4(3).~~ 105-164.4(a)(3). This tax is in addition to any State or local sales tax. The tax shall not apply to any room, lodging, or accommodation supplied to the same person for a period of 90 continuous days or more or to sleeping rooms or lodging furnished by charitable, educational, or religious institutions or by nonprofit organizations.

"**Sec. 2.** Administration of Tax. (a) A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section. ~~The Town of Banner Elk shall administer a tax levied under this act. A tax levied under this act is due and payable to the town in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, and association liable for the tax shall, on or before the 15th day of each month prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the county town under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The town council has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(c) All persons, firms, corporations, and associations who rent either their own dwelling or dwellings or rooms for other persons are required to submit to the town a list of all rented properties. This list shall include the owner's name and current address and the location of the rental property. The list shall be submitted semi-annually on or before November 30 and May 30. Failure to file this listing shall subject the person, firm, corporation, or association to a civil penalty of fifty dollars ($50.00).

~~"Sec. 3. Collection of Tax. (a) Every operator of a business and every individual renting his or her own property subject to the tax levied pursuant to this act shall on and after the effective date of the levy of the tax, collect the three percent (3%) room occupancy tax. This tax shall be collected as part of the charge for furnishing any taxable accommodations. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the Town of Banner Elk. It is the intent of this act that the room occupancy tax levied by the Town of Banner Elk shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(b) Collection of the tax shall be the responsibility of the Banner Elk Tax Administrator. In his or her discretion, the tax administrator may proceed against an operator whose occupancy tax is delinquent employing all remedies for collection of~~

~~tax as set out in G.S. 105-367, 105-368, 105-374, and 105-375. In employing the remedies under those statutes, the tax levied under this act shall be treated as a property tax on personal property. The Tax Administrator may audit occupancy tax reports as he or she deems necessary utilizing information available to him or her in property tax matters.~~

~~"Sec. 4. Discount for Payment of Taxes When Due. Every operator who pays the occupancy tax imposed by this act may deduct from the amount of the tax for which he is liable and which he actually pays a discount equal to the discount the State allows the operator for collecting State sales and use taxes. Provided, however, the tax administrator may deny a taxpayer the benefit of this section for failure to pay the full tax when due as well as in cases of fraud, evasion, or failure to keep accurate and clear records as required. Provided, further, that in order to receive any discount allowed the taxpayer must deduct the discount at the time of making the monthly remittance of tax to the town.~~

"**Sec. 5.** ~~Disposition of Taxes Collected.~~ Distribution and Use of Tax Revenue. The Town Council shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism Development Authority. The Authority shall use at least one-third of the funds remitted to it under this section to promote travel and tourism in Banner Elk and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. To ~~The town council shall use at least two-thirds of the room occupancy tax proceeds to promote travel and tourism and shall use the remainder of the proceeds only for tourism-related expenditures. The term 'promote travel and tourism' means to~~ advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in or sponsor similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities. ~~The term 'tourism-related expenditures' means expenditures that~~

(3) Tourism-related expenditures. -- Expenditures that, in the judgement of the Authority, are designed to increase the use of lodging ~~facilities~~ facilities, recreational facilities, and business establishments in the town or to attract tourists or business travelers to the ~~town and expenditures incurred by the town in collecting the tax. The term includes expenditures to construct,~~

~~maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum and other expenditures that, in the judgment of the town council, will facilitate and support tourism.~~ town. The term includes tourism-related capital expenditures and expenditures required to make the downtown tourist area and nearby green areas more accessible, attractive, and usable to pedestrian tourists, in accordance with the master plan approved by the Town Council.

~~The town may retain its costs of collecting the tax, not to exceed seven percent (7%) of the amount collected.~~

~~"Sec. 6. Repeal of Levy. The Banner Elk Town Council may by resolution repeal the levy of the room occupancy tax in Banner Elk, but no repeal of taxes levied under this act shall be effective until the end of the fiscal year in which the repeal resolution was adopted. No liability for a tax levied under this act that attached prior to the date on which a levy is repealed shall be discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.~~

"Sec. 7. Tourism Development Authority. (a) Appointment and membership. The Town of Banner Elk shall adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of five members who shall serve for staggered three-year terms. The members shall be appointed by the mayor and approved by the Town Council. Two of the members must be an owner or manager of a Banner Elk hotel or motel and one of the other members must be a representative for Lees-McRae College. The remaining two members must be individuals who are currently active in the promotion of travel and tourism in the town. Vacancies shall be filled in the same manner as the original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The Banner Elk Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Banner Elk shall be the ex officio, nonvoting finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 5 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Banner Elk Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require."

Section 7. To achieve the staggered terms required on the Banner Elk Tourism Development Authority, as provided in Section 6 of this act, the initial terms of the members of the Authority shall be as follows: The initial term of one of the

two at-large members shall be one year and the initial term of one of the two members that is an owner or manager of a Banner Elk hotel or motel shall be two years. The remaining initial members shall serve terms of three years each. Thereafter, all terms shall be three years.

Section 8. Effective October 1, 2010, Section 5 of Chapter 318 of the 1989 Session Laws, as amended by Chapter 428 of the 1993 Session Laws and Section 6 of this act, reads as rewritten:

"Sec. 5. Distribution and use of tax revenue. The town council shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism Development Authority. The Authority shall use at least ~~one-third~~ two-thirds of the funds remitted to it under this section to promote travel and tourism in Banner Elk and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in or sponsor similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgement of the Authority, are designed to increase the use of lodging facilities, recreational facilities, and business establishments in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital ~~expenditures and expenditures required to make the downtown tourist area and nearby green areas more accessible, attractive, and usable to pedestrian tourists, in accordance with the master plan approved by the town council.~~ expenditures."

Section 9. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton, Mount Airy, Shelby, and Statesville, to the Towns of ~~Mooresville~~ Banner Elk, Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

PART III. EFFECTIVE DATES

Section 10.(a) Part I: Granville Occupancy Tax Revisions. Sections 1 through 5 of this act apply only to Granville County. Sections 1, 2, and 5 of this act become effective October 1, 2000, and apply to taxes collected on or after that date. Sections 3 and 4 of this act become effective October 1, 2007, and apply to taxes paid on or after that date.

Section 10.(b) Part II: Banner Elk Occupancy Tax Revisions. Sections 6 through 9 of this act apply only to the Town of Banner Elk. Sections 6, 7, and 9 of this act become effective October 1, 2000, and apply to taxes collected on or after that date. Section 8 of this act becomes effective October 1, 2010, and applies to taxes collected on or after that date.

Section 10.(c) The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 1853*
Committee Substitute Favorable 6/20/00
Committee Substitute #2 Favorable 7/5/00

Short Title: UNC Nonappropriated Capital/Rev. Bonds. (Public)

Sponsors:

Referred to:

May 30, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA AND TO AMEND THE LAWS REGARDING CERTAIN REVENUE BONDS THAT MAY BE ISSUED BY THE BOARD OF GOVERNORS.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is (i) to authorize the construction by The University of North Carolina, of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebetedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

Section 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, are as follows:

1. **Appalachian State University**

New Dining Hall - Supplement	$ 9,569,744
Steam Distribution/Return System-Reconstruction	$ 3,109,200

2. **East Carolina University**	
Diabetes Building - Planning	$ 500,000
West End Dining Hall - Supplement	$ 5,089,700
3. **North Carolina School of the Arts**	
Technology Infrastructure - Residence Halls	$ 1,000,000
4. **North Carolina State University**	
Expansion of Parking Facilities	$ 9,000,000
Centennial Campus Infrastructure	$18,780,000
Centennial Campus Tenant Upfits	$ 6,750,000
5. **The University of North Carolina at Asheville**	
New Residence Hall - Supplement	$ 3,720,800
6. **The University of North Carolina at Chapel Hill**	
Sonja H. Stone Black Cultural Center	$ 9,000,000
7. **The University of North Carolina at Charlotte**	
Alumni Center	$ 3,300,000
8. **The University of North Carolina at Greensboro**	
Parking Deck	$11,000,000
9. **The University of North Carolina at Pembroke**	
Dining Hall Addition	$ 750,000.

Section 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

Section 4. G.S. 116-189(4) reads as rewritten:

"(4) The word 'institution' shall mean each of the institutions enumerated in G.S. 116-2, ~~and~~ the University of North Carolina ~~Hospitals at Chapel Hill~~ Health Care System, and the University of North Carolina General Administration."

Section 5. G.S. 116-189(5) is amended as follows:

"(5) ~~The word "project" shall mean and shall include any one or more buildings or facilities for (i) the housing, health, welfare, recreation and convenience of students, (ii) the housing of faculty, (iii) adult or continuing education, (iv) revenue-producing parking decks or~~

~~structures, and (v) education, research, patient care and community services at the University of North Carolina Hospitals at Chapel Hill, of any size or type approved by the Board and the Director of the Budget and any enlargements, improvements or additions so approved of or to any such buildings or facilities now or hereafter existing, including, but without limiting the generality thereof, dormitories and other student, faculty and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, structures and facilities, infirmaries and other health care buildings, structures and facilities, academic facilities for adult or continuing education, and necessary land and interests in land, furnishings, equipment and parking facilities. Any project comprising a building or buildings for student activities or adult or continuing education or any enlargement or improvement thereof or addition thereto may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, offices, rooms and other facilities for guests and visitors and facilities for meetings and for recreational, cultural and entertainment activities.~~ The word 'project' shall mean and shall include any one or more buildings, structures, or facilities of any size or type now or hereafter existing for (i) the housing, health, welfare, recreation, and convenience of students, (ii) the housing of faculty, (iii) academic, research, patient care, and community services, and (iv) parking at an institution or institutions, that has been approved by the Board and the Director of the Budget and any improvements or additions so approved to any such buildings, structures, or facilities, including, but without limiting the generality thereof, dormitories and other student, faculty, and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, infirmaries and other health care buildings, academic facilities, furnishings, equipment, parking facilities, and necessary land and interest in land. Any project may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, rooms and other facilities for guests and visitors, and facilities for meetings and for recreational, cultural, and entertainment activities."

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 4

SENATE BILL 1266
Information Technology Committee Substitute Adopted 6/19/00
Third Edition Engrossed 6/28/00
House Committee Substitute Favorable 7/5/00

Short Title: Uniform Electronic Transactions Act. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO ADOPT THE UNIFORM ELECTRONIC TRANSACTIONS ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 40.

"Uniform Electronic Transactions Act.

"**§ 66-308. Short title.**

This Article may be cited as the Uniform Electronic Transactions Act.

"**§ 66-308.1. Definitions.**

As used in this Article, unless the context clearly requires otherwise, the term:

(1) 'Agreement' means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) 'Automated transaction' means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) 'Computer program' means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) 'Consumer transaction' means a transaction involving a natural person with respect to or affecting primarily personal, household, or family purposes.

(5) 'Contract' means the total legal obligation resulting from the parties' agreement as affected by this Article and other applicable law.

(6) 'Electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(7) 'Electronic agent' means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(8) 'Electronic record' means a record created, generated, sent, communicated, received, or stored by electronic means.

(9) 'Electronic signature' means an electronic sound, symbol, or process attached to, or logically associated with, a record and executed or adopted by a person with the intent to sign the record.

