

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 758

Short Title: Transfer Secondary Roads to Counties. (Public)

Sponsors: Senators Rucho and Clodfelter.

Referred to: Appropriations/Base Budget.

March 24, 2009

A BILL TO BE ENTITLED

1
2 AN ACT TO REMOVE THE SECONDARY ROADS FROM THE STATE HIGHWAY
3 SYSTEM AND TO TRANSFER THE RESPONSIBILITY FOR CONSTRUCTION AND
4 MAINTENANCE OF SECONDARY ROADS TO COUNTIES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 136-11.1 reads as rewritten:

7 "**§ 136-11.1. Local consultation on transportation projects.**

8 Prior to any action of the Board on a transportation project, the Department shall inform all
9 municipalities and counties affected by a planned transportation project and request each
10 affected municipality or county to submit within 45 days a written resolution expressing their
11 views on the project. A municipality or county may designate a Transportation Advisory
12 Committee to submit its response to the Department's request for a resolution. Upon receipt of a
13 written resolution from all affected municipalities and counties or their designees, or the
14 expiration of the 45-day period, whichever occurs first, the Board may take action. The
15 Department and the Board shall consider, but shall not be bound by, the views of the affected
16 municipalities and counties on each transportation project. The failure of a county or
17 municipality to express its views within the time provided shall not prevent the Department or
18 the Board from taking action. The Department shall not be required to send notice under this
19 section if it has already received a written resolution from the affected county or municipality
20 on the planned transportation project. "Action of the Board", as used in this section, means
21 approval by the Board of: the Transportation Improvement Program and amendments to the
22 ~~Transportation Improvement Program; the Secondary Roads Paving Program and amendments~~
23 ~~to the Secondary Roads Paving Program;~~Program and individual applications for access and
24 public service road projects, contingency projects, small urban projects, and spot safety projects
25 that exceed one hundred fifty thousand dollars (\$150,000). The 45-day notification provision
26 may be waived upon a finding by the Secretary of Transportation that emergency action is
27 required. Such findings must be reported to the Joint Legislative Transportation Oversight
28 Committee."

29 **SECTION 2.** G.S. 136-18 reads as rewritten:

30 "**§ 136-18. Powers of Department of Transportation.**

31 The said Department of Transportation is vested with the following powers:

- 32 (1) The general supervision over all matters relating to the construction of the
33 State highways, letting of contracts therefor, and the selection of materials to
34 be used in the construction of State highways under the authority of this
35 Chapter.
- 36 (2) To take over and assume exclusive control for the benefit of the State of any
37 existing county or township roads, and to locate and acquire rights-of-way



1 for any new roads that may be necessary for a State highway system, and
2 subject to the provisions of G.S. 136-19.5(a) and (b) also locate and acquire
3 such additional rights-of-way as may be necessary for the present or future
4 relocation or initial location, above or below ground, of telephone, telegraph,
5 broadband communications, electric and other lines, as well as gas, water,
6 sewerage, oil and other pipelines, to be operated by public utilities as defined
7 in G.S. 62-3(23) and which are regulated under Chapter 62 of the General
8 Statutes, or by municipalities, counties, any entity created by one or more
9 political subdivisions for the purpose of supplying any such utility services,
10 electric membership corporations, telephone membership corporations, or
11 any combination thereof, with full power to widen, relocate, change or alter
12 the grade or location thereof and to change or relocate any existing roads
13 that the Department of Transportation may now own or may acquire; to
14 acquire by gift, purchase, or otherwise, any road or highway, or tract of land
15 or other property whatsoever that may be necessary for a State highway
16 system and adjacent utility rights-of-way: Provided, all changes or
17 alterations authorized by this subdivision shall be subject to the provisions of
18 G.S. 136-54 to 136-63, to the extent that said sections are applicable:
19 Provided, that nothing in this Chapter shall be construed to authorize or
20 permit the Department of Transportation to allow or pay anything to any
21 county, township, city or town, or to any board of commissioners or
22 governing body thereof, for any existing road or part of any road heretofore
23 constructed by any such county, township, city or town, unless a contract has
24 already been entered into with the Department of Transportation.

25 (3) To provide for such road materials as may be necessary to carry on the work
26 of the Department of Transportation, either by gift, purchase, or
27 condemnation: Provided, that when any person, firm or corporation owning
28 a deposit of sand, gravel or other material, necessary, for the construction of
29 the system of State highways provided herein, has entered into a contract to
30 furnish the Department of Transportation any of such material, at a price to
31 be fixed by said Department of Transportation, thereafter the Department of
32 Transportation shall have the right to condemn the necessary right-of-way
33 under the provisions of Article 9 of Chapter 136, to connect said deposit
34 with any part of the system of State highways or public carrier, provided that
35 easements to material deposits, condemned under this Article shall not
36 become a public road and the condemned easement shall be returned to the
37 owner as soon as the deposits are exhausted or abandoned by the Department
38 of Transportation.

39 (4) To enforce by mandamus or other proper legal remedies all legal rights or
40 causes of action of the Department of Transportation with other public
41 bodies, corporations, or persons.

42 (5) To make rules, regulations and ordinances for the use of, and to police traffic
43 on, the State highways, and to prevent their abuse by individuals,
44 corporations and public corporations, by trucks, tractors, trailers or other
45 heavy or destructive vehicles or machinery, or by any other means
46 whatsoever, and to provide ample means for the enforcement of same; and
47 the violation of any of the rules, regulations or ordinances so prescribed by
48 the Department of Transportation shall constitute a Class 1 misdemeanor:
49 Provided, no rules, regulations or ordinances shall be made that will conflict
50 with any statute now in force or any ordinance of incorporated cities or
51 towns, except the Department of Transportation may regulate parking upon

- 1 any street which forms a link in the State highway system, if said street be
2 maintained with State highway funds.
- 3 (6) To establish a traffic census to secure information about the relative use,
4 cost, value, importance, and necessity of roads forming a part of the State
5 highway system, which information shall be a part of the public records of
6 the State, and upon which information the Department of Transportation
7 shall, after due deliberation and in accordance with these established facts,
8 proceed to order the construction of the particular highway or highways.
- 9 (7) To assume full and exclusive responsibility for the maintenance of all
10 primary roads other than streets in towns and cities, forming a part of the
11 State highway system from date of acquiring said roads. The Department of
12 Transportation shall have authority to maintain all streets constructed by the
13 Department of Transportation in towns of less than 3,000 population by the
14 last census, and such other streets as may be constructed in towns and cities
15 at the expense of the Department of Transportation, whenever in the opinion
16 of the Department of Transportation it is necessary and proper so to do.
- 17 (8) To give suitable names to State highways and change the names as
18 determined by the Board of Transportation of any highways that shall
19 become a part of the State system of highways.
- 20 (9) To employ appropriate means for properly selecting, planting and protecting
21 trees, shrubs, vines, grasses or legumes in the highway right-of-way in the
22 promotion of erosion control, landscaping and general protection of said
23 highways; to acquire by gift or otherwise land for and to construct, operate
24 and maintain roadside parks, picnic areas, picnic tables, scenic overlooks
25 and other appropriate turnouts for the safety and convenience of highway
26 users; and to cooperate with municipal or county authorities, federal
27 agencies, civic bodies and individuals in the furtherance of those objectives.
28 None of the roadside parks, picnic areas, picnic tables, scenic overlooks or
29 other turnouts, or any part of the highway right-of-way shall be used for
30 commercial purposes except (i) for materials displayed in welcome centers
31 in accordance with G.S. 136-89.56, and (ii) for vending machines permitted
32 by the Department of Transportation and placed by the Division of Services
33 for the Blind, Department of Health and Human Services, as the State
34 licensing agency designated pursuant to Section 2(a)(5) of the
35 Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of
36 Transportation shall regulate the placing of the vending machines in
37 highway rest areas and shall regulate the articles to be dispensed. Every
38 other use or attempted use of any of these areas for commercial purposes
39 shall constitute a Class 1 misdemeanor and each day's use shall constitute a
40 separate offense.
- 41 (10) To make proper and reasonable rules, regulations and ordinances for the
42 placing or erection of telephone, telegraph, electric and other lines, above or
43 below ground, signboards, fences, gas, water, sewerage, oil, or other
44 pipelines, and other similar obstructions that may, in the opinion of the
45 Department of Transportation, contribute to the hazard upon any of the said
46 highways or in any way interfere with the same, and to make reasonable
47 rules and regulations for the proper control thereof. And whenever the order
48 of the said Department of Transportation shall require the removal of, or
49 changes in, the location of telephone, telegraph, electric or other lines,
50 signboards, fences, gas, water, sewerage, oil, or other pipelines, or other
51 similar obstructions, the owners thereof shall at their own expense, except as

1 provided in G.S. 136-19.5(c), move or change the same to conform to the
2 order of said Department of Transportation. Any violation of such rules and
3 regulations or noncompliance with such orders shall constitute a Class 1
4 misdemeanor.

