

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**SESSION LAW 2003-383  
HOUSE BILL 48**

AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT, TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY SOLUTIONS TO NORTH CAROLINA'S URBAN TRANSPORTATION NEEDS, TO REQUIRE FUNDS TRANSFERRED FROM THE HIGHWAY TRUST FUND TO THE GENERAL FUND TO BE REPAID, TO DELAY IMPLEMENTATION OF AGRICULTURAL VEHICLE ESCORT TRAINING AND CERTIFICATION, AND TO ALLOW FARMERS TO MOVE EQUIPMENT BETWEEN FARMS WITHOUT A FLAGMAN.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-176 is amended by adding a new subsection to read:

"(a3) The Department may obligate three hundred million dollars (\$300,000,000) in fiscal year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

- (1) Six hundred thirty million dollars (\$630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.
- (2) Seventy million dollars (\$70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds."

**SECTION 2.** G.S. 136-176 is amended by adding a new subsection to read:

"(a4) Project selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution

formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1) of this section on any project that does not meet Department of Transportation standards for road design, materials, construction, and traffic flow."

**SECTION 3.** G.S. 136-176 is amended by adding a new subsection to read:

"(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section."

**SECTION 4.** The General Assembly reaffirms its intent that the proceeds of the issuance of any bonds pursuant to the Highway Bond Act of 1996, Chapter 590 of the 1995 Session Laws, shall be used only for the purposes stated in that act, and for no other purpose.

**SECTION 5.(a)** Commission Established. – There is established in the General Assembly a Blue Ribbon Commission to study the unique mobility needs of urban areas in North Carolina.

**SECTION 5.(b)** Membership. – The Commission shall be composed of 27 members as follows:

- (1) Fifteen members of the public appointed by the Governor, two of whom shall represent the Regional Transportation Alliance, one of whom shall represent the environmental community, two of whom shall represent the Business Coalition for Regional Transportation Solutions, two of whom shall represent the North Carolina Citizens for Business and Industry, two of whom shall represent the transportation industry, and four of whom shall be mayors from among the 10 most populous municipalities in the State.
- (2) Six members of the House of Representatives, representing the diverse geographic regions of the State, appointed by the Speaker of the House of Representatives.
- (3) Six members of the Senate, representing the diverse geographic regions of the State, appointed by the President Pro Tempore of the Senate.

**SECTION 5.(c)** Secretary of Transportation. – The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

**SECTION 5.(d)** Duties of Commission. – The Commission shall study the following matters related to North Carolina's urban needs:

- (1) Innovative financing approaches to mitigate urban congestion.
- (2) Local revenue options which would give urban areas more control over their regional mobility future.
- (3) Any other urban transportation issues if approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

**SECTION 5.(e)** Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

**SECTION 5.(f)** Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the

Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be 11 members.

**SECTION 5.(g)** Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 5.(h)** Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

**SECTION 5.(i)** Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

**SECTION 5.(j)** Cooperation. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

**SECTION 5.(k)** Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

**SECTION 5.(l)** Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

**SECTION 5.(m)** Report. – The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its findings and recommendations to the 2005 General Assembly. The Committee shall submit copies of the reports to the Governor and the Secretary of Transportation. Upon the filing of its final report, the Commission shall terminate.

**SECTION 5.(n)** Funding. – The Commission may apply for, receive, and accept grants of non-State funds or other contributions as appropriate to assist in the performance of its duties.

**SECTION 5.(o)** Appropriation. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate sufficient funds for the expenses of the Commission.

**SECTION 5.(p)** This section is effective when it becomes law.

**SECTION 6.** Section 2.2(j) of S.L. 2003-284 reads as rewritten:

**"SECTION 2.2.(j)** When the Highway Trust Fund was created in 1989, the revenue from the sales tax on motor vehicles was transferred from the General Fund to the Highway Trust Fund. To offset this loss of revenue from the General Fund, the Highway Trust Fund was required to transfer one hundred seventy million dollars (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989 from the sales tax on motor vehicles. This transfer did not, however, make the General Fund whole after the transfer of the sales tax revenue because no provision has been made to adjust the amount for the increased volume of transactions and increased vehicle prices. The additional funds transferred from the Highway Trust Fund to the General Fund by this act is an effort to recover a portion of the sales tax revenues that would have gone to the General Fund over the last 14 years.

In addition to the transfer authorized under G.S. 105-187.9(b)(2), and notwithstanding Section 26.14 of S.L. 2002-126 and G.S. 105-187.9(b)(1), the sum to be transferred to the General Fund for fiscal year 2003-2004 is two hundred fifty million dollars (\$250,000,000) and for fiscal year 2004-2005 is two hundred forty million dollars (\$240,000,000). Any funds transferred from the Highway Trust Fund to the General Fund in addition to the transfer authorized by G.S. 105-187.9(b) shall be fully repaid to the Highway Trust Fund in five years beginning in the 2004-2005 fiscal year.

using the sum of the digits formula, according to the following repayment schedule: FY 2004-2005 – 7%, FY 2005-2006 – 13%, FY 2006-2007 – 20%, FY 2007-2008 – 27%, and FY 2008-2009 – 33%. The repayment each year shall include interest at the net rate of return generated by the State Treasurer's Short Term Investment Fund."

**SECTION 7.** G.S. 20-119 (f) reads as rewritten:

"(f) The Department of Transportation shall issue rules to establish an escort driver training and certification program for escort vehicles accompanying oversize/overweight loads. Any driver operating a vehicle escorting an oversize/overweight load shall meet any training requirements and obtain certification under the rules issued pursuant to this subsection. These rules may provide for reciprocity with other states having similar escort certification programs. Certification credentials for the driver of an escort vehicle shall be carried in the vehicle and be readily available for inspection by law enforcement personnel. The escort and training certification requirements of this subsection shall not apply to the transportation of agricultural machinery until October 1, 2004."

**SECTION 8.** G.S. 20-116 (j) reads as rewritten:

"(j) Self-propelled grain combines ~~or~~ or other farm equipment self-propelled, pulled or otherwise, not exceeding 18 feet in width may be operated on any highway, except a highway or section of highway that is a part of the National System of Interstate and Defense Highways: Provided that all such combines or equipment which exceed 10 feet in width may be so operated only under the following conditions:

- (1) Said equipment may only be so operated during daylight hours; and
- (2) Said equipment must display a red flag on front and rear, said flags shall not be smaller than three feet wide and four feet long and be attached to a stick, pole, staff, etc., not less than four feet long and shall be so attached to said equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet; and
- (3) Equipment ~~covered~~ covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags referred to in subdivision (2) are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.
- (4) Every such piece of equipment so operated shall operate to the right of the center line when meeting traffic coming from the opposite direction and at all other times when possible and practical.
- (5) Violation of this section shall not constitute negligence per se.
- (6) When said equipment is causing a delay in traffic, the operator of said equipment shall move the equipment off the paved portion of the highway at the nearest practical location until the vehicles following said equipment have passed."

**SECTION 9.** Except as otherwise provided, this act becomes effective July 1, 2003. In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2003.

s/ Beverly E. Perdue  
President of the Senate

s/ Richard T. Morgan  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 9:59 a.m. this 7<sup>th</sup> day of August, 2003