

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 198

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

Sponsors: Representatives B. Jones, Shepard, McNeely, and Tyson (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Transportation, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

February 27, 2023

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

The General Assembly of North Carolina enacts:

EXPAND AUTHORIZED USE OF TRANSPORTATION EMERGENCY RESERVE

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

"§ 136-44.2E. Transportation Emergency Reserve.

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

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

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

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

(e) Evaluation of Emergency Reserve. – No later than February 1 of the first year of the 2021-2023 fiscal biennium, and biennially thereafter, the Department of Transportation shall



submit a report on the Emergency Reserve to the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division. The report shall contain the results of an evaluation of the Emergency Reserve, based on a methodology developed jointly by the Office of State Budget and Management and the Department of Transportation, to determine the minimum amount of funds needed in the Emergency Reserve.

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

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

REPEAL BIENNIAL TRANSPORTATION EMERGENCY RESERVE EVALUATION

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

REMAINING HURRICANE DORIAN FUNDS USED FOR RESILIENCE PROGRAM

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

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

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

PROGRESSIVE DESIGN-BUILD DELIVERY METHOD PILOT PROGRAM

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

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

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

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

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

INCREASE PROJECT CAP FOR PROJECT DELIVERY METHOD PILOT PROGRAM

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

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

REPEAL TRAFFIC IMPACT ANALYSIS REPORT TO JLTOC

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

REPEAL CASH BALANCE TARGET AMOUNT REPORT

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

EXEMPTION FOR DEPARTMENT OF TRANSPORTATION STATEWIDE PURCHASING CONTRACTS RELATED TO PUBLIC TRANSPORTATION

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

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

(a) Notwithstanding Chapter 143 of the General Statutes or any other provision of law to the contrary, the Department of Transportation, Integrated Mobility Division, may independently establish statewide purchasing contracts with private vendors for capital assets, technology, or services related to public transportation, bicycle, pedestrian, and related transportation modes, where such statewide purchasing contracts are established through competitive procurement and selection in accordance with Federal Transit Administration or Federal Highway Administration requirements, and where such statewide purchasing contracts are established primarily for the convenience of the Department of Transportation, local government agencies, Metropolitan Planning Organizations, Rural Planning Organizations, Councils of Government, or public

transportation agencies to select and enter into contractual relationships with vendors without completing additional procurement or competitive selection processes.

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

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

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

EXEMPTION FOR CERTAIN PUBLIC BUILDING CONTRACTS

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

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

DEPARTMENT MAY SPECIFY MATERIAL SUBSTITUTION REQUIREMENTS

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

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

ADJUST REQUIREMENTS FOR ROW REGISTRATIONS

SECTION 11. 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.~~

...

(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 for recording right-of-way plans ~~and profile sheets~~ in the amount set out in G.S. 161-10."

REVISION TO BRIDGE PROGRAM OUTSOURCING

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

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

- (1) Inspection.
- (2) Pre-engineering.
- (3) Contract preparation.
- (4) Contract administration and oversight.
- (5) Planning activities.
- (6) Installation of culverts described in subsection (b) of this section, ~~but only in cases of emergency section on non-outlet roads.~~"

REVISION TO ADVANCE RIGHT-OF-WAY ACQUISITION ACCOUNT

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

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

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

EXTEND EXPIRATION DATE OF BUILD NC BOND ACT

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

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

EXTEND DATE TO BUILD NC BOND CASH BALANCE REQUIREMENT

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

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

REMOVE DOT EMPLOYEE LIMIT ON TRAVEL

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

REMOVE BOARD OF TRANSPORTATION LIMIT ON TRAVEL

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

REPEAL REGIONAL PUBLIC TRANSPORTATION AUTHORITY BOARD OF TRUSTEES RESIDENCY REQUIREMENT

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

TURNPIKE BILL COLLECTION

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

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

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

...

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

ADD VIN NUMBER TO UNPAID TOLL BILL

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

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

...

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

...."

INCREASE TURNPIKE PROCESSING FEE FOR BILLING

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

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

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

HOV LANE RESTRICTIONS

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

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

(1) ~~Motorcycles.~~

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

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

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

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

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

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

AUTHORIZE TOLLING FOR CERTAIN LANES**SECTION 23.** G.S. 20-146.2 reads as rewritten:**"§ 20-146.2. Rush hour traffic lanes authorized.**

...

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

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

REMOVE RESTRICTION ON STI BICYCLE FUNDS

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

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

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

...

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

...