5 (11) To regulate, abandon and close to use, grade crossings on any road
6 designated as part of the State highway system, and whenever a public
7 highway has been designated as part of the State highway system and the
8 Department of Transportation, in order to avoid a grade crossing or crossings
9 with a railroad or railroads, continues or constructs the said road on one side
10 of the railroad or railroads, the Department of Transportation shall have
11 power to abandon and close to use such grade crossings; and whenever an
12 underpass or overhead bridge is substituted for a grade crossing, the
13 Department of Transportation shall have power to close to use and abandon
14 such grade crossing and any other crossing adjacent thereto.

15 (12) The Department of Transportation shall have such powers as are necessary
16 to comply fully with the provisions of the Intermodal Surface Transportation
17 Efficiency Act of 1991, Pub. L. No. 102-240, 105 Stat. 1914 (1991), as
18 amended, and all other federal aid acts and programs the Department is
19 authorized to administer. The said Department of Transportation is hereby
20 authorized to enter into all contracts and agreements with the United States
21 government relating to survey, construction, improvement and maintenance
22 of roads, urban area traffic operations studies and improvement projects on
23 the streets on the State highway system and on the municipal system in
24 urban areas, under the provisions of the present or future congressional
25 enactments, to submit such scheme or program of construction or
26 improvement and maintenance as may be required by the Secretary of
27 Transportation or otherwise provided by federal acts, and to do all other
28 things necessary to carry out fully the cooperation contemplated and
29 provided for by present or future aid acts of Congress for the construction or
30 improvement and maintenance of federal aid of State highways. The good
31 faith and credit of the State are further hereby pledged to make available
32 funds necessary to meet the requirements of the acts of Congress, present or
33 future, appropriating money to construct and improve rural post roads and
34 apportioned to this State during each of the years for which federal funds are
35 now or may hereafter be apportioned by the said act or acts, to maintain the
36 roads constructed or improved with the aid of funds so appropriated and to
37 make adequate provisions for carrying out such construction and
38 maintenance. The good faith and credit of the State are further pledged to
39 maintain such roads now built with federal aid and hereafter to be built and
40 to make adequate provisions for carrying out such maintenance. Upon
41 request of the Department of Transportation and in order to enable it to meet
42 the requirements of acts of Congress with respect to federal aid funds
43 apportioned to the State of North Carolina, the State Treasurer is hereby
44 authorized, with the approval of the Governor and Council of State, to issue
45 short term notes from time to time, and in anticipation of State highway
46 revenue, and to be payable out of State highway revenue for such sums as
47 may be necessary to enable the Department of Transportation to meet the
48 requirements of said federal aid appropriations, but in no event shall the
49 outstanding notes under the provisions of this section amount to more than
50 two million dollars (\$2,000,000).

1 (12a) The Department of Transportation shall have such powers as are necessary
2 to establish, administer, and receive federal funds for a transportation
3 infrastructure banking program as authorized by the Intermodal Surface
4 Transportation Efficiency Act of 1991, Pub. L. 102-240, as amended, and
5 the National Highway System Designation Act of 1995, Pub. L. 104-59, as
6 amended. The Department of Transportation is authorized to apply for,
7 receive, administer, and comply with all conditions and requirements related
8 to federal financial assistance necessary to fund the infrastructure banking
9 program. The infrastructure banking program established by the Department
10 of Transportation may utilize federal and available State funds for the
11 purpose of providing loans or other financial assistance to governmental
12 units, including toll authorities, to finance the costs of transportation projects
13 authorized by the above federal aid acts. Such loans or other financial
14 assistance shall be subject to repayment and conditioned upon the
15 establishment of such security and the payment of such fees and interest
16 rates as the Department of Transportation may deem necessary. The
17 Department of Transportation is authorized to apply a municipality's share of
18 funds allocated under G.S. 136-41.1 or G.S. 136-44.20 as necessary to
19 ensure repayment of funds advanced under the infrastructure banking
20 program. The Department of Transportation shall establish jointly, with the
21 State Treasurer, a separate infrastructure banking account with necessary
22 fiscal controls and accounting procedures. Funds credited to this account
23 shall not revert, and interest and other investment income shall accrue to the
24 account and may be used to provide loans and other financial assistance as
25 provided under this subdivision. The Department of Transportation may
26 establish such rules and policies as are necessary to establish and administer
27 the infrastructure banking program. The infrastructure banking program
28 authorized under this subdivision shall not modify the regional distribution
29 formula for the distribution of funds established by G.S. 136-17.2A.
30 Governmental units may apply for loans and execute debt instruments
31 payable to the State in order to obtain loans or other financial assistance
32 provided for in this subdivision. The Department of Transportation shall
33 require that applicants shall pledge as security for such obligations revenues
34 derived from operation of the benefited facilities or systems, other sources of
35 revenue, or their faith and credit, or any combination thereof. The faith and
36 credit of such governmental units shall not be pledged or be deemed to have
37 been pledged unless the requirements of Article 4, Chapter 159 of the
38 General Statutes have been met. The State Treasurer, with the assistance of
39 the Local Government Commission, shall develop and adopt appropriate
40 debt instruments for use under this subdivision. The Local Government
41 Commission shall develop and adopt appropriate procedures for the delivery
42 of debt instruments to the State without any public bidding therefor. The
43 Local Government Commission shall review and approve proposed loans to
44 applicants pursuant to this subdivision under the provisions of Articles 4 and
45 5, Chapter 159 of the General Statutes, as if the issuance of bonds was
46 proposed, so far as those provisions are applicable. Loans authorized by this
47 subdivision shall be outstanding debt for the purpose of Article 10, Chapter
48 159 of the General Statutes.

49 (12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other
50 eligible debt-financing instruments to finance federal-aid highway projects
51 using federal funds to pay a portion of principal, interest, and related bond

1 issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National
2 Highway System Designation Act of 1995, Pub. L. 104-59). These bonds
3 shall be issued by the State Treasurer on behalf of the Department and shall
4 be issued pursuant to an order adopted by the Council of State under
5 G.S. 159-88. The State Treasurer shall develop and adopt appropriate debt
6 instruments, consistent with the terms of the State and Local Government
7 Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use
8 under this subdivision. Prior to issuance of any "GARVEE" or other eligible
9 debt instrument using federal funds to pay a portion of principal, interest,
10 and related bond issuance costs, the State Treasurer shall determine (i) that
11 the total outstanding principal of such debt does not exceed the total amount
12 of federal transportation funds authorized to the State in the prior federal
13 fiscal year; or (ii) that the maximum annual principal and interest of such
14 debt does not exceed fifteen percent (15%) of the expected average annual
15 federal revenue shown for the seven-year period in the most recently
16 adopted Transportation Improvement Program. Notes issued under the
17 provisions of this subdivision may not be deemed to constitute a debt or
18 liability of the State or of any political subdivision thereof, or a pledge of the
19 full faith and credit of the State or of any political subdivision thereof, but
20 shall be payable solely from the funds and revenues pledged therefor. All the
21 notes shall contain on their face a statement to the effect that the State of
22 North Carolina shall not be obligated to pay the principal or the interest on
23 the notes, except from the federal transportation fund revenues as shall be
24 provided by the documents governing the revenue note issuance, and that
25 neither the faith and credit nor the taxing power of the State of North
26 Carolina or of any of its political subdivisions is pledged to the payment of
27 the principal or interest on the notes. The issuance of notes under this Part
28 shall not directly or indirectly or contingently obligate the State or any of its
29 political subdivisions to levy or to pledge any form of taxation whatever or
30 to make any appropriation for their payment.

31 (13) The Department of Transportation may construct and maintain all walkways
32 and driveways within the Mansion Square in the City of Raleigh and the
33 Western Residence of the Governor in the City of Asheville including the
34 approaches connecting with the city streets, and any funds expended therefor
35 shall be a charge against general maintenance.

36 (14) The Department of Transportation shall have authority to provide roads for
37 the connection of airports in the State with the public highway system, and
38 to mark the highways and erect signals along the same for the guidance and
39 protection of aircraft.

40 (15) The Department of Transportation shall have authority to provide facilities
41 for the use of waterborne traffic and recreational uses by establishing
42 connections between the highway system and the navigable and
43 nonnavigable waters of the State by means of connecting roads and piers.
44 Such facilities for recreational purposes shall be funded from funds available
45 for safety or enhancement purposes.