(10) 'Governmental agency' means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

(11) 'Information' means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(12) 'Information processing system' means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(13) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(14) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) 'Security procedure' means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(16) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(17) 'Transaction' means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

"**§ 66-308.2. Scope.**

(a) Except as otherwise provided in subsections (b) and (c) of this section, this Article applies to electronic records and electronic signatures relating to a transaction.

(b) This Article does not apply to a transaction to the extent it is governed by:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts.

(2) Chapter 25 of the General Statutes other than G.S. 25-1-107 and G.S. 25-1-206, Article 2, and Article 2A.

(3) Article 11A of Chapter 66 of the General Statutes.

(c) This Article applies to an electronic record or electronic signature otherwise excluded from the application of this Article under subsection (b) of this section to the extent it is governed by a law other than those specified in subsection (b) of this section.

(d) A transaction subject to this Article is also subject to other applicable substantive law.

"**§ 66-308.3. Prospective application.**

This Article applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this Article.

"**§ 66-308.4. Use of electronic records and electronic signatures; variation by agreement.**

(a) This Article does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This Article applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(d) Except as otherwise provided in this Article, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this Article of the

words 'unless otherwise agreed', or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this Article and other applicable law.

"§ 66-308.5. Construction and application.

This Article must be construed and applied:

(1) To facilitate electronic transactions consistent with other applicable law;

(2) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(3) To effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

"§ 66-308.6. Legal recognition of electronic records, electronic signatures, and electronic contracts.

(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law provided it complies with the provisions of this Article.

(d) If a law requires a signature, an electronic signature satisfies the law provided it complies with the provisions of this Article.

"§ 66-308.7. Provision of information in writing; presentation of records.

(a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a law other than this Article requires a record (i) to be posted or displayed in a certain manner, (ii) to be sent, communicated, or transmitted by a specified method, or (iii) to contain information that is formatted in a certain manner, the following rules apply:

(1) The record must be posted or displayed in the manner specified in the other law.

(2) Except as otherwise provided in subdivision (d)(2) of this section, the record must be sent, communicated, or transmitted by the method specified in the other law.

(3) The record must contain the information formatted in the manner specified in the other law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, but:

(1) To the extent a law other than this act requires information to be provided, sent, or delivered in writing, but permits that requirement to be varied by agreement, the requirement under subsection (a) of this section that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(2) A requirement under a law other than this Article to send, communicate, or transmit a record by regular United States mail may be varied by agreement to the extent permitted by the other law.

"§ 66-308.8. Attribution and effect of electronic record and electronic signature.

(a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) of this section is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

"§ 66-308.9. Effect of change or error.

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if, at the time the individual learns of the error, the individual:

a. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

b. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

c. Has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither subdivision (1) nor subdivision (2) of this section applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(4) Subdivisions (2) and (3) of this section may not be varied by agreement.

"**§ 66-308.10. Notarization and acknowledgment.**

If a law requires a signature or record relating to a transaction to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

"**§ 66-308.11. Retention of electronic records; originals.**

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

(1) Accurately reflects the information set forth in the record at the time it was first generated in its final form as an electronic record or otherwise; and

(2) Remains accessible for later reference.

(b) A requirement to retain a record in accordance with subsection (a) of this section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy subsection (a) of this section by using the services of another person if the requirements of that subsection are satisfied.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (a) of this section.

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a) of this section.

(f) A record retained as an electronic record in accordance with subsection (a) of this section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this Article specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this State from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

"**§ 66-308.12. Admissibility in evidence.**

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

"**§ 66-308.13. Automated transaction.**

In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

"**§ 66-308.14. Time and place of sending and receipt.**

(a) Unless the sender and the recipient agree to a different method of sending that is reasonable under the circumstances, an electronic record is sent when it:

(1) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) Is in a form capable of being processed by that system; and

(3) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless the sender and the recipient agree to a different method of sending that is reasonable under the circumstances, an electronic record is received when:

(1) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) It is in a form capable of being processed by that system.

(c) Subsection (b) of this section applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (d) of this section.

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(1) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) Notwithstanding any other sections of this Article, in a consumer transaction, a record has not been received unless it is received by the intended recipient in a manner in which the sender has a reasonable basis to believe that the record can be opened and read by the recipient.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under subsection (a) of this section, or purportedly received under subsection (b) of this section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

"**§ 66-308.15. Transferable records.**

(a) In this section, 'transferable record' means an electronic record that:

(1) Would be a note under Article 3 of Chapter 25 of the General Statutes or a document under Article 7 of Chapter 25 of the General Statutes if the electronic record were in writing; and

(2) The issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies subsection (b) of this section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the person asserting control as:

a. The person to which the transferable record was issued; or

b. If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in G.S. 25-1-201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Chapter 25 of the General Statutes, including, if the applicable statutory requirements under G.S. 25-3-302(a), 25-7-501, or 25-9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under Chapter 25 of the General Statutes.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

"§ 66-308.16. Consumer transactions; alternative procedures for use or acceptance of electronic records or electronic signatures.

(a) Consistent with the provisions of Section 102(a)2A of the federal Electronic Signatures in Global and National Commerce Act, the use and acceptance of electronic records or electronic signatures in consumer transactions shall be subject to the requirements set out in this section. The requirements of this section may not be varied by agreement of the parties.

(b) Limitation. -- This Article shall not apply to:

(1) Any notice of the cancellation or termination of utility services, including water, heat, and power.

(2) Any notice of default, acceleration, repossession, foreclosure or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual.

(3) Any notice of the cancellation or termination of health insurance or benefits, or life insurance or benefits (excluding annuities).

(4) Any notice of the recall of a product, or material failure of a product that risks endangering health or safety.

(5) Any document required to accompany the transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(c) Consent to Electronic Records. -- In a consumer transaction, the consumer's agreement to conduct a transaction by electronic means shall be evidenced as provided in G.S. 66-308.4, and in compliance with this section. The consumer's agreement to conduct the transaction by electronic means shall be found only when the following apply:

(1) The consumer has affirmatively consented to the use of electronic means, and the consumer has not withdrawn consent.

(2) The consumer, prior to consenting to the use of electronic means, is provided with a clear and conspicuous statement:

a. Informing the consumer of any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form.

b. Informing the consumer of the right to withdraw consent to have the record provided or made available in an electronic form and of any conditions or consequences of such withdrawal. Those consequences may include termination of the parties' relationship but may not include the imposition of fees.

c. Informing the consumer of whether the consent to have the record provided or made available in an electronic form applies only to the particular transaction which gave rise to the obligation to provide the record, or to identified categories of records that may be provided or made available during the course of the parties' relationship.

d. Describing the procedures the consumer must use to withdraw consent as provided in sub-subdivision (2)b. of this subsection or to update information needed to contact the consumer electronically.

e. Informing the consumer how, after the consent to have the record provided or made available in an electronic form, the consumer may request and obtain a paper copy of an electronic record.

(3) The consumer, prior to consenting to the use of electronic means, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and the consumer consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent.

(4) After the consent of a consumer in accordance with subdivision (1) of this subsection, if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record provides the consumer with a statement of the revised hardware and software requirements for access to and retention of the electronic records, provides a statement of the right to withdraw consent without the

imposition of any condition or consequence that was not disclosed under sub-subdivision (2)b. of this subsection, and again complies with subdivision (3) of this subsection.

(d) Written Copy Required. -- Notwithstanding G.S. 66-308.4(b), in a consumer transaction where the consumer conducts the transaction on electronic equipment provided by or through the seller, the consumer shall be given a written copy of the contract which is not in electronic form. A consumer's consent to receive future notices regarding the transaction in an electronic form is valid only if the consumer confirms electronically, using equipment other than that provided by the seller, that (i) the consumer has the software specified by the seller as necessary to read future notices, and (ii) the consumer agrees to receive the notices in an electronic form. If an individual enters into a consumer transaction that is created or documented by an electronic record, the transaction shall be deemed to have been made or to have occurred at the individual's residence.

"**§ 66-308.17. Severability clause.**

If any provision of this Article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable."

Section 2. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to the Uniform Electronic Transactions Act, as the Revisor deems appropriate.

Section 3. This act becomes effective October 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 4

SENATE BILL 1359
State and Local Government Committee Substitute Adopted 6/26/00
House Committee Substitute Favorable 6/30/00
House Committee Substitute #2 Favorable 7/5/00

Short Title: Winston-Salem Local Act. (Local)

Sponsors:

Referred to:

May 22, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-303, as applicable to the City of Winston-Salem under Chapter 92 of the 1995 Session Laws, reads as rewritten:

"**§ 160A-303. Removal and disposal of junked and abandoned motor ~~vehicles.~~ vehicles and motor vehicles that constitute a safety hazard.**

(a) A city may by ordinance prohibit the abandonment of motor vehicles on the public streets or on public or private property within the city, and may enforce any such ordinance by removing and disposing of junked or abandoned motor vehicles or motor vehicles that constitute a safety hazard according to the procedures prescribed in this section.

(b) A motor vehicle is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(b1) An abandoned motor vehicle is one that:

(1) Has been left upon a street or highway in violation of a law or ordinance ~~prohibiting parking; or~~ that prohibits parking or requires the display of a valid license plate or registration sticker; or

(2) Is left on property owned or operated by the city for longer than 24 hours; or
(3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or
(4) Is left on any public street or highway for longer than seven ~~days.~~ days, or within the corporate limits of the City of Winston-Salem for longer than 48 hours on:
a. U.S. Highway 52;
b. Interstate Highway 40; ~~or~~
c. Business Interstate Highway 40;
d. Peters Creek Parkway;
e. Silas Creek Parkway; or
f. Highway 421.
~~within the corporate limits of the City of Winston-Salem for longer than 48 hours.~~

(b2) A junked motor vehicle is an abandoned motor vehicle that also:
(1) Is partially dismantled or wrecked; or
(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
(3) Is more than five years old and worth less than ~~one hundred dollars ($100.00);~~ five hundred dollars ($500.00); or
(4) Does not display a current license plate.

(b3) A motor vehicle that constitutes a safety hazard is one that is left upon a public street or highway or private property longer than 48 hours; has been declared a safety hazard, without regard to whether the vehicle is abandoned or junked as defined in this section, by the Board of Aldermen or a duly authorized city official or employee pursuant to an ordinance adopted under this section; and:
(1) Is a breeding ground or harbor for rats;
(2) Is a point of concentration or source of leaking of uncontained gasoline, oil, or other flammable or explosive materials;
(3) Is positioned in a way that there is a danger it will fall or turn over; or
(4) Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.

(c) Any junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard that is found to be in violation of an ordinance adopted under this section may be removed to a storage garage or area, but no ~~such~~ junked or abandoned motor vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the ~~premises unless the council or a duly authorized city official or employee has declared it to be a health or safety hazard.~~ premises. Prior to removing a vehicle that constitutes a safety hazard from private property, the city shall attach a notice to the vehicle stating the nature of the safety hazard and indicating that the vehicle is subject to removal within 72 hours if the

safety hazard is not eliminated. The city shall also provide the same notice to the owner, lessee, or occupant of the premises, either by personal service or certified mail. The city may require any person requesting the removal of a ~~junked or abandoned~~ motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. When ~~an abandoned or junked~~ a motor vehicle is removed, the city shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

(d) Hearing Procedure. -- Regardless of whether a city does its own removal and disposal of motor vehicles or contracts with another person to do so, the city, shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

(1) If the city operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

(2) If the city operates in such a way that it is responsible for collecting towing fees, it shall:

a. Provide by contract or ordinance for a schedule of reasonable towing ~~fees,~~ fees and storage fees that are comparable to the fees customarily charged to the public by local private towers,

b. Provide a procedure for a prompt fair hearing to contest the towing,

c. Provide for an appeal to district court from that hearing,

d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(e) Repealed by Session Laws 1983, c. 420, s. 13.