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

AUTHORIZE FERRY TO USE STAFFING COMPANY FOR TEMPORARY HIRES

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

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

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

RESIDENT PASSES ON HATTERAS-OCRACOCKE

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

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

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

FERRY PRIORITY BOARDING

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

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

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

AUTHORIZE CARRYFORWARD OF FERRY FUNDS

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

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

REPEAL OSBM/CERTIFY FERRY FUND CODE

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

REPEAL DRONE ACTIVITY REPORTING REQUIREMENT

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

AUTHORIZE COOPERATION WITH ADJOINING STATES ON RAILROAD REVITALIZATION

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

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

REVISE USE OF CERTAIN MATCHING FUNDS OF RAIL DIVISION

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

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

REVISE OUTDOOR ADVERTISING LAW

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

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

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

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

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

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

...

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

...."

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

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

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

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

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

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

PILOT PROGRAM TO AUTHORIZE AUTOMATIC LICENSE PLATE READERS IN STATE RIGHTS-OF-WAY

SECTION 34.(a) The Department of Transportation may enter into agreements with the North Carolina State Bureau of Investigation for the placement and use of automatic license plate reader systems, as defined in G.S. 20-183.30(1), within land or right-of-way owned by the Department of Transportation as part of a pilot program established by this section; provided that (i) the use of the land or right-of-way is temporary in nature, (ii) the automatic license plate reader system is above ground, removeable, and contains no combustible fuel, (iii) the placement and use does not unreasonably interfere with the operation and maintenance of public utility facilities or cause the facilities to fail to comply with all applicable laws, codes, and regulatory requirements, (iv) the authorization to locate the automatic license plate reader system within the right-of-way is revocable by the Department for cause with at least 30 days' notice, (v) the use of the automatic license plate reader system complies with provisions of Article 8A of Chapter 87 of the General Statutes, and (vi) the automatic license plate reader system is operated in accordance with Article 3D of Chapter 20 of the General Statutes. Placement and use of an automatic license plate reader system and related equipment under this subsection must be terminated and removed by the Department upon request by any affected public utility. The Department or a public utility may relocate an automatic license plate reader system and related equipment in the event that the Department or public utility needs immediate access to its utilities or facilities and shall only be liable for damages to the automatic license plate reader system and related equipment caused solely by its gross negligence or willful misconduct. If an automatic license plate reader system or related equipment is moved for immediate access, the Department or applicable public utility must provide notice to the State Bureau of Investigation. For purposes of this subsection, the term "public utility" means any of the following: a public utility, as defined in G.S. 62-3(23), an electric membership corporation, telephone membership corporation, a joint municipal power agency, or a municipality, as defined in G.S. 159B-3(5). The State Bureau of Investigation may enter into an agreement under this section on its own behalf or as an administrative agent of a local law enforcement agency in this State.

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

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

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

"§ 20-183.30. Definitions.

The following definitions apply in this Article:

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

(1a) Reserved for future codification purposes.

(1b) Reserved for future codification purposes.

(1c) Reserved for future codification purposes.

(1d) Criminal justice officer. – Defined in G.S. 17C-2.

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

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

(3) Reserved for future codification purposes.

(4) Reserved for future codification purposes.

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

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

b. Apprehending an individual with an outstanding felony warrant.

c. Locating a missing or endangered person.

d. Locating a lost or stolen vehicle.

(6) Reserved for future codification purposes.

(7) Reserved for future codification purposes.

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

a. The National Criminal Information Center.

b. The National Center for Missing and Exploited Children.

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

SECTION 34.(e) G.S. 20-183.31(b) reads as rewritten:

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

SECTION 34.(f) G.S. 20-183.32(e) reads as rewritten:

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

SECTION 34.(g) This section becomes effective July 1, 2023. Subsection (a) of this section expires June 1, 2024, and any agreement entered into under the pilot program established in that section shall terminate no later than that date.

ENVIRONMENTAL RULES LIMITED TO FEDERAL LAW REQUIREMENTS

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

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

...

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

INCREASE FREQUENCY OF TAX REVENUE TRANSFER TO HIGHWAY FUND

SECTION 36. G.S. 105-164.44M(b) reads as rewritten:

"(b) Transportation Needs. – At the end of each ~~quarter, month,~~ the Secretary must transfer to the Funds listed below a percentage of the net proceeds of the tax collected under this Article at the State's general rate of tax set in G.S. 105-164.4(a). The percentages that must be transferred are as follows:

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

REVISE MONTHLY FINANCIAL STATEMENT REPORT**SECTION 37.** G.S. 143C-6-11(q) reads as rewritten:

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

...

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

...."

EFFECTIVE DATE

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