46 (16) The Department of Transportation, pursuant to a resolution of the Board of
47 Transportation, shall have authority, under the power of eminent domain and
48 under the same procedure as provided for the acquirement of rights-of-way,
49 to acquire title in fee simple to parcels of land for the purpose of exchanging
50 the same for other real property to be used for the establishment of
51 rights-of-way or for the widening of existing rights-of-way or the clearing of

1 obstructions that, in the opinion of the Department of Transportation,
2 constitute dangerous hazards at intersections. Real property may be acquired
3 for such purposes only when the owner of the property needed by the
4 Department of Transportation has agreed in writing to accept the property so
5 acquired in exchange for that to be used by the Department of
6 Transportation, and when, in the opinion of the Department of
7 Transportation, an economy in the expenditure of public funds and the
8 improvement and convenience and safety of the highway can be effected
9 thereby.

10 (17) The Department of Transportation is hereby authorized and required to
11 maintain and keep in repair, sufficient to accommodate the public school
12 buses, roads leading from the state-maintained public roads to all public
13 schools and public school buildings to which children are transported on
14 public school buses to and from their homes. Said Department of
15 Transportation is further authorized to construct, pave, and maintain school
16 bus driveways and sufficient parking facilities for the school buses at those
17 schools. The Department of Transportation is further authorized to construct,
18 pave, and maintain all other driveways and entrances to the public schools
19 leading from State-maintained public roads not required in the preceding
20 portion of this subdivision.

21 (18) To cooperate with appropriate agencies of the United States in acquiring
22 rights-of-way for and in the construction and maintenance of flight strips or
23 emergency landing fields for aircraft adjacent to State highways.

24 (19) To prohibit the erection of any informational, regulatory, or warning signs
25 within the right-of-way of any highway project built within the corporate
26 limits of any municipality in the State where the funds for such construction
27 are derived in whole or in part from federal appropriations expended by the
28 Department of Transportation, unless such signs have first been approved by
29 the Department of Transportation.

30 (20) The Department of Transportation is hereby authorized to maintain and keep
31 in repair a suitable way of ingress and egress to all public or church
32 cemeteries or burial grounds in the State notwithstanding the fact that said
33 road is not a part of the state-maintained system of roads. For the purpose of
34 this subdivision a public or church cemetery or burial ground shall be
35 defined as a cemetery or burial ground in which there are buried or permitted
36 to be buried deceased persons of the community in which said cemetery or
37 burial ground is located, but shall not mean a privately owned cemetery
38 operated for profit or family burial plots.

39 (21) The Department of Transportation is hereby authorized and directed to
40 remove all dead animals from the traveled portion and rights-of-way of all
41 primary ~~and secondary~~ roads and to dispose of such animals by burial or
42 otherwise. In cases where there is evidence of ownership upon the body of
43 any dead ~~dog, dog or cat~~, the Department of Transportation shall take
44 reasonable steps to notify the owner thereof by mail or other means.

45 (22) No airport or aircraft landing area shall be constructed or altered where such
46 construction or alteration when undertaken or completed may reasonably
47 affect motor vehicle operation and safety on adjoining public roads except in
48 accordance with a written permit from the Department of Transportation or
49 its duly authorized officers. The Department of Transportation is authorized
50 and empowered to regulate airport and aircraft landing area construction and
51 alteration in order to preserve safe clearances between highways and airways

1 and the Department of Transportation is authorized and empowered to make
2 rules, regulations, and ordinances for the preservation of safe clearances
3 between highways and airways. The Department of Transportation shall be
4 responsible for determining safe clearances and shall fix standards for said
5 determination which shall not exceed the standards adopted for similar
6 purposes by the United States Bureau of Public Roads under the Federal Aid
7 Highway Act of 1958. Any person, firm, corporation or airport authority
8 constructing or altering an airport or aircraft landing area without obtaining a
9 written permit as herein provided, or not in compliance with the terms of
10 such permit, or violating the provisions of the rules, regulations or
11 ordinances promulgated under the authority of this section shall be guilty of
12 a Class 1 misdemeanor; provided, that this subdivision shall not apply to
13 publicly owned and operated airports and aircraft landing areas receiving
14 federal funds and subject to regulation by the Federal Aviation Authority.

15 (23) When in the opinion of the Department of Transportation an economy in the
16 expenditure of public funds can be effected thereby, the Department of
17 Transportation shall have authority to enter into agreements with adjoining
18 states regarding the planning, location, engineering, right-of-way acquisition
19 and construction of roads and bridges connecting the North Carolina State
20 highway system with public roads in adjoining states, and the Department of
21 Transportation shall have authority to do planning, surveying, locating,
22 engineering, right-of-way acquisition and construction on short segments of
23 roads and bridges in adjoining states with the cost of said work to be
24 reimbursed by the adjoining state, and may also enter into agreements with
25 adjoining states providing for the performance of and reimbursement to the
26 adjoining state of the cost of such work done within the State of North
27 Carolina by the adjoining state: Provided, that the Department of
28 Transportation shall retain the right to approve any contract for work to be
29 done in this State by an adjoining state for which the adjoining state is to be
30 reimbursed.

31 (24) The Department of Transportation is further authorized to pave driveways
32 leading from state-maintained roads to rural fire district firehouses which are
33 approved by the North Carolina Fire Insurance Rating Bureau and to
34 facilities of rescue squads furnishing ambulance services which are approved
35 by the North Carolina State Association of Rescue Squads, Inc.

36 (25) The Department of Transportation is hereby authorized and directed to
37 design, construct, repair, and maintain paved streets and roads upon the
38 campus of each of the State's institutions of higher education, at state-owned
39 hospitals for the treatment of tuberculosis, state-owned orthopedic hospitals,
40 juvenile correction centers, mental health hospitals and retarded centers,
41 schools for the deaf, and schools for the blind, when such construction,
42 maintenance, or repairs have been authorized by the General Assembly in
43 the appropriations bills enacted by the General Assembly. Cost for such
44 construction, maintenance, and repairs shall be borne by the Highway Fund.
45 Upon the General Assembly authorizing the construction, repair, or
46 maintenance of a paved road or drive upon any of the above-mentioned
47 institutions, the Department of Transportation shall give such project priority
48 to insure that it shall be accomplished as soon as feasible, at the minimum
49 cost to the State, and in any event during the biennium for which the
50 authorization shall have been given by the General Assembly.

- 1 (26) The Department of Transportation, at the request of a representative from a
2 board of county commissioners, is hereby authorized to acquire by
3 condemnation new or additional right-of-way to construct, pave or otherwise
4 improve a designated State-maintained ~~secondary~~ road upon presentation by
5 said board to the Department of Transportation of a duly verified copy of the
6 minutes of its meeting showing approval of such request by a majority of its
7 members and by the further presentation of a petition requesting such
8 improvement executed by the abutting owners whose frontage on said
9 ~~secondary~~ State-maintained road shall equal or exceed seventy-five percent
10 (75%) of the linear front footage along the ~~secondary~~ State-maintained road
11 sought to be improved. This subdivision shall not be construed to limit the
12 authority of the Department of Transportation to exercise the power of
13 eminent domain.
- 14 (27) The Department of Transportation is authorized to establish policies and
15 promulgate rules providing for voluntary local government, property owner
16 or highway user participation in the costs of maintenance or improvement of
17 roads which would not otherwise be necessary or would not otherwise be
18 performed by the Department of Transportation and which will result in a
19 benefit to the property owner or highway user. By way of illustration and not
20 as a limitation, such costs include those incurred in connection with drainage
21 improvements or maintenance, driveway connections, dust control on
22 unpaved roads, surfacing or paving of roads and the acquisition of
23 rights-of-way. Local government, property owner and highway user
24 participation can be in the form of materials, money, or land (for
25 right-of-way) as deemed appropriate by the Department of Transportation.
26 The authority of this section shall not be used to authorize, construct or
27 maintain toll roads or bridges.
- 28 (28) The Department of Transportation may obtain land, either by gift, lease or
29 purchase which shall be used for the construction and maintenance of
30 ridesharing parking lots. The Department may design, construct, repair, and
31 maintain ridesharing parking facilities.
- 32 (29) The Department of Transportation may establish policies and adopt rules
33 about the size, location, direction of traffic flow, and the construction of
34 driveway connections into any street or highway which is a part of the State
35 ~~Highway System~~ highway system. The Department of Transportation may
36 require the construction and public dedication of acceleration and
37 deceleration lanes, and traffic storage lanes and medians by others for the
38 driveway connections into any United States ~~route,~~ route or North Carolina
39 ~~route, and on any secondary road~~ route with an average daily traffic volume
40 of 4,000 vehicles per day or more.
- 41 (29a) To coordinate with all public and private entities planning schools to provide
42 written recommendations and evaluations of driveway access and traffic
43 operational and safety impacts on the State highway system resulting from
44 the development of the proposed sites. All public and private entities shall,
45 upon acquiring land for a new school or prior to beginning construction of a
46 new school, relocating a school, or expanding an existing school, request
47 from the Department a written evaluation and written recommendations to
48 ensure that all proposed access points comply with the criteria in the current
49 North Carolina Department of Transportation "Policy on Street and
50 Driveway Access". The Department shall provide the written evaluation and
51 recommendations within a reasonable time, which shall not exceed 60 days.