(f) No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(g) Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(h) Repealed by Session Laws 1983, c. 420, s. 13."

Section 2. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property

within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

For purposes of this section, the term 'junked motor vehicle' means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than ~~one hundred dollars ($100.00).~~ five hundred dollars ($500.00)."

Section 3. This act applies to the City of Winston-Salem only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 4

SENATE BILL 1463
State and Local Government Committee Substitute Adopted 6/14/00
Finance Committee Substitute No. 2 Adopted 6/22/00
House Committee Substitute Favorable 7/5/00

Short Title: Dare Utility Undergrounding Amendments. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW DARE COUNTY TO CREATE SPECIAL DISTRICTS TO UNDERGROUND LINES.

The General Assembly of North Carolina enacts:

Section 1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground electric and telephone utility lines in the district.

Section 2.(a) Procedure. A county board of commissioners may by resolution signify its determination to create a Utility District under the provisions of this act. The resolution shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the boundaries of the district, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 2.(b) The resolution shall include articles of incorporation which shall set forth:

(1) The name of the district;

(2) A statement that the district is organized under this act; and

(3) A description of the boundaries, which may include any territory designated by the county board of commissioners that is not in the corporate limits of any municipality.

Section 2.(c) No territory may be in more than one district.

Section 2.(d) All territory of a district shall be within the county.

Section 2.(e) A certified copy of the resolution signifying the determination to organize a district under the provisions of this act shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on the resolution. If the Secretary of State finds that the resolution, including the articles of incorporation, conforms to the provisions of this act and that the notice of hearing was properly published, the Secretary of State shall file the resolution and proof of publication in the records of that office, shall issue a certificate of incorporation under the seal of the State, and shall record the same in an appropriate book of record. The issuance of the certificate of incorporation by the Secretary of State shall constitute the district, a public body and body politic and corporate of the State of North Carolina. This certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under the provisions of this act.

Section 2.(f) When the district has been duly organized and its officers appointed as provided by this act, the secretary or clerk of the district shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the district.

Section 3.(a) Annexation to District. By adoption of a resolution, and with the approval of the board of commissioners of a county by resolution, any municipality located wholly within that county may annex the entirety of that municipality to any Utility District created by this act, but no municipality may be in more than one district. The resolution shall be adopted by the municipal governing board after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(b) By adoption of a resolution, the board of commissioners of a county may annex any area within that county but not within the corporate limits of any municipality to a Utility District, but no area may be in more than one district. The resolution shall be adopted by the county board of commissioners after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, the boundaries of the proposed annexation, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(c) If any area in a Utility District is annexed to the corporate limits of any municipality, it shall remain in the same Utility District notwithstanding any other provision of this act.

Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each local telephone exchange carrier licensed to do business in North Carolina and providing service in that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each electric utility provider in the county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each cable television provider in the county, and one person appointed by the governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 4.(b) In the case of Dare County, one person shall also be appointed to the Special Commission by the Roanoke Island Commission established by Part 27A of Article 2 of Chapter 143B of the General Statutes. Appointments shall be for two-year terms.

Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy an assessment of up to:

(1) One dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

(2) One dollar ($1.00) per month on each residential telephone customer bill for service within the district and up to five dollars ($5.00) per month on each commercial or industrial telephone customer bill within the district.

Section 5.(b) The Utility District may receive contributions from the State of North Carolina, local governments, and the private sector for corporate purposes authorized by this act.

Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act. Any State, local government, or other entity which carries out projects authorized by this act, or otherwise takes action affecting any company whose lines are effected pursuant to the terms of this act shall remain fully liable for any damages to company property. Any private sector entity with which the district wishes to contract to carry out projects authorized by this act must be approved in writing in advance by each company whose facilities will be affected and must carry sufficient insurance to cover any damages caused.

Section 5.(d) The board of commissioners may exempt from payment of the assessment on an electric bill any person for whom the payment would work an unreasonable financial hardship in accordance with criteria established by the board

of commissioners. The board of commissioners shall exempt from payment of the assessment on a telephone bill those low-income residential telephone customers who pay reduced rates for local telephone service pursuant to an order of the North Carolina Utilities Commission.

Section 5.(e) The commission may order any cable television lines (or other lines other than electric or telephone) to be undergrounded when any electric or telephone line on the same pole is undergrounded.

Section 6. Use of Funds. The assessments levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of electric and telephone utility lines within the district. When an electric or telephone utility line is undergrounded adjacent to a residential premises which is served by that distribution line, the Utility District shall, at no additional cost to the customer, underground the customer service line to the premises and replace or modify the meter base to accept the underground service. The budget for the Utility District shall be adopted by the special commission for that district. The budget shall include funding to pay for the installation of conduit for underground telephone cable, where required.

Section 7. Corporate Existence. A Utility District created under this act shall have the power granted by this act, and may do all acts reasonably necessary to fulfill this purpose. A simple majority of the governing board constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

Section 8. Fiscal Control. The Utility District is a special district under G.S. 159-7 and is covered by the applicable provisions of Chapter 159 of the General Statutes.

Section 9.(a) Levy. An assessment authorized by this act may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. An assessment authorized by this act shall become effective on the date specified in the resolution levying the assessment. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the third month after the date the resolution is adopted. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable.

Section 9.(b) Collection. Every utility subject to an assessment authorized by this act shall, on and after the effective date of the levy of the assessment, collect it. The assessment shall be collected as part of the charge for furnishing service. The assessment shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The assessment shall be passed on to the purchaser instead of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities in the district the necessary forms for filing returns and instructions to ensure the full collection of the assessment. A utility who collects an assessment authorized by this act may deduct from the amount remitted to the Utility District a discount

equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing service, a cooperative, and any other utility. A utility shall have the same right to suspend or terminate service for nonpayment of the assessment that it has to suspend or terminate service for payment of any other part of the utility bill. A utility has no obligation to take any legal action to enforce the collection of assessments under this act. The county or the district may initiate a collection action in its name and reasonable costs and attorneys' fees may be awarded to the plaintiff.

Section 9.(c) Administration. The Utility District shall administer an assessment it levies under this act. An assessment authorized by this act is due and payable to the district finance officer in monthly installments on or before the last day of the month following the month in which the assessment accrues. Every person, firm, corporation, or association liable for the assessment shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Utility District. The return shall state the total gross receipts derived in the preceding month upon which the assessment is levied. A return filed with the district finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 as if the Utility District were a county. The Utility District may adopt a payment schedule keyed to the billing cycle of the utility collecting the assessment rather than the calendar month, as long as there are at least 12 billing cycles per year.

Section 9.(d) Penalties. A person, firm, corporation, or association who fails or refuses to file an assessment return or pay an assessment authorized by this act as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the Utility District has the same authority to waive the penalties for an assessment authorized by this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

Section 9.(e) Increase, Repeal, or Reduction. An assessment levied by a district under this act may be increased not in excess of the maximum allowed by this act, repealed or reduced by a resolution adopted by the board of commissioners of the county, acting ex officio on behalf of the Utility District. Repeal or reduction of an assessment authorized by this act shall become effective on the first day of a month and may not be earlier than the first day of the third month after the date the resolution is adopted. Repeal or reduction of an assessment authorized by this act does not affect a liability for an assessment that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of an assessment that accrued before the effective date of the repeal or reduction. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable. Once the lines have been undergrounded and the costs have been paid, the board of commissioners shall terminate the assessment.

Section 10. Interlocal Agreements. By interlocal agreement adopted under Chapter 160A of the General Statutes, a Utility District created under this act

may contract with a municipality or county to handle assessment collections and fiscal control.

Section 11.(a) The district shall coordinate with affected utilities, municipalities, and the North Carolina Department of Transportation to facilitate acquisition of rights-of-way for burial of cable.

Section 11.(b) The undergrounding required by this act shall be a coordinated effort between the utility district and the affected electric, telephone, and cable television companies.

Section 12. The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds collected by or paid to the Utility District are being managed in accordance with the provisions of this act, and shall perform an audit at least every two years. The costs of the audit shall be reimbursed to the State Auditor by the Utility District.

Section 13. This act applies to Dare County only.

Section 14. Sections 1.1 through 11 of S.L. 1999-127 are repealed.

Section 15. This act is effective when it becomes law.

SENATE BILL 1200:
Municipal Participation

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Senator Gulley
Date:	June 21, 2000	**Summary by:**	Giles S. Perry
Version:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 1200 authorizes additional voluntary municipal participation in road construction.***

CURRENT LAW:

Under current law, municipalities may not participate in the costs of State highway construction projects except:

1. Projects funded by the Small Urban Construction Program;
2. Projects funded by the municipality, upon a favorable referendum of the voters of the municipality;
3. Development access projects (new travel lanes, turn lanes, curb and gutter, and drainage);
4. By agreement with the DOT to provide improvements to an existing project that DOT would not normally include;
5. For municipalities with a population over 10,000, a sliding-scale participation of between 5% and 25% of the cost of right-of-way construction.

Municipalities with a population of less than 10,000 cannot participate in the right-of-way and construction costs of any State highway system project.

BILL ANALYSIS:

Seante Bill 1200 authorizes all municipalities to participate in the funding of State transportation improvement projects located in the municipality or its extraterritorial jurisdiction. The municipality may initiate participation by submitting a proposal to DOT, and DOT and the municipality shall include their respective responsibilities in an agreement.

Senate Bill 1200 also provides as follows:

- (c) A municipality may fund State transportation system improvements without a referendum.
- (c1) If a municipality participates in a project, DOT must ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program and located outside the municipality.
- (c2) Any funds made available as a result of municipal participation in a project contained in the TIP shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

- (c3) Prohibits the DOT from agreeing to provide any additional total funds to a municipality in exchange for municipal participation.

This bill removes the provision prohibiting municipalities with populations of less than 10,000 from participating in any State transportation project. It also removes the percentage restrictions, which presently limit participation by municipalities with populations over 10,000.

Finally, this proposal authorizes the counties of Burke, Cabarrus, and Mecklenburg to participate in transportation projects located anywhere in the respective county, to the same extent as municipalities. This authority is in addition to that granted by S.L. 1993-478, which authorized these counties assist thoroughfare plan implementation by purchasing, or acquiring property for road construction projects by eminent domain, donations and dedications, and entering agreements with municipalities.