1 This subdivision shall not be construed to require the public or private
2 entities planning schools to meet the recommendations made by the
3 Department, except those highway improvements that are required for safe
4 ingress and egress to the State highway system.

- 5 (30) Consistent with G.S. 130A-309.14(a1), the Department of Transportation
6 shall review and revise its bid procedures and specifications set forth in
7 Chapter 136 of the General Statutes to encourage the purchase or use of
8 reusable, refillable, repairable, more durable, and less toxic supplies and
9 products. The Department of Transportation shall require the purchase or use
10 of such supplies and products in the construction and maintenance of
11 highways and bridges to the extent that the use is practicable and
12 cost-effective. The Department shall prepare an annual report on October 1
13 of each year to the Environmental Review Commission as required under
14 G.S. 130A-309.14(a1).

- 15 (31) The Department of Transportation is authorized to designate portions of
16 highways as scenic highways, and combinations of portions of highways as
17 scenic byways, for portions of those highways that possess unusual,
18 exceptional, or distinctive scenic, recreational, historical, educational,
19 scientific, geological, natural, wildlife, cultural or ethnic features. The
20 Department shall remove, upon application, from any existing or future
21 scenic highway or scenic byway designation, highway sections that:

- 22 a. Have no scenic value,
23 b. Have been designated or would be so designated solely to preserve
24 system continuity, and
25 c. Are adjacent to property on which is located one or more permanent
26 structures devoted to a commercial or industrial activity and on
27 which a commercial or industrial activity is actually conducted, in an
28 unzoned area or an area zoned commercial or industrial pursuant to a
29 State or local zoning ordinance or regulation, except for commercial
30 activity related to tourism or recreation.

31 The Department shall adopt rules and regulations setting forth the criteria
32 and procedures for the designation of scenic highways and scenic byways
33 under this subsection.

34 Those portions of highways designated as scenic by the Department prior
35 to July 1, 1993, are considered to be designated as scenic highways and
36 scenic byways under this subsection but the Department shall remove from
37 this designation portions of those highway sections that meet the criteria set
38 forth in this subsection, if requested.

- 39 (32) The Department of Transportation may perform dredging services, on a cost
40 reimbursement basis, for a unit of local government if the unit cannot obtain
41 the services from a private company at a reasonable cost. A unit of local
42 government is considered to be unable to obtain dredging services at a
43 reasonable cost if it solicits bids for the dredging services in accordance with
44 Article 8 of Chapter 143 of the General Statutes and does not receive a bid,
45 considered by the Department of Transportation Engineering Staff, to be
46 reasonable.

- 47 (33) The Department of Transportation is empowered and directed, from time to
48 time, to carefully examine into and inspect the condition of each railroad, its
49 equipment and facilities, in regard to the safety and convenience of the
50 public and the railroad employees. If the Department finds any equipment or

- 1 facilities to be unsafe, it shall at once notify the railroad company and
2 require the company to repair the equipment or facilities.
- 3 (34) The Department of Transportation may conduct, in a manner consistent with
4 federal law, a program of accident prevention and public safety covering all
5 railroads and may investigate the cause of any railroad accident. In order to
6 facilitate this program, any railroad involved in an accident that must be
7 reported to the Federal Railroad Administration shall also notify the
8 Department of Transportation of the occurrence of the accident.
- 9 (35) To establish rural planning organizations, as provided in Article 17 of this
10 Chapter.
- 11 (36) To oversee the safety of fixed guideway transit systems in the State not
12 regulated by the Federal Railroad Administration, pursuant to the Intermodal
13 Surface Transportation Efficiency Act of 1991 (49 U.S.C. § 5330). The
14 Department shall adopt rules in conformance with 49 U.S.C. § 5330
15 concerning its oversight of the safety of fixed guideway transit systems.
- 16 (37) To permit private use of and encroachment upon the right-of-way of a State
17 highway or road for the purpose of construction and maintenance of a
18 privately owned bridge for pedestrians or motor vehicles, if the bridge shall
19 not unreasonably interfere with or obstruct the public use of the
20 right-of-way. Any agreement for an encroachment authorized by this
21 subdivision shall be approved by the Board of Transportation, upon a finding
22 that the encroachment is necessary and appropriate, in the sole discretion of
23 the Board. Locations, plans, and specifications for any pedestrian or
24 vehicular bridge authorized by the Board for construction pursuant to this
25 subdivision shall be approved by the Department of Transportation. For any
26 bridge subject to this subdivision, the Department shall retain the right to
27 reject any plans, specifications, or materials used or proposed to be used,
28 inspect and approve all materials to be used, inspect the construction,
29 maintenance, or repair, and require the replacement, reconstruction, repair,
30 or demolition of any partially or wholly completed bridge that, in the sole
31 discretion of the Department, is unsafe or substandard in design or
32 construction. An encroachment agreement authorized by this subdivision
33 may include a requirement to purchase and maintain liability insurance in an
34 amount determined by the Department of Transportation. The Department
35 shall ensure that any bridge constructed pursuant to this subdivision is
36 regularly inspected for safety. The owner shall have the bridge inspected
37 every two years by a qualified private engineering firm based on National
38 Bridge Inspection Standards and shall provide the Department copies of the
39 Bridge Inspection Reports where they shall be kept on file. Any bridge
40 authorized and constructed pursuant to this subdivision shall be subject to all
41 other rules and conditions of the Department of Transportation for
42 encroachments.
- 43 (38) To enter into agreements with municipalities, counties, governmental
44 entities, or nonprofit corporations to receive funds for the purpose of
45 advancing the construction schedule of a project identified in the
46 Transportation Improvement Program. If these funds are subject to
47 repayment by the Department, prior to receipt of funds, reimbursement of all
48 funds received by the Department shall be shown in the existing
49 Transportation Improvement Program and shall be reimbursed within seven
50 years of receipt.

1 (39) To enter into partnership agreements with the North Carolina Turnpike
2 Authority, private entities, and authorized political subdivisions to finance,
3 by tolls, contracts, and other financing methods authorized by law, the cost
4 of acquiring, constructing, equipping, maintaining, and operating
5 transportation infrastructure in this State, with priority given to highways,
6 roads, streets, and bridges, and to plan, design, develop, acquire, construct,
7 equip, maintain, and operate highways, roads, streets, bridges, and existing
8 rail, as well as properties adjoining existing rail lines in this State. An
9 agreement entered into under this subdivision requires the concurrence of the
10 Board of Transportation. The Department shall report to the Chairs of the
11 Joint Legislative Transportation Oversight Committee, the Chairs of the
12 House of Representatives Appropriations Subcommittee on Transportation,
13 and the Chairs of the Senate Appropriations Committee on the Department
14 of Transportation, at the same time it notifies the Board of Transportation of
15 any proposed agreement under this subdivision. Any contracts for
16 construction of highways, roads, streets, and bridges which are awarded
17 pursuant to an agreement entered into under this section shall comply with
18 the competitive bidding requirements of Article 2 of this Chapter.

19 (40) To expand public access to coastal waters in its road project planning and
20 construction programs. The Department shall work with the Wildlife
21 Resources Commission, other State agencies, and other government entities
22 to address public access to coastal waters along the roadways, bridges, and
23 other transportation infrastructure owned or maintained by the Department.
24 The Department shall adhere to all applicable design standards and
25 guidelines in implementation of this enhanced access. The Department shall
26 report on its progress in expanding public access to coastal waters to the
27 Joint Legislative Commission on Seafood and Aquaculture and to the Joint
28 Legislative Transportation Oversight Commission no later than March 1 of
29 each year."

30 **SECTION 3.** G.S. 136-30.1 reads as rewritten:

31 **"§ 136-30.1. Center line and pavement edge line markings.**

32 (a) The Department of Transportation shall mark with center lines and edge lines all
33 interstate and primary roads ~~and all paved secondary roads having an average traffic volume of~~
34 ~~100 vehicles per day or more, and which are traffic service roads forming a connecting link in~~
35 ~~the State highway system.~~ roads. The Department of Transportation shall not be required to
36 mark with center and edge lines local subdivision roads, loop roads, dead-end roads of less than
37 one mile in length or roads the major purpose of which is to serve the abutting property, nor
38 shall the Department of Transportation be required to mark with edge lines those roads on
39 which curbing has been installed or which are less than 16 feet in width.