This bill becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1200*
Finance Committee Substitute Adopted 6/14/00

Short Title: Municipal Participation. (Public)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Municipal participation in improvements to the State highway system.**

~~(a) Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right-of-way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

~~(b) The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by funds allocated by the General Assembly for the "Small Urban Construction Program". The municipalities may, but shall not be required to, participate in the right-of-way and construction cost of "Small Urban Construction Program" highway improvements.~~

(a) Municipal Participation Authorized. -- A municipality may, but is not required to, participate in the right-of-way and construction cost of a State highway

improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) Process for Initiating Participation. -- A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) Type of Participation Authorized. -- A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that ~~purpose~~ purpose. ~~by a vote of the citizens of the municipality. The governing body of the municipality may call a special referendum at any time to allow this use of funds. The total cost of the improvements authorized by this subsection shall be the responsibility of the municipality and shall not be participated in by the Department of Transportation, nor shall the construction of improvements be a consideration for any other project by the Department of Transportation.~~ All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of ~~Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~ Transportation.

(c1) No TIP Disadvantage for Participation. -- If a municipality participates in a State highway system improvement project, as authorized by this section, the Department shall ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4) and located outside the municipality.

(c2) Distribution of State Funds Made Available by Municipal Participation. -- Any State or federal funds allocated to a project that are made available by municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) Limitation on Agreements. -- The Department shall not enter into any agreement with a municipality to provide additional total funding for highway construction in the municipality in exchange for municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) Authorization to Participate in Development-Related Improvements. -- When in the review and approval by a municipality of plans for the development of property abutting the State highway system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the municipality is authorized to construct, or have constructed, said improvements to the State highway system in vicinity of the

development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the State highway system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. -- Pursuant to an agreement with the Department of Transportation, ~~A~~ a municipality may ~~pursuant to an agreement with the Department of Transportation~~ reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement ~~project~~ projects approved by the Board of Transportation under ~~G.S. 143B-350(f)(4)~~ G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

~~(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).~~

~~Municipalities having a population of 10,000 or more according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer may, but shall not be required by the Department or Board of Transportation, participate up to a maximum percentage as shown below in the cost of rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:~~

~~Municipal Population~~	~~Maximum Participation In Right-of-Way Costs~~
~~10,000 -- 25,000~~	~~5%~~
~~25,001 -- 50,000~~	~~10%~~
~~50,001 -- 100,000~~	~~15%~~
~~over 100,000~~	~~25%~~

(e1) Reimbursement Procedure. -- ~~Any participation shall be set forth in an agreement between the municipality and the Department of Transportation.~~ Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs ~~of rights-of-way~~ necessary for the project. The Department of Transportation shall not charge a municipality any interest ~~on its agreed upon share of rights-of-way costs.~~ during the initial three years.

(f) Report to General Assembly. -- The ~~Secretary~~ Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the

Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) Municipal Acquisition of Right-of-Way. -- In the acquisition of rights-of-way for any State highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. -- In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

(i) Changes to Municipal Participation Agreement. -- Either the municipality or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities ~~for right-of-way acquisition~~ by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Municipality Party to Right-of-Way Proceeding. -- Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Specified County Participation. -- In addition to the authority given to Burke, Cabarrus, and Mecklenburg Counties by Chapter 478 of the 1993 Session Laws, these counties are authorized to participate in State highway improvement projects located anywhere in each respective county in accordance with this section."

Section 2. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

S1081-CSST-001A
PROPOSED COMMITTEE SUBSTITUTE
Senate Bill 1081
THIS IS A DRAFT 21-JUN-00 09:49:18
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Aggregate Weight Change. (Public)

Sponsors:

Referred to: Transportation

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ECONOMIC PARITY FOR THE HAULING OF AGGREGATE PRODUCTS FROM LIMITED AREAS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

" (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the following conditions:

a. Is hauling aggregates from a distribution yard or a state permitted production site within a North Carolina county contiguous to the North Carolina State border to a destination in an adjacent state as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.

b. Does not operate on an interstate highway or posted bridge.

c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single unit vehicle with a three

consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply.

d. All other enforcement provisions of this Article remain applicable."

Section 2. This act becomes effective July 1, 2000.

VISITOR REGISTRATION SHEET

TRANSPORTATION — **Name of Committee**

June 21, 2000 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ruth Sappie	NCDOT
Mac Boxley	NC Aggregates
Jim Caldwell	Mid Carolina COG
Pete Connet	Town of Smithfield
Kim Marshall	Town of Wake Forest
Thomas Walters	Town of Wake Forest
Vivian Jones	Town of Wake Forest
Natalie English	Charlotte Chamber
Butch Gunnells	NC Soft Drink Assoc.
Henry Hutaff	Accalac
VL McBride	NCA

VISITOR REGISTRATION SHEET

TRANSPORTATION — June 21, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charlie Diehl	NC Trucking Association
John Palisades	AT&T
Andy Romanet	NCLM.
Mary Carmilia	REBIC
David King	NC DOT
Fred Allen	NC Aggregates Assn.
Tom Cecil	Vulcan
Sandy Sands	LOCSR
Andrea Clinic	Action Pacific Foundation
BRUCE THOMPSON	PPAB
Buckie Strutt	PPAB

VISITOR REGISTRATION SHEET

TRANSPORTATION — June 21, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jack Brust	Packet Pub
Phyllis Harris	Mt. Holly City Council
Pat Hubbard	" " " "
Robert D Ball	" " " "
Frank E McLean	" " " "
David Krauss	City of Mt Holly (City Manager)
Sam Chambers	City of Hickory

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

June 21, 2000
Room 643 LOB
11:00 A.M.

The House Committee on Transportation met on June 21, 2000, in Room 643 of the Legislative Office Building at 11:00 A.M. Members present were Representatives Adams, Baker, Clary, Cole, Crawford, Culp, Eddins, Gibson, Rayfield, Setzer, Sherrill, Sossamon, Teague, Thomas, Warwick, and Saunders, Chair. Staff Counsels, Giles Perry and Wendy Graf were also present. A Visitor Registration Sheet is attached and made a part of the minutes.

Representative Saunders, Presiding Chair, called the meeting to order and introduced the pages, Bryan Buck sponsored by Representative Edwards and Jeffrey Womble sponsored by Representative Eddins from Wake County and Brent Baker from Carteret County. He also recognized Sergeant of Arms, Martha Parrish and Brett Wilkins.

Senate Bill 1200 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION was the first bill on the agenda. Chairman Saunders recognized Senator Wib Gulley, bill sponsor, to explain the bill. After a brief explanation of the bill, Representative Saunders explained that HB 1565 was originally in the Transportation Committee and sent to the House and re-referred back to the committee. HB 1565 and Senate Bill 1200 were similar bills, therefore, HB 1565 would not be heard. Representative Saunders ask Senator Gulley to explain differences between the two bills. Senator Gulley called upon Giles Perry to give a brief explanation of the differences. SB 1200 contains the following provisions that are not in HB 1565: Provisions to clarify that there can be no TIP disadvantage to another project for municipal participation. Funds made available by municipal participation will stay in the same funding region, and that there can be no side agreements by DOT and a municipality to gain advantage for municipal participation. Authorization for three counties to participate in State road construction: Burke, Cabarrus, and Mecklenburg. Senator Gulley with the assistance of Ruth Sappie with the Department of Transportation answered questions from members. Chairman Saunders asked if there were any County Commissioners in the meeting that would like to speak on the bill. No commissioners were present but Natalie English with the Charlotte Chamber of Commerce spoke in favor of the bill. Representative Baker offered an amendment to-the bill on page 3, line 37 deleting the words, not less than. A vote was taken and the amendment was approved. Representative Cole also offered an amendment to the bill on page 3, line 41, deleting the word, initial. A vote was taken and the amendment was approved. Chairman Saunders made a motion that both amendments be rolled into a committee substitute. The motion carried. Representative Cole made a motion for a favorable report as to the House committee substitute, unfavorable to the Senate committee substitute. A vote was taken and the motion carried.

The second bill to be considered was **Senate Bill 1081 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO EXPAND THE USE OF RECYCLED MATERIALS IN ROAD MAINTENANCE** sponsored by Senator Charlie Albertson. Senate Bill 1081 was originally on the agenda but was taken off and then replaced on the agenda immediately before the meeting. Representative Baker made a motion to adopt the proposed House committee substitute for discussion and the motion carried. In the absence of Senator Albertson, Chairman Saunders recognized Representative Jim Crawford to explain the proposed House committee substitute for SB 1081. Representative Sherrill made a motion to give a favorable report to the proposed House committee substitute and unfavorable to the original bill. A vote was taken and motion carreid.

The meeting was adjourned at 12:00 noon.

Representative Charles Buchanan, Chair

Representative Drew Saunders, Chair

Glenda Jones, Committee Assistant

HOUSE TRANSPORTATION COMMITTEE MEETING

JUNE 21, 2000

AGENDA

OPENING REMARKS

Representative Charles M. Buchanan, Co-Chair

BILLS TO BE CONSIDERED

HB 1565 MUNICIPAL PARTICIPATION
Representative Nelson Cole, Sponsor
SB 1200 MUNICIPAL PARTICIPATION
Senator Wib Gulley

FURTHER BUSINESS OR ANNOUNCEMENTS

ADJOURN

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan and Saunders** for the Committee on **TRANSPORTATION**.

☒ Committee Substitute for
S.B. 1200` A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation.**

☐ Committee Substitute for
S.B. 1081 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO EXPAND THE USE OF RECYCLED MATERIALS IN ROAD MAINTENANCE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute ~~bill (#____~~), ☒ which changes the title, unfavorable as to ~~(original bill) (Committee Substitute Bill #____), (and recommendation that the committee substitute bill #____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

S1081-CSST-001A
PROPOSED COMMITTEE SUBSTITUTE
Senate Bill 1081
THIS IS A DRAFT 21-JUN-00 09:49:18
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Aggregate Weight Change. (Public)

Sponsors:

Referred to: Transportation

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ECONOMIC PARITY FOR THE HAULING OF AGGREGATE PRODUCTS FROM LIMITED AREAS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

" (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the following conditions:

a. Is hauling aggregates from a distribution yard or a state permitted production site within a North Carolina county contiguous to the North Carolina State border to a destination in an adjacent state as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.

b. Does not operate on an interstate highway or posted bridge.

c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single unit vehicle with a three

consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply.

d. All other enforcement provisions of this Article remain applicable."

Section 2. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1081
Second Edition Engrossed 4/28/99
Proposed Committee Substitute S1081-PCS4789-ST001A

Short Title: Aggregate Weight Change. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ECONOMIC PARITY FOR THE HAULING OF AGGREGATE PRODUCTS FROM LIMITED AREAS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

"(14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the following conditions:

a. Is hauling aggregates from a distribution yard or a State-permitted production site within a North Carolina county contiguous to the North Carolina State border to a destination in an adjacent state as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.

b. Does not operate on an interstate highway or posted bridge.

c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of

this subsection, the tolerance provisions of subsection (h) of this section do not apply.

d. All other enforcement provisions of this Article remain applicable."

Section 2. This act becomes effective July 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1081

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

S1081-ARW-001

Date_____,1999

Comm. Sub. [YES]
Amends Title []

Rep. Saunders

moves to amend the bill on page 1, line 21,
by deleting the phrase
",including hot in-place recycling,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1200*
Finance Committee Substitute Adopted 6/14/00

Short Title: Municipal Participation. (Public)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Municipal participation in improvements to the State highway system.**

~~(a) Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right-of-way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

~~(b) The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by funds allocated by the General Assembly for the "Small Urban Construction Program". The municipalities may, but shall not be required to, participate in the right-of-way and construction cost of "Small Urban Construction Program" highway improvements.~~

(a) Municipal Participation Authorized. -- A municipality may, but is not required to, participate in the right-of-way and construction cost of a State highway

improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) Process for Initiating Participation. -- A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) Type of Participation Authorized. -- A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that ~~purpose~~ purpose. ~~by a vote of the citizens of the municipality. The governing body of the municipality may call a special referendum at any time to allow this use of funds. The total cost of the improvements authorized by this subsection shall be the responsibility of the municipality and shall not be participated in by the Department of Transportation, nor shall the construction of improvements be a consideration for any other project by the Department of Transportation.~~ All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of ~~Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~ Transportation.

(c1) No TIP Disadvantage for Participation. -- If a municipality participates in a State highway system improvement project, as authorized by this section, the Department shall ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4) and located outside the municipality.

(c2) Distribution of State Funds Made Available by Municipal Participation. -- Any State or federal funds allocated to a project that are made available by municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) Limitation on Agreements. -- The Department shall not enter into any agreement with a municipality to provide additional total funding for highway construction in the municipality in exchange for municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) Authorization to Participate in Development-Related Improvements. -- When in the review and approval by a municipality of plans for the development of property abutting the State highway system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the municipality is authorized to construct, or have constructed, said improvements to the State highway system in vicinity of the

development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the State highway system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. -- Pursuant to an agreement with the Department of Transportation, ~~A~~ a municipality may ~~pursuant to an agreement with the Department of Transportation~~ reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement ~~project~~ projects approved by the Board of Transportation under ~~G.S. 143B-350(f)(4)~~ G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

~~(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).~~

~~Municipalities having a population of 10,000 or more according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer may, but shall not be required by the Department or Board of Transportation, participate up to a maximum percentage as shown below in the cost of rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:~~

~~Municipal Population~~	~~Maximum Participation In Right-of-Way Costs~~
~~10,000 – 25,000~~	~~5%~~
~~25,001 – 50,000~~	~~10%~~
~~50,001 – 100,000~~	~~15%~~
~~over 100,000~~	~~25%~~

(e1) Reimbursement Procedure. -- ~~Any participation shall be set forth in an agreement between the municipality and the Department of Transportation.~~ Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs ~~of rights-of-way~~ necessary for the project. The Department of Transportation shall not charge a municipality any interest ~~on its agreed upon share of rights-of-way costs.~~ during the initial three years.

(f) Report to General Assembly. -- The ~~Secretary~~ Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the

Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) Municipal Acquisition of Right-of-Way. -- In the acquisition of rights-of-way for any State highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. -- In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

(i) Changes to Municipal Participation Agreement. -- Either the municipality or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities ~~for right-of-way acquisition~~ by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Municipality Party to Right-of-Way Proceeding. -- Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Specified County Participation. -- In addition to the authority given to Burke, Cabarrus, and Mecklenburg Counties by Chapter 478 of the 1993 Session Laws, these counties are authorized to participate in State highway improvement projects located anywhere in each respective county in accordance with this section."

Section 2. This act becomes effective July 1, 2000.

SENATE BILL 1200:
Municipal Participation

BILL ANALYSIS

Committee:	House Transportation Committee	**Introduced by:**	Senator Gulley
Date:	June 21, 2000	**Summary by:**	Giles S. Perry
Version:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 1200 authorizes additional voluntary municipal participation in road construction.***

CURRENT LAW:

Under current law, municipalities may not participate in the costs of State highway construction projects except:

1. Projects funded by the Small Urban Construction Program;
2. Projects funded by the municipality, upon a favorable referendum of the voters of the municipality;
3. Development access projects (new travel lanes, turn lanes, curb and gutter, and drainage);
4. By agreement with the DOT to provide improvements to an existing project that DOT would not normally include;
5. For municipalities with a population over 10,000, a sliding-scale participation of between 5% and 25% of the cost of right-of-way construction.

Municipalities with a population of less than 10,000 cannot participate in the right-of-way and construction costs of any State highway system project.

BILL ANALYSIS:

Seante Bill 1200 authorizes all municipalities to participate in the funding of State transportation improvement projects located in the municipality or its extraterritorial jurisdiction. The municipality may initiate participation by submitting a proposal to DOT, and DOT and the municipality shall include their respective responsibilities in an agreement.

Senate Bill 1200 also provides as follows:

- (c) A municipality may fund State transportation system improvements without a referendum.
- (c1) If a municipality participates in a project, DOT must ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program and located outside the municipality.
- (c2) Any funds made available as a result of municipal participation in a project contained in the TIP shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

- (c3) Prohibits the DOT from agreeing to provide any additional total funds to a municipality in exchange for municipal participation.

This bill removes the provision prohibiting municipalities with populations of less than 10,000 from participating in any State transportation project. It also removes the percentage restrictions, which presently limit participation by municipalities with populations over 10,000.

Finally, this proposal authorizes the counties of Burke, Cabarrus, and Mecklenburg to participate in transportation projects located anywhere in the respective county, to the same extent as municipalities. This authority is in addition to that granted by S.L. 1993-478, which authorized these counties assist thoroughfare plan implementation by purchasing, or acquiring property for road construction projects by eminent domain, donations and dedications, and entering agreements with municipalities.

This bill becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1081
Second Edition Engrossed 4/28/99

Short Title: Recycled Materials in Road Maintenance. (Public)

Sponsors: Senators Albertson; and Metcalf.

Referred to: Transportation.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO EXPAND THE USE OF RECYCLED MATERIALS IN ROAD MAINTENANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.8 reads as rewritten:

"**§ 136-28.8. Use of recycled materials in construction.**

(a) It is the intent of the General Assembly that the Department of Transportation continue to expand its use of recycled materials in its construction and maintenance programs.

(b) The General Assembly declares it to be in the public interest to find alternative ways to use certain recycled materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. ~~To the extent economically practicable, the Department shall use:~~ The Department shall, consistent with economic feasibility and applicable engineering and environmental quality standards, use:

(1) Rubber from tires in road pavements, subbase materials, or other appropriate ~~applications; and~~ applications.

(2) Recycled materials for guard rail posts, right-of-way fence posts, and sign ~~supports~~ supports.

(3) Recycling technology, including hot in-place recycling, in road and highway maintenance.

~~so long as these materials meet all appropriate engineering standards.~~

(c) As a part of its scheduled projects, the Department shall conduct additional research, which may include demonstration projects, on the use of recycled materials in ~~construction.~~ construction and maintenance.

(d) The Department shall review and revise existing bid procedures and specifications to eliminate any procedures and specifications that explicitly discriminate against recycled materials in ~~construction,~~ construction and maintenance, except where the procedures and specifications are necessary to protect the health, safety, and welfare of the people of this State.

(e) The Department shall review and revise its bid procedures and specifications on a continuing basis to encourage the use of recycled materials in construction and maintenance and shall, to the extent economically practicable, require the use of recycled materials.

(f) All agencies shall cooperate with the Department in carrying out the provisions of this section.

(g) On or before October 1 of each year, the Department shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental ~~Operations and~~ Operations, the Joint Legislative Transportation Oversight Committee, and the Environmental Review Commission.

(h) The Department, in consultation with the Department of Environment and Natural Resources, shall determine minimum content standards for recycled materials.

(i) This section is broadly applicable to all procurements by the Department if the quality of the product is consistent with the requirements of the bid specifications.

(j) The Department may adopt rules to implement this section."

Section 2. This act becomes effective July 1, 1999.

SENATE BILL 1081:
Recycled Materials in Road Maintenance

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Senator Albertson; and Metcalf
Date:	May 19, 1999	**Summary by:**	Giles S. Perry Committee Counsel

SUMMARY:

Senate Bill 1081changes the current law concering requiring the Department of Transportation to use recycled materials in construction to add *maintenance.*

In addition, the bill requires the Department to:

--use recycling technology, including *hot in-place recycling*, in road and highway maintenance, consistent with economic feasibility and applicable engineering and environmental standards; and.

--report its recycling efforts to the Joint Legislative Transportation Oversight Committee, in addition to the report already required for the Joint Legislative Commission on Governmental Operations.

Effective Date: July 1, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1200*
Finance Committee Substitute Adopted 6/14/00
Proposed Committee Substitute S1200-PCS2853-RW004

Short Title: Municipal Participation. (Public)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Municipal participation in improvements to the State highway system.**

~~(a) Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right-of-way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

~~(b) The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by funds allocated by the General Assembly for the "Small Urban Construction Program". The municipalities may, but shall not be required to, participate in the right-of-way and construction cost of "Small Urban Construction Program" highway improvements.~~

(a) Municipal Participation Authorized. -- A municipality may, but is not required to, participate in the right-of-way and construction cost of a State highway

improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) Process for Initiating Participation. -- A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) Type of Participation Authorized. -- A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that ~~purpose~~ purpose. ~~by a vote of the citizens of the municipality. The governing body of the municipality may call a special referendum at any time to allow this use of funds. The total cost of the improvements authorized by this subsection shall be the responsibility of the municipality and shall not be participated in by the Department of Transportation, nor shall the construction of improvements be a consideration for any other project by the Department of Transportation.~~ All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of ~~Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~ Transportation.

(c1) No TIP Disadvantage for Participation. -- If a municipality participates in a State highway system improvement project, as authorized by this section, the Department shall ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4) and located outside the municipality.

(c2) Distribution of State Funds Made Available by Municipal Participation. -- Any State or federal funds allocated to a project that are made available by municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) Limitation on Agreements. -- The Department shall not enter into any agreement with a municipality to provide additional total funding for highway construction in the municipality in exchange for municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) Authorization to Participate in Development-Related Improvements. -- When in the review and approval by a municipality of plans for the development of property abutting the State highway system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the municipality is authorized to construct, or have constructed, said improvements to the State highway system in vicinity of the

development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the State highway system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. -- Pursuant to an agreement with the Department of Transportation, ~~A~~ a municipality may ~~pursuant to an agreement with the Department of Transportation~~ reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement ~~project~~ projects approved by the Board of Transportation under ~~G.S. 143B-350(f)(4)~~ G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

~~(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).~~

~~Municipalities having a population of 10,000 or more according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer may, but shall not be required by the Department or Board of Transportation, participate up to a maximum percentage as shown below in the cost of rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:~~

~~Municipal Population~~	~~Maximum Participation In Right-of-Way Costs~~
~~10,000 -- 25,000~~	~~5%~~
~~25,001 -- 50,000~~	~~10%~~
~~50,001 -- 100,000~~	~~15%~~
~~over 100,000~~	~~25%~~

(e1) Reimbursement Procedure. -- ~~Any participation shall be set forth in an agreement between the municipality and the Department of Transportation.~~ Upon request of the municipality, the Department of Transportation shall allow the municipality a period of ~~not less than~~ three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs ~~of rights-of-way~~ necessary for the project. The Department of Transportation shall not charge a municipality any interest ~~on its agreed upon share of rights-of-way costs.~~ during the three years.