40 (b) Whenever the Department of Transportation shall construct a new paved road,
41 relocate an existing paved road, resurface an existing paved road, or pave an existing road
42 which under the provisions of subsection (a) hereof is required to be marked with lines, the
43 Department of Transportation shall, within 30 days from the completion of the construction,
44 resurfacing or paving, mark the said road with the lines required in subsection (a) hereof.

45 (c) Repealed by Session Laws 1991, c. 530, s. 2."

46 **SECTION 4.** G.S. 136-44.1 reads as rewritten:

47 **"§ 136-44.1. Statewide road system; policies.**

48 The Department of Transportation shall develop and maintain a statewide primary system
49 of roads and highways commensurate with the needs of the State as a whole and it shall not
50 sacrifice the general statewide interest to the purely local desires of any particular area. The
51 Board of Transportation shall formulate general policies and plans for a statewide primary

1 system of highways. The Board shall formulate policies governing the construction,
2 improvement and maintenance of primary roads and highways of the State with due regard to
3 farm-to-market roads and school bus routes."

4 **SECTION 5.** G.S. 136-44.2 reads as rewritten:

5 **"§ 136-44.2. Budget and appropriations.**

6 The Director of the Budget shall include in the "Current Operations Appropriations Bill" an
7 enumeration of the purposes or objects of the proposed expenditures for each of the
8 construction and maintenance programs for that budget period for the State primary,
9 county-maintained secondary, and State parks road systems. The State primary system shall
10 include all portions of the State highway system located both inside and outside municipal
11 corporate limits that are designated by N.C., U.S. or Interstate numbers. The ~~State~~
12 county-maintained secondary system shall include all of the ~~State~~ highway system located both
13 inside and outside municipal corporate limits that is not a part of the State primary system. The
14 State parks system shall include all State parks roads and parking lots that are not also part of
15 the State highway system.

16 All construction and maintenance programs for which appropriations are requested shall be
17 enumerated separately in the budget. Programs that are entirely State funded shall be listed
18 separately from those programs involving the use of federal-aid funds. Proposed appropriations
19 of State matching funds for each of the federal-aid construction programs shall be enumerated
20 separately as well as the federal-aid funds anticipated for each program in order that the total
21 construction requirements for each program may be provided for in the budget. Also, proposed
22 State matching funds for the highway planning and research program shall be included
23 separately along with the anticipated federal-aid funds for that purpose.

24 Other program categories for which appropriations are requested, such as, but not limited
25 to, maintenance, channelization and traffic control, bridge maintenance, public service and
26 access road construction, and ferry operations shall be enumerated in the budget.

27 The Department of Transportation shall have all powers necessary to comply fully with
28 provisions of present and future federal-aid acts. No federally eligible construction project may
29 be funded entirely with State funds unless the Department of Transportation has first reported
30 to the Joint Legislative Commission on Governmental Operations. For purposes of this section,
31 "federally eligible construction project" means any construction project except secondary road
32 ~~projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any~~
33 ~~federal aid act, whether or not federal funds are actually available.~~ projects.

34 The "Current Operations Appropriations Bill" shall also contain the proposed
35 appropriations of State funds for use in each county for maintenance ~~and construction~~ of
36 secondary roads, to be allocated in accordance with G.S. ~~136-44.5 and~~ 136-44.6. State funds
37 appropriated for secondary roads shall ~~not~~ be transferred to the respective counties ~~not~~ and used
38 ~~except for the construction~~ construction, improvement, and maintenance of secondary roads in
39 the county for which they are allocated pursuant to G.S. ~~136-44.5 and~~ 136-44.6.

40 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is
41 greater than the amount estimated for that date in the Current Operations Appropriations Act
42 for the following fiscal year, the excess shall be used in accordance with this paragraph. The
43 Director of the Budget may allocate part or all of the excess among reserves for access and
44 public roads, for unforeseen events requiring prompt action, or for other urgent needs. The
45 amount not allocated to any of these reserves by the Director of the Budget shall be credited to
46 a reserve for maintenance. The Board of Transportation shall report monthly to the Joint
47 Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of
48 funds in the maintenance reserve.

49 The Department of Transportation may provide for costs incurred or accrued for traffic
50 control measures to be taken by the Department at major events which involve a high degree of
51 traffic concentration on State highways, and which cannot be funded from regular budgeted

1 items. This authorization applies only to events which are expected to generate 30,000 vehicles
2 or more per day. The Department of Transportation shall provide for this funding by allocating
3 and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from
4 the appropriations for State-maintenance for primary, secondary, and urban road systems are
5 made, based upon the same proportion as is appropriated to each system."

6 **SECTION 6.** G.S. 136-44.2A reads as rewritten:

7 "**§ 136-44.2A. Secondary road improvement program.**

8 There shall be annually allocated from the Highway Fund to the Department of
9 Transportation for secondary road ~~construction, improvement, and maintenance~~ ~~improvement~~
10 programs developed pursuant to G.S. 136-44.7 and 136-44.8, a sum equal to that allocation
11 made from the Highway Fund under G.S. 136-41.1(a). In addition, as provided in
12 G.S. 136-176(b)(4) and G.S. 20-85(b), revenue is annually allocated from the Highway Trust
13 Fund for secondary road construction. ~~Of the funds allocated from the Highway Fund, the sum~~
14 ~~of sixty eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated~~
15 ~~among the counties in accordance with G.S. 136-44.5(b). All funds allocated from the Highway~~
16 ~~Fund for secondary road improvements in excess of that amount shall be allocated among the~~
17 ~~counties in accordance with G.S. 136-44.5(c). All funds allocated from the Highway Trust~~
18 ~~Fund for secondary road improvement programs shall be allocated in accordance with~~
19 ~~G.S. 136-182."~~

20 **SECTION 7.** G.S. 136-44.2C reads as rewritten:

21 "**§ 136-44.2C. Special appropriations for State construction.**

22 Special appropriations for the construction of State highways may be used for the planning,
23 design, right-of-way acquisition, and construction of highway projects for the State Highway
24 System and Federal Aid System, ~~including secondary roads,~~ ~~System~~ contained in the
25 Transportation Improvement Program prepared pursuant to G.S. 143B-350(f)(4). ~~Funding from~~
26 ~~the special appropriations used for secondary road projects in the Transportation Improvement~~
27 ~~Program is not subject to the allocation formula and restrictions of G.S. 136-44.2, 136-44.2A,~~
28 ~~or 136-44.5."~~

29 **SECTION 8.** G.S. 136-44.3 reads as rewritten:

30 "**§ 136-44.3. Maintenance program.**

31 The Department shall establish performance standards for the maintenance and operation of
32 the State highway system. In each even-numbered year, the Department of Transportation shall
33 survey the condition of the State highway system and shall prepare a report of the findings of
34 the survey. The report shall provide both quantitative and qualitative descriptions of the
35 condition of the system and shall provide estimates of the following:

- 36 (1) The annual cost to meet and sustain the established performance standards
37 for the primary ~~and secondary~~ highway system, to include: (i) routine
38 maintenance and operations, (ii) system preservation, and (iii) pavement and
39 bridge rehabilitation.
- 40 (2) Projected system condition and corresponding optimal funding requirements
41 for a seven-year plan to sustain established performance standards.

42 On the basis of the report and from funds available, the Department of Transportation shall
43 develop a statewide annual maintenance program for the State highway system, which shall be
44 subject to the approval of the Board of Transportation and is consistent with performance
45 standards.

46 The report on the condition of the State highway system and maintenance funding needs
47 shall be presented to the Joint Legislative Transportation Oversight Committee by December
48 31 of each even-numbered year, and copies shall be made available to any member of the
49 General Assembly upon request."

50 **SECTION 9.** G.S. 136-44.5 is repealed.

51 **SECTION 10.** G.S. 136-44.6 reads as rewritten:

1 **"§ 136-44.6. Uniformly applicable formula for the allocation of secondary roads**
2 **maintenance funds.**

3 The Department of Transportation shall develop a uniformly applicable formula for the
4 allocation of secondary roads construction, improvement, and maintenance funds for use in
5 each county. The formula shall take into consideration the number of paved and unpaved miles
6 of ~~state-maintained~~ secondary roads in each county in proportion to all secondary roads in the
7 State and such other factors as experience may dictate. Funds allocated to the counties for
8 maintenance pursuant to this section shall be paid in cash to the counties on April 1 of each
9 year. Counties may choose which improvement or maintenance projects to prioritize and fund.
10 Fund distributions to counties under this section shall begin on April 1, 2011."

11 **SECTION 11.** G.S. 136-44.7 is repealed.

12 **SECTION 12.** G.S. 136-44.7A reads as rewritten:

13 **"§ 136-44.7A. Submission of secondary roads construction programs to State agencies.**

14 When ~~the Department of Transportation~~ a county proposes to pave an unpaved secondary
15 road that crosses land controlled by a State agency, the Department of Transportation shall
16 obtain the approval of that State agency before paving that secondary road."

17 **SECTION 13.** G.S. 136-44.8 is repealed.

18 **SECTION 14.** G.S. 136-44.9 is repealed.

19 **SECTION 15.** G.S. 136-44.10 reads as rewritten:

20 **"§ 136-44.10. Additions to secondary road system.**

21 The Board of Transportation shall adopt uniform statewide or regional standards and
22 criteria which the ~~Department of Transportation~~ commissioners of each county shall follow for
23 additions to the secondary road system. These standards and criteria shall be promulgated and
24 copies made available for free distribution."

25 **SECTION 16.** G.S. 136-45 reads as rewritten:

26 **"§ 136-45. General purpose of law; control, repair and maintenance of highways.**

27 The general purpose of the laws creating the Department of Transportation is that said
28 Department of Transportation shall ~~take over~~, establish, construct, and maintain a statewide
29 system of hard-surfaced and other dependable primary highways running to all county seats,
30 and to all principal towns, State parks, and principal State institutions, and linking up with state
31 highways of adjoining states and with national highways into national forest reserves by the
32 most practical routes, with special view of development of agriculture, commercial and natural
33 resources of the ~~State, State, and, except as otherwise provided by law, for the further purpose~~
34 ~~of permitting the State to assume control of the State highways, repair, construct, and~~
35 ~~reconstruct and maintain said highways at the expense of the entire State, and to relieve the~~
36 ~~counties and cities and towns of the State of this burden."~~

37 **SECTION 17.** Part 2 of Article 3 of Chapter 136 of the General Statutes is
38 repealed.

39 **SECTION 18.** G.S. 136-62 is repealed.

40 **SECTION 19.** G.S. 136-63 reads as rewritten:

41 **"§ 136-63. Change or abandonment of roads.**

42 (a) ~~The board of county commissioners of any county may, on its own motion or on~~
43 ~~petition of a group of citizens, request the Board of Transportation to change or abandon any~~
44 ~~road in the secondary system when the best interest of the people of the county will be served~~
45 ~~thereby. The Board of Transportation shall thereupon make inquiry into the proposed change or~~
46 ~~abandonment, and if in its opinion the public interest demands it, shall make such change or~~
47 ~~abandonment. If the change or abandonment shall affect a road connecting with any street of a~~
48 ~~city or town, the change or abandonment shall not be made until the street governing body of~~
49 ~~the city or town shall have been duly notified and given opportunity to be heard on the~~
50 ~~question. Any request by a board of county commissioners or street governing body of a city~~

1 ~~refused by the Board of Transportation may be presented again upon the expiration of 12~~
2 ~~months.~~

3 (b) In keeping with its overall zoning scheme and long-range plans regarding the
4 extraterritorial jurisdiction area, a municipality may keep open and assume responsibility for
5 maintenance of a road within one mile of its corporate limits once it is abandoned from the
6 State highway system."

7 **SECTION 20.** G.S. 136-64 reads as rewritten:

8 "**§ 136-64. Filing of complaints with Department of Transportation; hearing and appeal.**

9 In the event of failure to maintain the roads of the State highway system ~~or any county road~~
10 system in good condition, the board of county commissioners of such county may file
11 complaint with the Department of Transportation. When any such complaint is filed, the
12 Department of Transportation shall at once investigate the same, and if the same be well
13 founded, the said Department of Transportation shall at once order the repair and maintenance
14 of the roads complained of and investigate the negligence of the persons in charge of the roads
15 so complained of, and if upon investigation the person in charge of the road complained of be
16 at fault, he may be discharged from the service of the Department of Transportation. The board
17 of commissioners of any county, who shall feel aggrieved at the action of the Department of
18 Transportation upon complaint filed, may appeal from the decision of the Department of
19 Transportation to the Governor, and it shall be the duty of the Governor to adjust the
20 differences between the board of county commissioners and the Department of Transportation."

21 **SECTION 21.** G.S. 136-64.1 reads as rewritten:

22 "**§ 136-64.1. Applications for intermittent closing of roads within watershed improvement**
23 **project by Department of Transportation; notice; regulation by Department;**
24 **delegation of authority; markers.**

25 (a) Upon proper application by the board of commissioners of a drainage district
26 established under the provisions of Chapter 156 of the General Statutes of North Carolina, by
27 the board of trustees of a watershed improvement district established under the provisions of
28 Article 2 of Chapter 139 of the General Statutes, by the board of county commissioners of any
29 county operating a county watershed improvement program under the provisions of Article 3 of
30 Chapter 139 of the General Statutes, by the board of commissioners of any watershed
31 improvement commission appointed by a board of county commissioners or by the board of
32 supervisors of any soil and water conservation district designated by a board of county
33 commissioners to exercise authority in carrying out a county watershed improvement program,
34 the Department of Transportation, for roads coming under its jurisdictional control, is hereby
35 authorized to permit the intermittent closing of any ~~secondary~~primary road within the
36 boundaries of any watershed improvement project operated by the applicants, whenever in the
37 judgment of the Department of Transportation it is necessary to do so, and when the ~~secondary~~
38 primary road will be intermittently subject to inundation by floodwaters retained by an
39 approved watershed improvement project.

40 (b) Before any permit may be issued for the temporary inundation and closing of such a
41 road, an application for such permit shall be made to the Department of Transportation by the
42 public body having jurisdiction over the watershed improvement project. The application shall
43 specify the ~~secondary~~primary road involved, the anticipated frequency and duration of
44 intermittent flooding of the ~~secondary~~primary road involved, and shall request that a permit be
45 granted to the applicant public body to allow the intermittent closing of the road.

46 (c) Upon receipt of such an application the Department of Transportation shall give
47 public notice of the proposed action by publication once each week for two consecutive weeks
48 in a newspaper of general circulation in the county or counties within which the proposed
49 intermittent closing of road or roads would occur; and such notices shall contain a description
50 of the places of beginning and the places of ending of such intermittent closing. In addition, the
51 Department of Transportation shall give notice to all public utilities or common carriers having

1 facilities located within the rights-of-way of any roads being closed by mailing copies of such
2 notices to the appropriate offices of the public utility or common carrier having jurisdiction
3 over the affected facilities of the public utility or common carrier. Not sooner than 14 days after
4 publication and mailing of notices, the Department of Transportation or the municipality may
5 issue its permit with respect to such road.

6 (d) The Department of Transportation shall have the discretion to deny any application
7 submitted pursuant to this section, or it may grant a permit on any condition it deems
8 warranted. The Department, however, shall consider the use of alternate routes available during
9 flooding of the roads, and any inconvenience to the public or temporary loss of access to
10 business, homes and property. The Department shall have the authority to promulgate
11 regulations for the issuance of permits under this section and it may delegate the authority for
12 the consideration, issuance or denial of such permits to the State Highway Administrator. Any
13 applicant granted a permit pursuant to this section shall cause suitable markers to be installed
14 on the ~~secondary~~-primary road to advise the general public of the intermittent closing of the
15 road or roads involved. Such markers shall be located and approved by the State Highway
16 Administrator."

17 **SECTION 22.** G.S. 136-66.2(f) is repealed.