(f) Report to General Assembly. -- The ~~Secretary~~ Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the

Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) Municipal Acquisition of Rights-of-Way. -- In the acquisition of rights-of-way for any State highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. -- In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

(i) Changes to Municipal Participation Agreement. -- Either the municipality or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities ~~for right-of-way acquisition~~ by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Municipality Party to Rights-of-Way Proceeding. -- Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Specified County Participation. -- In addition to the authority given to Burke, Cabarrus, and Mecklenburg Counties by Chapter 478 of the 1993 Session Laws, these counties are authorized to participate in State highway improvement projects located anywhere in each respective county in accordance with this section."

Section 2. This act becomes effective July 1, 2000.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Transportation** will meet as follows:

DAY & DATE: **Wednesday, June 28, 2000**

TIME: **11:00 A.M.**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):
SB 1195 DOT Establish Rural Planning Orgs. - Sen. Wib Gulley, Bill Sponsor

HB 1288 Establish Meropolitan Planning Bds. - Rep. Paul Luebke, Bill Sponsor

Respectfully,

Representatives Buchanan & Saunders
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **9:15 A.M.** on **June 27, 2000**.

___Principal Clerk
___Reading Clerk - House Chamber

Ruth Fish & Glenda Jones (Committee Clerks)

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

June 28, 2000
643 Legislative Office Building
11:00 A.M.

The House Committee on Transportation met on June 28, 2000, at 11:00 A.M. in Room 643 of the Legislative Office Building. Members present were:

Representative Rex Baker	Representative Mitch Gillespie
Representative John Bridgeman	Representative Dewey Hill
Representative John Brown	Representative Marian McLawhorn
Representative Charles Buchanan	Representative Edd Nye
Representative Walt Church	Representative John Rayfield
Representative Debbie Clary	Representative Drew Saunders
Representative Nelson Cole	Representative Mitchell Setzer
Representative Jim Crawford	Representative Leonard Sossamon
Representative Arlie Culp	Representative Ron Sutton
Representative Rick Eddins	Representative W. B. Teague, Jr.

Giles Perry and Wendy Graf, Staff, were also present.

The meeting was called to order by Representative Drew Saunders, Presiding Co-Chair. Representative Saunders introduced Pages: Stefanie Crawford, Celia Carpenter, and Sarah Strickland. He also recognized Sergeant At Arms Staff members: Martha Parrish, Shannon Batten, and Matt Myers.

The first bill discussed was HB 1288 A BILL TO BE ENTITLED AN ACT TO RECOGNIZE METROPOLITAN PLANNING ORGANIZATIONS IN STATE LAW AND TO PROVIDE A PROCESS FOR VOLUNTARY EVALUATION OF METROPOLITAN PLANNING ORGANIZATION BOUNDARIES, STRUCTURE, AND GOVERNANCE. Senator Clodfelter was asked to explain the differences in the Senate Transportation Committee Substitute bill, which was adopted, and the House version of the bill. Representative Brown made a motion to concur with the Senate Committee substitute bill. A vote was taken, and the motion was approved.

The second bill to be considered was SB 1195 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY. Representative Crawford was recognized to explain the bill. A discussion followed with questions raised about the difference in a

House companion bill and the Senate bill. Senator Gulley and Giles Perry assisted in answering questions. Representative Sutton made a motion to roll the House bill changes into the Senate bill. The motion was approved by vote.

A third bill was added to the agenda, SB 368 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CONSTRUCT ACCESS TO RIVERS AND STREAMS. Representative Buchanan explained the bill. A question and answer period followed with Ms. Ruth Sappie of the Department of Transportation assisting in answering questions. Representative Baker made a motion to give the bill an unfavorable report. A roll call vote was taken, and the motion carried.

The meeting adjourned at 11:55 A.M.

Rep. Drew Saunders, Presiding Co-Chair

Ruth Fish, Committee Assistant

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

June 28, 2000
Room 643 LOB
11:00 A.M.

Opening Remarks

Representative Drew Saunders, Chair

Bills for Discussion

HB 1288 Establish Metropolitan Planning Bds.

Rep. Paul Luebke, Sponsor

SB 1195 DOT Establish Rural Planning Orgs.

Sen. Wib Gulley, Sponsor

Adjournment

VISITOR REGISTRATION SHEET

Transportation — June 28, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
V L McBride	NCDOT
Andrea Clio	Ed Fouts Co.
Barry Smith	Freedom Newspapers
ALEX KENNAUGHT	NCCONNECT
JANE PINSEY	AAA Carolinas
Lisa Tracy	Sierra Club
David Knight	Sierra Club
Richard Hamilton	Wildlife
Beau Mills	Governor's Office

VISITOR REGISTRATION SHEET

Transportation — Name of Committee

June 28, 2000 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Lehman	NCHBA
John Long	Martin Marietta
Brian Buzby	NC CanNet
Emily Meeker	CCNC
JANET D'IGNAZIO	NCDOT
Brian Francis	Mecklenburg County
Mary Carmilia	REBIC
Natalie English	Charlotte Chamber
Glenn Troy	NC Wildlife Resources Commin
Paul D. Hughes	Reg. C. Rutherford Hm NC
Doug Rogers	NCDOT

June 28, 2000

ROLL CALL VOTE

____ YES ____ NO = _____(TOTAL)

HB# ____
SB# 368

HOUSE STANDING COMMITTEE ON TRANSPORTATION
1999-2000 SESSION

unfav. rpt – motion carried

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		Buchanan, Chair			Sherrill
✓		Saunders, Chair	✓		Sossamon, Jr.
		Adams	✓		Sutton
		Allred	✓		Teague
✓		Baker			Thomas
✓		Bridgeman			Wainwright
	✓	Brown			Warwick
		Church			
✓		Clary			
✓		Cole			
✓		Crawford			
✓		Culp			
		Earle, Ex Officio-Maj.Whip			
✓		Eddins			
		Gibson			
✓		Gillespie			
✓		Hill			
		Holmes			
		Kinney			
		McComas			
✓		McLawhorn	Ex officio Members		
		Nye			Speaker Pro Tem, Hackney
✓		Rayfield			Majority Leader, Baddour
✓		Setzer			Majority Whip, Dedmon
					Cunningham

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation.**

☒ Committee Substitute for
H.B. 1288 A BILL TO BE ENTITLED AN ACT TO RECOGNIZE METROPOLITAN PLANNING ORGANIZATIONS IN STATE LAW AND TO PROVIDE A PROCESS FOR VOLUNTARY EVALUATION OF METROPOLITAN PLANNING ORGANIZATION BOUNDARIES, STRUCTURE, AND GOVERNANCE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

HOUSE BILL 1288:
Metropolitan Planning Organizations

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Leubke
Date:	June 27, 2000	**Summary by:**	Giles S. Perry
Version:	Fifth Edition		Committee Counsel

SUMMARY: ***House Bill 1228 recognizes existing Metropolitan Planning Organizations in State law, provides a process for evaluation of MPO boundaries, structure and governance.***

BILL ANALYSIS:

Section 1 of the bill adds a definition of "Consolidated Metropolitan Planning Organization" to G.S. 136-200.

Section 2 and 3 of the bill clarify existing statutory definitions.

Section 4 of the bill recognizes MPOs in State law.

Section 5 of the bill provides a procedure for the Governor and Secretary of Transportation, in cooperation with affected MPOs, to evaluate the boundaries, structure and governance of each MPO in the State. Factors to be considered in evaluation are set out, as well as optional structural and governance provisions that may be considered.

Section 6 of the bill provides for a new project selection process, if existing MPOs voluntarily choose to consolidate.

Section 7 requires MPOs with at least 25% of their area of jurisdiction located in nonattainment areas to adopt a single conformity plan, and to complete a boundary, structure and governance evaluation within one year of the effective date of the designation as non-attainment. Consequences for failure to comply with this section are set out.

Section 8 provides that the act becomes effective January1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 5

HOUSE BILL 1288*
Second Edition Engrossed 4/29/99
Corrected Copy 4/29/99
Senate Transportation Committee Substitute Adopted 6/15/00
Fifth Edition Engrossed 6/21/00

Short Title: Establish Metropolitan Planning Boards. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO RECOGNIZE METROPOLITAN PLANNING ORGANIZATIONS IN STATE LAW AND TO PROVIDE A PROCESS FOR VOLUNTARY EVALUATION OF METROPOLITAN PLANNING ORGANIZATION BOUNDARIES, STRUCTURE, AND GOVERNANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-200 is amended by adding a new subsection to read:

"(1a) 'Consolidated Metropolitan Planning Organization' means a metropolitan planning organization created on or after January 1, 2001, through a memorandum of understanding by the consolidation of two or more metropolitan planning organizations in existence prior to January 1, 2001, and in accordance with 23 U.S.C. § 134."

Section 2. G.S. 136-200(2) is rewritten to read:

"(2) 'Department' means the North Carolina Department of Transportation."

Section 3. G.S. 136-200(4) is rewritten to read:

"(4) 'Metropolitan Planning Organization' or 'MPO' means an agency that is designated or redesignated by a memorandum of understanding as a Metropolitan Planning Organization in accordance with 23 U.S.C. § 134."

Section 4. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-200.1. Metropolitan planning organizations recognized.**

Metropolitan planning organizations established pursuant to the provisions of 23 U.S.C. § 134 are hereby recognized under the law of the State. Metropolitan planning organizations in existence on the effective date of this section continue unaffected until redesignated or restructured in accordance with the provisions of and according to the procedures established by 23 U.S.C. § 134 and this Article. The provisions of this Article are intended to supplement the provisions of 23 U.S.C. § 134. In the event any provision of this Article is deemed inconsistent with the requirements of 23 U.S.C. § 134, the provisions of federal law shall control."

Section 5. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-200.2. Decennial review of metropolitan planning organization boundaries, structure, and governance.**

(a) Evaluation. -- Following each decennial census, and more frequently if requested by an individual metropolitan planning organization, the Governor and the Secretary of Transportation, in cooperation with the affected metropolitan planning organization or organizations, shall initiate an evaluation of the boundaries, structure, and governance of each metropolitan planning organization in the State. The goal of the evaluation shall be to examine the need for and to make recommendations for adjustments to metropolitan planning organization boundaries, structure, or governance in order to ensure compliance with the objectives of 23 U.S.C. § 134. The Secretary shall submit a report of the evaluation process to the Governor and to the Joint Legislative Transportation Oversight Committee.

(b) Factors for Evaluation. -- The evaluation of the area, structure, and governance of each metropolitan planning organization shall include all of the following factors:

(1) Existing and projected future commuting and travel patterns and urban growth projections.

(2) Integration of planning with existing regional transportation facilities, such as airports, seaports, and major interstate and intrastate road and rail facilities.

(3) Conformity with and support for existing or proposed regional transit and mass transportation programs and initiatives.

(4) Boundaries of existing or proposed federally designated air quality nonattainment areas or air-quality management regions.

(5) Metropolitan Statistical Area boundaries.

(6) Existing or proposed cooperative regional planning structures.

(7) Administrative efficiency, availability of resources, and complexity of management.

(8) Feasibility of the creation of interstate metropolitan planning organizations.

(9) Governance structures, as provided in subsection (c) of this section.

(c) Metropolitan Planning Organization Structures. -- The Governor and Secretary of Transportation, in cooperation with existing metropolitan planning organizations and local elected officials, may consider the following changes to the structure of existing metropolitan planning organizations:

(1) Expansion of existing metropolitan planning organization boundaries to include areas specified in 23 U.S.C. § 134(c).