18 **SECTION 23.** G.S. 136-67 reads as rewritten:

19 **"§ 136-67. Neighborhood public roads.**

20 All those portions of the public road system of the State which have not been taken over
21 and placed under maintenance or which have been abandoned by the Department of
22 ~~Transportation, Transportation or a county,~~ but which remain open and in general use as a
23 necessary means of ingress to and egress from the dwelling house of one or more families, and
24 all those roads that have been laid out, constructed, or reconstructed with unemployment relief
25 funds under the supervision of the Department of Health and Human Services, and all other
26 roads or streets or portions of roads or streets whatsoever outside of the boundaries of any
27 incorporated city or town in the State which serve a public use and as a means of ingress or
28 egress for one or more families, regardless of whether the same have ever been a portion of any
29 ~~State or county~~ road system, are hereby declared to be neighborhood public roads and they
30 shall be subject to all of the provisions of G.S. 136-68, 136-69 and 136-70 with respect to the
31 alteration, extension, or discontinuance thereof, and any interested party is authorized to
32 institute such proceeding, and in lieu of personal service with respect to this class of roads,
33 notice by publication once a week in any newspaper published in said county, or in the event
34 there is no such newspaper, by posting at the courthouse door and three other public places,
35 shall be deemed sufficient: Provided, that this definition of neighborhood public roads shall not
36 be construed to embrace any street, road or driveway that serves an essentially private use, and
37 all those portions and segments of old roads, formerly a part of the public road system, which
38 have not been taken over and placed under maintenance and which have been abandoned by the
39 Department of Transportation or a county and which do not serve as a necessary means of
40 ingress to and egress from an occupied dwelling house are hereby specifically excluded from
41 the definition of neighborhood public roads, and the owner of the land, burdened with such
42 portions and segments of such old roads, is hereby invested with the easement or right-of-way
43 for such old roads heretofore existing.

44 ~~Upon request of the board of county commissioners of any county, the Department of~~
45 ~~Transportation is permitted, but is not required, to place such neighborhood public roads as~~
46 ~~above defined in a passable condition without incorporating the same into the State or county~~
47 ~~system, and without becoming obligated in any manner for the permanent maintenance thereof.~~

48 This section shall not authorize the reopening on abandoned roads of any railroad grade
49 crossing that has been closed by order of the Department of Transportation in connection with
50 the building of an overhead bridge or underpass to take the place of such grade crossing."

51 **SECTION 24.** G.S. 136-89.53 reads as rewritten:

1 **"§ 136-89.53. New and existing facilities; grade crossing eliminations.**

2 The Department of Transportation may designate and establish controlled-access highways
3 as new and additional facilities or may designate and establish an existing street or highway as
4 included within a controlled-access facility. When an existing street or highway shall be
5 designated as and included within a controlled- access facility the owners of land abutting such
6 existing street or highway shall be entitled to compensation for the taking of or injury to their
7 easements of access. The Department of Transportation shall have authority to provide for the
8 elimination of intersections at grade of controlled-access facilities with existing State highways
9 and county roads, and city and town streets, by grade separation or frontage road, or by closing
10 off such roads and streets, or other public ways at the right-of-way boundary line of such
11 controlled- access facility; and after the establishment of any controlled-access facility, no
12 highway or street which is not part of said facility shall intersect the same at grade. No street ~~or~~
13 ~~of~~ of any city or town and no State highway, county road, or other public way shall be
14 opened into or connected with any such controlled-access facility without the consent and
15 previous approval of the Department of Transportation. Such consent and approval shall be
16 given only if the public interest shall be served thereby."

17 **SECTION 25.** G.S. 136-89.55 reads as rewritten:

18 **"§ 136-89.55. Local service roads.**

19 In connection with the development of any controlled-access facility the Department of
20 Transportation is authorized to plan, designate, establish, use, regulate, alter, improve,
21 maintain, and vacate local service or frontage roads and streets or to designate as local service
22 or frontage roads and streets any existing road or street, and to exercise jurisdiction over service
23 or frontage roads in the same manner as is authorized over controlled-access facilities under the
24 terms of this Article, if in its opinion such local service ~~or~~ or frontage roads and streets are
25 necessary or desirable; provided, however that after a local service or frontage road has been
26 established, the same shall not be vacated or abandoned in such a manner as to reduce access to
27 the facility without the consent of the abutting property owners or the payment of just
28 compensation, so long as the controlled-access facility is maintained as such facility, and the
29 Department of Transportation shall not have any authority to control or restrict the right of
30 access of abutting property owners from their property to such local service or frontage roads
31 or streets without the property owners' consent or the payment of just compensation, except
32 such authority as the Department of Transportation has with respect to primary and secondary
33 roads under the police power. Such local service or frontage roads or streets shall be of
34 appropriate design, and shall be separated from the controlled-access facility proper by means
35 of all devices designated as necessary or desirable."

36 **SECTION 26.** G.S. 136-66.1(1) reads as rewritten:

37 "(1) The State Highway System. – The State highway system inside the corporate
38 limits of municipalities shall consist of a primary road system of major
39 streets and highways necessary to move volumes of traffic efficiently and
40 effectively from points beyond the corporate limits of the municipalities
41 through the municipalities and to major business, industrial, governmental
42 and institutional destinations located inside the municipalities. The
43 Department of Transportation shall be responsible for the maintenance,
44 repair, improvement, widening, construction and reconstruction of this
45 system. These streets and highways within corporate limits are of primary
46 benefit to the State in developing a statewide coordinated system of primary
47 ~~and secondary~~ streets and highways. Each highway division shall develop an
48 annual work plan for maintenance and contract resurfacing, within their
49 respective divisions, consistent with the needs, inasmuch as possible, as
50 identified in the report developed in accordance with G.S. 136-44.3. In
51 developing the annual work plan, the highway division shall give

1 consideration to any special needs or information provided by the
2 municipalities within their respective divisions. The plan shall be made
3 available to the municipalities within the respective divisions upon request."

4 **SECTION 27.** G.S. 136-98(c) reads as rewritten:

5 "(c) A county is authorized to participate in the cost of rights-of-way, construction,
6 reconstruction, improvement, or maintenance of a road on the State primary highway system
7 under agreement with the Department of Transportation. County participation in improvements
8 to the State primary highway system is voluntary. The Department shall not transfer any of its
9 responsibilities to counties without specific statutory authority."

10 **SECTION 28.** G.S. 136-102.6 reads as rewritten:

11 **"§ 136-102.6. Compliance of subdivision streets with minimum standards of the Board of**
12 **Transportation required of developers.**

13 (a) The owner of a tract or parcel of land which is subdivided from and after October 1,
14 1975, into two or more lots, building sites, or other divisions for sale or building development
15 for residential purposes, where such subdivision includes a new street or the changing of an
16 existing street, shall record a map or plat of the subdivision with the register of deeds of the
17 county in which the land is located. The map or plat shall be recorded prior to any conveyance
18 of a portion of said land, by reference to said map or plat.

19 (b) The right-of-way of any new street or change in an existing street shall be delineated
20 upon the map or plat with particularity and such streets shall be designated to be either public
21 or private. Any street designated on the plat or map as public shall be conclusively presumed to
22 be an offer of dedication to the public of such street.

23 (c) The right-of-way and design of streets designated as public shall be in accordance
24 with the minimum right-of-way and construction standards established by the Board of
25 Transportation for acceptance on the State primary highway system~~system~~ and the county
26 secondary highway system. If a municipal or county subdivision control ordinance is in effect
27 in the area proposed for subdivision, the map or plat required by this section shall not be
28 recorded by the register of deeds until after it has received final plat approval by the
29 municipality or county, and until after it has received a certificate of approval by the Division
30 of Highways or a board of county commissioners as herein provided as to those streets
31 regulated in subsection (g). The certificate of approval may be issued by a district engineer of
32 the Division of Highways of the Department of ~~Transportation~~ Transportation or a board of
33 county commissioners, or the board's designee.

34 (d) The right-of-way and construction plans for such public streets in residential
35 subdivisions, including plans for street drainage, shall be submitted to the Division of
36 Highways or to the board of county commissioners, or to the county board's designee, for
37 review and approval, prior to the recording of the subdivision plat in the office of the register of
38 deeds. The plat or map required by this section shall not be recorded by the register of deeds
39 without a certification pursuant to G.S. 47-30.2 and, if determined to be necessary by the
40 Review Officer, or a board of county commissioners, or the board's designee, a certificate of
41 approval by the Division of ~~Highways~~ Highways, or the board of county commissioners, or the
42 board's designee, of the plans for the public street as being in accordance with the minimum
43 standards of the Board of Transportation or of the board of county commissioners for
44 acceptance of the subdivision street on the State highway system for maintenance. The Review
45 Officer or board of county commissioners, or the board's designee, shall not certify a map or
46 plat subject to this section unless the new streets or changes in existing streets are designated
47 either public or private. The certificate of approval shall not be deemed an acceptance of the
48 dedication of the streets on the subdivision plat or map. Final acceptance by the Division of
49 ~~Highways~~ Highways or the board of county commissioners of the public streets and placing
50 them on the State primary highway system or the county secondary highway system for
51 maintenance shall be conclusive proof that the streets have been constructed according to the

1 minimum standards of the Board of ~~Transportation~~ Transportation or the board of county
2 commissioners.