(2) Consolidation of existing contiguous metropolitan planning organizations in accordance with the redesignation procedure specified in 23 U.S.C. § 134(b).

(3) Creation of metropolitan planning organization subcommittees with responsibility for matters that affect a limited number of constituent jurisdictions, as specified in a memorandum of understanding redesignating a metropolitan planning organization in accordance with the provisions of 23 U.S.C. § 134.

(4) Formation of joint committees or working groups among contiguous nonconsolidated metropolitan planning organizations, with such powers and responsibilities as may be delegated to such joint committees pursuant to their respective memoranda of understanding.

(5) Creation of interstate compacts pursuant to 23 U.S.C. § 134(d) to address coordination of planning among metropolitan planning organizations located in this State and contiguous metropolitan planning organizations located in adjoining states.

(6) Delegation by the governing board of a metropolitan planning organization of part or all of its responsibilities to a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes, if the regional transportation authority is eligible to exercise that authority under 23 U.S.C. § 134.

(d) Optional Governance Provisions. -- In addition to any other provisions permitted or required pursuant to 23 U.S.C. § 134, the memorandum of understanding, creating, enlarging, modifying, or restructuring a metropolitan planning organization may also include any of the following provisions relating to governance:

(1) Distribution of voting power among the constituent counties, municipal corporations, and other participating organizations on a basis or bases other than population.

(2) Membership and representation of regional transit or transportation authorities or other regional organizations in addition to membership of counties and municipal corporations.

(3) Requirements for weighted voting or supermajority voting on some or all issues.

(4) Provisions authorizing or requiring the delegation of certain decisions or approvals to less than the full-voting membership of

the metropolitan planning organization in matters that affect only a limited number of constituent jurisdictions.

(5) Requirements for rotation and sharing of officer positions and committee chair positions in order to protect against concentration of authority within the metropolitan planning organization.

(6) Any other provision agreed to by the requisite majority of jurisdictions constituting the metropolitan planning organization.

(e) Effect of Evaluation. -- Upon completion of the evaluation required under this section, a metropolitan planning organization may be restructured in accordance with the procedure contained in 23 U.S.C. § 134(b)(5).

(f) Assistance. -- The Department may provide staff assistance to metropolitan planning organizations in existence prior to January 1, 2001, that are considering consolidation on or after January 1, 2001. In addition, the Department may provide funding assistance to metropolitan planning organizations considering consolidation, upon receipt of a letter of intent from jurisdictions representing seventy-five percent (75%) of the affected population, including the central city, in each metropolitan planning organization considering consolidation."

Section 6. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-200.3. Additional provisions applicable to consolidated metropolitan planning organizations.**

(a) Limit on Basis for Project Objection. -- Beginning with the 2004 State Transportation Improvement Program, neither the State nor a consolidated metropolitan planning organization shall have a basis to object to a project that is proposed for funding in the Transportation Improvement Program, provided that the project does not affect projects previously programmed, if the project is included in a mutually adopted plan developed pursuant to G.S. 136-66.2, and is consistent with the project selection criteria contained in the memorandum of understanding creating the consolidated metropolitan planning organization.

(b) Project Ranking Priorities. -- Beginning with the 2004 State Transportation Improvement Program, and subject to the availability of funding, the Department of Transportation, when developing the Transportation Improvement Program, shall abide by the project ranking priorities approved by a:

(1) Consolidated metropolitan planning organization for any project within its jurisdiction, if the project is not a National Highway System or bridge and Interstate maintenance program project.

(2) Regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes, for any project that all metropolitan planning organizations within the authority's jurisdiction have delegated responsibility, if the project is not a National Highway System or bridge and Interstate maintenance program project."

Section 7. Article 16 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-200.4. Additional requirements for metropolitan planning organizations located in nonattainment areas.**

(a) Consultation and Single Conformity Plan Required. -- When an area of the State is designated as non-attainment under the federal Clean Air Act (42 U.S.C. § 7401, et seq.) all metropolitan planning organizations with at least twenty-five percent (25%) of their area of jurisdiction located within the boundaries of the nonattainment area shall consult on appropriate emissions reduction strategies and shall adopt a single, unified plan for achieving conformity. The strategies set forth in the unified plan shall be incorporated by each affected metropolitan planning organization into its respective long range transportation plan developed pursuant to 23 U.S.C. § 134(g).

(b) Effect of Failure to Adopt Required Plan. -- If a metropolitan planning organization does not comply with the provisions of subsection (a) of this section within one year after designation of at least twenty-five percent (25%) of the metropolitan planning organization's area of jurisdiction as nonattainment under the federal Clean Air Act (42 U.S.C. § 7401, et seq.), the Department shall not allocate any of the following funds to projects within the metropolitan planning organization's area of jurisdiction:

(1) One hundred percent (100%) State-funded road construction funds.

(2) State matching funds for any road construction or transit capital project.

(3) Federal congestion mitigation and air quality improvement program funds.

(c) Mandatory Evaluation and Report. -- Each metropolitan planning organization located in whole or in part in areas designated as nonattainment under the federal Clean Air Act (42 U.S.C. § 7401 et seq.) shall complete the evaluation process provided for in G.S. 136-200.2 and submit its findings and recommendations to the Department of Transportation within one year of the effective date of designation as nonattainment. A metropolitan planning organization may request and be granted by the Department an extension if the metropolitan planning organization can show cause for the extension. Extensions shall be granted in no more than one year increments."

Section 8. This act becomes effective January 1, 2001.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation**.

☒ Committee Substitute for
S.B. 1195 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

SENATE BILL 1195:
DOT Establish Rural Planning Organizations

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Senator Gulley
Date:	June 27, 2000	**Summary by:**	Giles S. Perry
Version:	Second Edition		Committee Counsel

BACKGROUND:

The 1998 General Assembly, as a part of its Board of Transportation reform bill, directed the Board of Transportation, with the assistance of the Secretary and the Department, to develop a plan for establishing Rural Planning Organizations, and report to the Joint Legislative Transportation Oversight Committee.

Senate Bill 1195 is a recommendation of the Joint Legislative Transportation Oversight Committee.

SUMMARY:

Section 1 of the bill authorizes the Department of Transportation to establish Rural Planning Organizations.

Section 2 sets out the details for how the RPOS are to be established:

--new G.S. 136-210 defines RPOs as voluntary organizations of local elected officials and representatives of local transit systems formed by agreement with the Department.

--new G.S. 136-211 authorizes the Department to establish RPOs by memorandum of understanding with interested local elected officials and representatives of local transit systems, and requires the area of any RPO created to include 3 to 15 counties, and at least 50,000 persons.

--new G.S. 136-212 sets out the duties of an RPO, to include: (1) developing long range transportation plans; (2) providing a forum for public participation in rural transportation planning; (3) developing and prioritizing suggestions for TIP projects; and (4) providing transportation-related information to local governments.

--new G.S. 136-213 provides a procedure to set up the administration of any RPO formed pursuant to the act, and authorizes DOT to make grants to RPOs for planning staff if funds are appropriated for that purpose.

Section 3 of the bill provides that nothing in the act shall require the General Assembly to appropriate funds to implement it.

Section 4 requires DOT to report to the Joint Legislative Transportation Oversight Committee on the implementation of the act on or before December 1, 2000.

Section 5 provides that the act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1195
Transportation Committee Substitute Adopted 6/1/00

Short Title: DOT Establish Rural Planning Orgs. (Public)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, IN COOPERATION WITH LOCAL ELECTED OFFICIALS, TO ESTABLISH RURAL TRANSPORTATION PLANNING ORGANIZATIONS TO PLAN RURAL TRANSPORTATION SYSTEMS AND TO ADVISE THE DEPARTMENT ON RURAL TRANSPORTATION POLICY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(35) To establish rural planning organizations, as provided in Article 17 of this Chapter."

Section 2. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Rural Transportation Planning Organizations.

"**§ 136-210. Definitions.**

As used in this Article, 'Rural Transportation Planning Organization' means a voluntary organization of local elected officials or their designees and representatives of local transportation systems formed by a memorandum of understanding with the Department of Transportation to work cooperatively with the Department to plan rural transportation systems and to advise the Department on rural transportation policy.

"**§ 136-211. Department authorized to establish Rural Transportation Planning Organizations.**

(a) Authorization. -- The Department of Transportation is authorized to form Rural Transportation Planning Organizations.

(b) Area Represented. -- Rural Transportation Planning Organizations shall include representatives from contiguous areas in three to fifteen counties, with a total population of the entire area represented of at least 50,000 persons according to the latest population estimate of the Office of State Planning. Areas already included in a Metropolitan Planning Organization shall not be included in the area represented by a Rural Transportation Planning Organization.

(c) Membership. -- The Rural Transportation Planning Organization shall consist of local elected officials or their designees and representatives of local transportation systems in the area as agreed to by all parties in a memorandum of understanding.

(d) Formation; Memorandum of Understanding. -- The Department shall notify local elected officials and representatives of local transportation systems around the State of the opportunity to form Rural Transportation Planning Organizations. The Department shall work cooperatively with interested local elected officials, their designees, and representatives of local transportation systems to develop a proposed area, membership, functions, and responsibilities of a Rural Transportation Planning Organization. The agreement of all parties shall be included in a memorandum of understanding approved by the membership of a proposed Rural Transportation Planning Organization and the Secretary of the Department of Transportation.

"**§ 136-212. Duties of Rural Transportation Planning Organizations.**

The duties of a Rural Transportation Planning Organization shall include, but not be limited to:

(1) Developing, in cooperation with the Department, long-range local and regional multimodal transportation plans.

(2) Providing a forum for public participation in the transportation planning process.

(3) Developing and prioritizing suggestions for transportation projects the organization believes should be included in the State's Transportation Improvement Program.

(4) Providing transportation-related information to local governments and other interested organizations and persons.

"**§ 136-213. Administration and staff.**

(a) Administrative Entity. -- Each Rural Transportation Planning Organization, working in cooperation with the Department, shall select an appropriate administrative entity for the organization. Eligible administrative entities include, but are not limited to, regional economic development agencies, regional councils of government, chambers of commerce, and local governments.

(b) Professional Staff. -- The Department, each Rural Transportation Planning Organization, and any adjacent Metropolitan Planning Organization shall cooperatively determine the appropriate professional planning staff needs of the organization.

(c) Funding. -- If funds are appropriated for that purpose, the Department may make grants to Rural Transportation Planning Organizations for professional planning

staff. The members of the Rural Transportation Planning Organization shall contribute at least twenty percent (20%) of the cost of any staff resources employed by the organization. The Department may make additional planning grants to economically distressed counties, as designated by the North Carolina Department of Commerce."

Section 3. Nothing in this act shall require the General Assembly to appropriate funds to implement it.

Section 4. The Department shall report to the Joint Legislative Transportation Oversight Committee on the implementation of this act on or before December 1, 2000.

Section 5. This act becomes effective July 1, 2000.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation.**

☐ Committee Substitute for
S.B. 368 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CONSTRUCT ACCESS TO RIVERS AND STREAMS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☒ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 368
Second Edition Engrossed 4/21/99

Short Title: Public Access to Rivers and Streams. (Public)

Sponsors: Senators Gulley, Miller, Kinnaird; Horton and Hoyle.

Referred to: Transportation.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CONSTRUCT ACCESS TO RIVERS AND STREAMS.

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 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~~ overlooks, public access to rivers and streams, 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. 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 (i) for materials displayed in welcome centers in accordance with G.S. 136-89.56, and (ii) for 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. 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.

MEETING HAS BEEN CANCELLED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Transportation** will meet as follows:

DAY & DATE: **Wednesday, July 5, 2000**

TIME: **11:00 A.M.**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):
SB 1545 Officers Memorial Sign Funds

HB 1501 Service in DMV Lien Cases

Respectfully,

Representatives Buchanan & Saunders
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **12:15 P.M.** on **June 30, 2000.**

___Principal Clerk
___Reading Clerk - House Chamber

Ruth Fish & Glenda Jones (Committee Clerks)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

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___Principal Clerk
___Reading Clerk - House Chamber

Ruth Fish & Glenda Jones (Committee Clerks)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Transportation** will meet as follows:

DAY & DATE: **Thursday, July 6, 2000**

TIME: **10:00 A.M.**

LOCATION: **544 LOB**

The following bills will be considered (Bill # & Short Title):
SB 1545 Officers Memorial Sign Funds

HB 1501 Service in DMV Lien Cases

Respectfully,

Representatives Buchanan & Saunders
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **2:30 P.M.** on **July 5, 2000**.

___Principal Clerk
___Reading Clerk - House Chamber

Ruth Fish & Glenda Jones (Committee Clerks)

MINUTES

HOUSE COMMITTEE ON TRANSPORTATION

July 6, 2000
Room 544, Legislative Office Building
10:00 A.M.

The House Committee on Transportation met on July 6, 2000, at 10:00 A.M. in Room 544 of the Legislative Building. Members present were:

Representative Rex Baker
Representative John Bridgeman
Representative John Brown
Representative Debbie Clary
Representative Nelson Cole
Representative Jim Crawford
Representative Arlie Culp
Representative Rick Eddins
Representative Danny McComas
Representative Marian McLawhorn
Representative Edd Nye
Representative John Rayfield
Representative Drew Saunders
Representative Mitchell Setzer
Representative Wilma Sherrill
Representative Leonard Sossamon
Representative Ron Sutton
Representative W. T. Teague, Jr.

Giles Perry and Wendy Graf, Staff, were also present.

Representative Saunders, Presiding Chair, called the meeting to order. He introduced Pages: Lindsey Rufty of Wake County, sponsored by Representative Miner; Blake Massengill of Wake County, sponsored by Representative Ellis; and Jon Barefoot of Wake County, sponsored by Speaker Black. He recognized Sergeant of Arms staff members Francis Poole and James Worth.

The bill to be considered for concurrence was HB 1501 Service in DMV Lien Cases, and Representative Sutton was called upon to explain the Senate amendments to the bill. (See attached amendments.) A discussion period followed the explanation, and Ruth Sappie and Steve Varnedoe with the Department of Transportation assisted in answering questions. Representative Sutton asked that the Committee concur with the Senate amendments. A vote was taken, and the Committee agreed to concur with the changes.

The meeting adjourned at 10:22 A.M.

Rep. Drew Saunders, Presiding Chair

Ruth Fish, Committee Assistant

AGENDA

HOUSE COMMITTEE ON TRANSPORTATION

Thursday, July 6, 2000
Room 544, Legislative Office Building
10:00 A.M.

OPENING REMARKS

Representative Drew Saunders, Presiding Chair

BILLS TO BE CONSIDERED

HB 1501 Service in DMV Lien Cases

Representative Ron Sutton, Bill Sponsor

ADJOURNMENT

VISITOR REGISTRATION SHEET

Transportation — Name of Committee

7/6/00 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charlie Diehl	NC Trucking Assoc.
V L McBride	~~NCDA~~
DAN DEVANE	NCDOT
STEVE VANHOOSE	NCDOT
Ann Faison-Keith	NCDOT
Johnny Cyprus	N.C. State Grange
Ed Regan	N.C. Assoc. of Co. Commissioners
Ruth Sappie	NCDOT
Ken Sadler	NC Home
Lyman Cooper	CSX Corp.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Buchanan & Saunders** for the Committee on **Transportation.**

☐ Committee Substitute for
H.B. 1501 A BILL TO BE ENTITLED AN ACT TO ALLOW SERVICE OF PROCESS BY PUBLICATION IN MOTOR VEHICLE LIEN CASES IN SMALL CLAIMS COURT, AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

HOUSE BILL 1501:
Service in DMV Lien Cases

BILL ANALYSIS

Committee:	House Transportation	**Introduced by:**	Rep. Sutton and others
Date:	July 6, 2000	**Summary by:**	Giles S. Perry
Version:	Second Editon		Committee Counsel

SUMMARY: ***House Bill 1501 authorizes service of process by publication in motor vehicle lien cases in small claims court. Amendments added by the Senate authorize increased motor vehicle width, require the Joint Legislative Transportation Oversight Committee to study motor vehicle length, and require red lenses on motor vehicle brake lights***

BILL ANALYSIS: House Bill 1501 is before the House Transportation Committee for concurrence in the Senate amendments to the bill.

The Senate added the following amendments:

1. Increasing allowable motor vehicle width from 96 to 102 inches;

2. Requiring the Joint Legislative Transportation Oversight Committee to study motor vehicle length; and

3.Requiring red lenses on motor vehicle brake lights.

House Bill 1501 becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1501*

Short Title: Service in DMV Lien Cases. (Public)

Sponsors: Representatives Sutton; Goodwin and Barefoot.

Referred to: Judiciary III.

May 11, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW SERVICE OF PROCESS BY PUBLICATION IN MOTOR VEHICLE LIEN CASES IN SMALL CLAIMS COURT, AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-211.1 reads as rewritten:

"**§ 7A-211.1. Actions to enforce motor vehicle mechanic and storage liens.**

Notwithstanding the provisions of G.S. 7A-210(2) and 7A- 211, the chief district judge may in his discretion, by specific order or general rule, assign to any magistrate of his district actions to enforce motor vehicle mechanic and storage liens arising under G.S. 44A-2(d) or 20-77(d) when the claim arose in the county in which the magistrate resides. The defendant may be subjected to the jurisdiction of the court over his person by the methods provided in G.S. 7A-217 or 1A-1, ~~Rule 4(j),~~ Rules 4(j) and 4(j1), Rules of Civil Procedure."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1501

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

H1501-ARW-002

Page 1 of __

Date_____,2000

Comm. Sub. []
Amends Title [YES]
First Edition

Senator Gulley

moves to amend the bill on page 1, line 4, by rewriting the line to read:
"BY THE NORTH CAROLINA COURTS COMMISSION, TO AUTHORIZE AN INCREASE OF THE TOTAL WIDTH OF VEHICLES OR COMBINATIONS OF VEHICLES OPERATED ON THE STATE HIGHWAYS, AND TO DIRECT THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY THE ISSUE OF MOTOR VEHICLE LENGTH.";

on page 1, line 15, by rewriting the line to read:
"Section 2. G.S. 20-116(a) reads as rewritten:
'(a) The total outside width of any vehicle or the load thereon shall not exceed ~~96~~ 102 inches, except as otherwise provided in this section. When hogsheads of tobacco are being transported, a tolerance of six inches is allowed. When sheet or bale tobacco is being transported the load must not exceed a width of 114 inches at the top of the load and the bottom of the load at the truck bed must not exceed the width of 102 inches inclusive of allowance for load shifting or settling. ~~Special mobile equipment is allowed a total outside width not to exceed 102 inches.~~ Vehicles (other than passenger buses) that do not exceed the overall width of 102 inches and otherwise provided in this section may be operated in accordance with G.S. 20-115.1(c), (f), and (g).'
Section 3. The Joint Legislative Transportation Oversight Committee, with the assistance of the Department of Transportation, shall study the issue of motor vehicle lengths. The Committee shall examine both the issue of trailers of 53 feet in length and vehicles with a total overall length of 70 feet as a part of its study. The Department of Transportation is directed to assist the Committee in its study by developing data

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1501

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

H1501-ARW-002

on the types and lengths of truck equipment sold and operated in the State. The Department shall report to the Committee by October 1, 2000. The Committee shall submit its final report on this issue, along with any recommended legislation, to the 2001 Regular Session of the General Assembly on or before January 15, 2001.

Section 4. This act is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Bob -
This ammendment passed the Senate on 6/29/00
Hopefully this will pass the House and become law
I hope this clears the problem you had with this
Best regards
Bob Rucho

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1501

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

H1501-ASU-001

Date _____,2000

Comm. Sub. []
Amends Title [yes]

moves to amend the bill on page 1, line 4, by rewriting the line to read:
"BY THE NORTH CAROLINA COURTS COMMISION; AND TO REQUIRE RED LENSES ON BRAKE LIGHTS.

and on page 1, lines 14-15, by adding between the lines a new section to read:
"Section 2. G.S. 20-129.1(9) reads as rewritten:
'Brake lights (and/or brake reflectors) on the rear of a motor vehicle shall ~~be red.~~ have red lenses so that the light displayed is red. The light illuminating the license plate shall be white. All other lights shall be white, amber, yellow, clear or red.'";
and by renumbering the remaining section accordingly.

SIGNED Robert Rucho
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Please Send to Bob Thomas

copy to allerton 6/28

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT JR.
GOVERNOR

1501 MAIL SERVICE CENTER, RALEIGH, NC 27699-1501

DAVID MCCOY
SECRETARY

June 22, 2000

Senator Aaron Plyler
2710 Concord Avenue
Monroe, North Carolina 28110

Dear Aaron:

The Department of Transportation supports the projected increase in the legal width of all vehicles to a measurement of 102" (8'6") and a total length of the vehicle combination to a length of 70'. Justifications for our support are:

(1) Vehicle manufacturers consider a width of 102" and a semi-trailer length of 53' to be the normal and legal width and length in all states and have sold these units to their customers;

(2) At the time of vehicle registration in North Carolina, the registrant is not required to provide the width of the vehicle and is not aware that our state has a dual width law dependent upon the roads traveled and that the width of 102" (8'6") is not legal on all roads in North Carolina;

(3) A survey of several states in the southeast reveal North Carolina is the only state that does not provide for a width of 8'6" and a maximum semi-trailer length of 53' on all highways;

(4) To comply with the current law, state equipment is being special ordered at a width of 96" (8') for the transport of state owned construction and maintenance equipment. Often times when DOT goes out for bids, manufacturers may elect not to bid due to the production line disruption associated with changing from the common 102" width to the exception 96" width equipment. The results are additional costs to the citizens of North Carolina;

(5) The current dual width law of 102" (8'6") on STAA vehicle routes [G.S. 20-115.1(c)] and 96" (8') on all roads [G.S. 20-116(a)] creates a tremendous hardship on the DOT Oversize Overweight Permit Office. The width of 102" (8'6") does not qualify for permitted travel on all roads in North Carolina transporting multiple pieces on the over width vehicle combination. It is confusing to attempt to explain to interstate commercial carriers the requirement to unload part of their load or to deny the application for a North Carolina permit.

We appreciate the opportunity to work with you in support commerce and uniformity of state laws. Our office is available to answer any additional questions you may have concerning this matter.

Sincerely,

David McCoy

David McCoy

DM:wsv

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