3 (e) No person or firm shall place or erect any utility in, over, or upon the existing or
4 proposed right-of-way of any street in a subdivision to which this section applies, except in
5 accordance with the Division of Highway's policies and procedures for accommodating utilities
6 on highway rights-of-way, or the board of county commissioners, until the Division of
7 Highways or the board of county commissioners has given written approval of the location of
8 such utilities. Written approval may be in the form of exchange of correspondence until such
9 times as it is requested to add the street or streets to the State primary highway system or the
10 county secondary highway system, at which time an encroachment agreement furnished by the
11 Division of Highways or the board of county commissioners must be executed between the
12 owner of the utility and the Division of ~~Highways~~ Highways or the board of county
13 commissioners. The right of any utility placed or located on a proposed or existing subdivision
14 public street right-of-way shall be subordinate to the street right-of-way, and the utility shall be
15 subject to regulation by the Department of ~~Transportation~~ Transportation or the board of county
16 commissioners. Utilities are defined as electric power, telephone, television, telegraph, water,
17 sewage, gas, oil, petroleum products, steam, chemicals, drainage, irrigation, and similar lines.
18 Any utility installed in a subdivision street not in accordance with the Division of Highways
19 accommodation policy, or the board of county commissioners accommodation policy, and
20 without prior approval by the Division of Highways, or the board of county commissioners,
21 shall be removed or relocated at no expense to the Division of ~~Highways~~ Highways or the
22 board of county commissioners.

23 (f) Prior to entering any agreement or any conveyance with any prospective buyer, the
24 developer and seller shall prepare and sign, and the buyer of the subject real estate shall receive
25 and sign an acknowledgment of receipt of a separate instrument known as the subdivision
26 streets disclosure statement (hereinafter referred to as disclosure statement). Said disclosure
27 statement shall fully and completely disclose the status (whether public or private) of the street
28 upon which the house or lot fronts. If the street is designated by the developer and seller as a
29 public street, the developer and seller shall certify that the right-of-way and design of the street
30 has been approved by the Division of Highways, or the board of county commissioners, and
31 that the street has been or will be constructed by the developer and seller in accordance with the
32 standards for subdivision streets adopted by the Board of ~~Transportation~~ Transportation, or the
33 board of county commissioners, for acceptance on the highway system. If the street is
34 designated by the developer and seller as a private street, the developer and seller shall include
35 in the disclosure statement an explanation of the consequences and responsibility as to
36 maintenance of a private street, and shall fully and accurately disclose the party or parties upon
37 whom responsibility for construction and maintenance of such street or streets shall rest, and
38 shall further disclose that the street or streets will not be constructed to minimum standards,
39 sufficient to allow their inclusion on the State primary highway system or the county secondary
40 highway system for maintenance. The disclosure statement shall contain a duplicate original
41 which shall be given to the buyer. Written acknowledgment of receipt of the disclosure
42 statement by the buyer shall be conclusive proof of the delivery thereof.

43 (g) The provisions of this section shall apply to all subdivisions located outside
44 municipal corporate limits. As to subdivisions inside municipalities, this section shall apply to
45 all proposed streets or changes in existing streets on the State primary highway system as
46 shown on the comprehensive plan for the future development of the street system made
47 pursuant to G.S. 136-66.2, and in effect at the date of approval of the map or plat.

48 (h) The provisions of this section shall not apply to any subdivision that consists only of
49 lots located on Lakes Hickory, Norman, Mountain Island and Wylie which are lakes formed by
50 the Catawba River which lots are leased upon October 1, 1975. No roads in any such
51 subdivision shall be added to the ~~State~~ county-maintained road system without first having

1 been brought up to standards established by the ~~Board of Transportation~~board of county
2 commissioners for inclusion of roads in the system, without expense to the ~~State~~county. Prior
3 to entering any agreement or any conveyance with any prospective buyer of a lot in any such
4 subdivision, the seller shall prepare and sign, and the buyer shall receive and sign an
5 acknowledgment of receipt of a statement fully and completely disclosing the status of and the
6 responsibility for construction and maintenance of the road upon which such lot is located.

7 (i) The purpose of this section is to insure that new subdivision streets described herein
8 to be dedicated to the public will comply with the State standards for placing subdivision
9 streets on the State primary highway system or the county secondary highway system for
10 maintenance, or that full and accurate disclosure of the responsibility for construction and
11 maintenance of private streets be made. This section shall be construed and applied in a manner
12 which shall not inhibit the ability of public utilities to satisfy service requirements of
13 subdivisions to which this section applies.

14 (j) The Division of Highways and district engineers of the Division of Highways of the
15 Department of Transportation shall issue a certificate of approval for any subdivision affected
16 by a transportation corridor official map established by the Board of Transportation only if the
17 subdivision conforms to Article 2E of this Chapter or conforms to any variance issued in
18 accordance with that Article.

19 (k) A willful violation of any of the provisions of this section shall be a Class 1
20 misdemeanor."

21 **SECTION 29.** G.S. 136-176(b) reads as rewritten:

22 "(b) Funds in the Trust Fund are annually appropriated to the Department of
23 Transportation to be allocated and used as provided in this subsection. A sum, not to exceed
24 four and eight-tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund
25 under subdivisions (a)(1), (2), and (3) of this section may be used each fiscal year by the
26 Department for expenses to administer the Trust Fund. Operation and project development
27 costs of the North Carolina Turnpike Authority are eligible administrative expenses under this
28 subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by
29 the Authority from its toll revenue as soon as possible, subject to any restrictions included in
30 the agreements entered into by the Authority in connection with the issuance of the Authority's
31 revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed
32 Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund
33 at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust
34 Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited
35 in the Highway Trust Fund upon repayment. The sum necessary to pay debt service on highway
36 bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds
37 are applied to secondary road construction shall be set aside for that purpose. The sum up to the
38 amount anticipated to be necessary to meet the State matching funds requirements to receive
39 federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The
40 rest of the funds in the Trust Fund shall be allocated and used as follows:

41 (1) ~~Sixty one and ninety five hundredths percent (61.95%)~~Sixty-eight and
42 forty-five hundredths percent (68.45%) to plan, design, and construct
43 projects on segments or corridors of the Intrastate System as described in
44 G.S. 136-178 and to pay debt service on highway bonds and notes that are
45 issued under the State Highway Bond Act of 1996 and whose proceeds are
46 applied to these projects.

47 (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and
48 construct the urban loops described in G.S. 136-180 and to pay debt service
49 on highway bonds and notes that are issued under the State Highway Bond
50 Act of 1996 and whose proceeds are applied to these urban loops.

- 1 (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for
2 city streets under G.S. 136-181.
- 3 (4) ~~Six and one half percent (6.5%) for secondary road construction as provided
4 in G.S. 136-182 and to pay debt service on highway bonds and notes that are
5 issued under the State Highway Bond Act of 1996 and whose proceeds are
6 applied to secondary road construction.~~

7 The Department must administer funds allocated under subdivisions (1), (2), and (4) of this
8 subsection in a manner that ensures that sufficient funds are available to make the debt service
9 payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

10 **SECTION 30.** G.S. 136-182 is repealed.

11 **SECTION 31.** G.S. 136-184(a) reads as rewritten:

12 "(a) The Department of Transportation shall develop, and update annually, a report
13 containing a completion schedule for all projects to be funded from the Trust Fund. The report
14 shall include a separate schedule for the Intrastate System projects, the urban loop
15 ~~projects, projects, and the paving of unpaved State maintained secondary roads that have a
16 traffic vehicular equivalent of at least 50 vehicles a day. The annual update shall indicate the
17 projects, or portions thereof, that were completed during the preceding fiscal year, any changes
18 in the original completion schedules, and the reasons for the changes.~~ The Department shall
19 submit the report and the annual updates to the Joint Legislative Transportation Oversight
20 Committee."

21 **SECTION 32.** G.S. 143-116.8(a) reads as rewritten:

22 "(a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the
23 General Statutes relating to the use of highways and public vehicular areas of the State and the
24 operation of vehicles thereon are made applicable to the State parks and forests road system.
25 For the purposes of this section, the term "State parks and forests road system" shall mean the
26 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,
27 State recreation areas, State lakes, and all other lands administered by the Department of
28 Environment and Natural Resources. This term shall not be construed, however, to include
29 streets that are a part of the State primary highway system or the county secondary highway
30 system. Any person violating any of the provisions of Chapter 20 hereby made applicable in the
31 State parks and forests road system shall, upon conviction, be punished in accordance with
32 Chapter 20. Nothing herein contained shall be construed as in any way interfering with the
33 ownership and control of the State parks and forests road system by the Department of
34 Environment and Natural Resources."

35 **SECTION 33.** G.S. 153A-205 is repealed.

36 **SECTION 34.** This act becomes effective January 1, 2011.