

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 77
Committee Substitute Favorable 2/26/19
Senate Appropriations/Base Budget Committee Substitute Adopted 6/17/20
Senate Transportation Committee Substitute Adopted 6/17/20

Short Title: DOT 2020-2021 FY Budget/Governance.

(Public)

Sponsors:

Referred to:

February 14, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ADJUST THE DEPARTMENT OF TRANSPORTATION CERTIFIED BUDGET
3 FOR THE 2020-2021 FISCAL YEAR AND TO IMPLEMENT GOVERNANCE
4 MEASURES AND OTHER MODIFICATIONS RELATED TO THE OPERATIONS OF
5 THE DEPARTMENT.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. BUDGET APPROPRIATIONS FOR THE 2020-2021 FISCAL YEAR**

9 **SECTION 1.1.(a)** All budget codes listed in the DOT Certified Budget for the
10 2020-2021 fiscal year are appropriated up to the amounts specified, as adjusted by the General
11 Assembly in this act. For purposes of this act, the term "DOT Certified Budget" means the
12 Department of Transportation certified budget for the 2019-2021 biennium published by the
13 Office of State Budget and Management and dated January 31, 2020.

14 **SECTION 1.1.(b)** If any provision of S.L. 2019-231 and this act conflict, this act
15 shall control. Except as provided in this section and otherwise where expressly repealed or
16 amended by this act, the provisions of any other legislation enacted during the 2019 Regular
17 Session of the General Assembly expressly appropriating funds to an agency, a department, or
18 an institution covered under this act shall remain in effect.

19
20 **PART II. HIGHWAY FUND AND HIGHWAY TRUST FUND**

21
22 **CURRENT OPERATIONS/HIGHWAY FUND**

23 **SECTION 2.1.** Appropriations from the State Highway Fund for the maintenance
24 and operation of the Department of Transportation and for other purposes as enumerated in
25 Section 2.1 of S.L. 2019-231 are adjusted for the fiscal year ending June 30, 2021, according to
26 the following schedule. Amounts set out in parentheses are reductions from Highway Fund
27 Appropriations for the 2020-2021 fiscal year.

29 Current Operations – Highway Fund	FY 2020-2021
30 Department of Transportation	
31 Administration	\$0
32	
33 Division of Highways	
34 Administration	\$0



1	Construction	(8,500,000)
2	Maintenance	\$70,777,925
3	Governor's Highway Safety Program	\$0
4	OSHA Program	\$0
5		
6	State Aid to Municipalities	(17,795,301)
7		
8	Intermodal Divisions	
9	Ferry	\$0
10	Public Transportation, Bicycle, and Pedestrian	(76,192,980)
11	Aviation	(13,745,222)
12	Rail	(12,200,000)
13	Division of Motor Vehicles	(794,048)
14		
15	Compensation, Benefits,	
16	Reserves, Transfers, and Other	(3,542,874)
17		
18	Capital Improvements	(7,707,500)
19		
20	Total Highway Fund Appropriations	\$2,333,400,000

HIGHWAY FUND AVAILABILITY

23 **SECTION 2.2.** The Highway Fund availability set out in Section 2.2 of S.L.
 24 2019-231 applies to the 2019-2020 fiscal year only. The Highway Fund availability used in
 25 developing the 2020-2021 fiscal year budget is shown below:

27	Highway Fund Availability	FY 2020-2021
28	Consensus Forecast	\$2,127,600,000
29	Motor Fuels Tax Rate Floor	\$16,200,000
30	Motor Fuels Tax Revenue Distribution	\$189,600,000
31		
32	Total Highway Fund Availability	\$2,333,400,000

CURRENT OPERATIONS/HIGHWAY TRUST FUND

35 **SECTION 2.3.** Appropriations from the State Highway Trust Fund for the
 36 maintenance and operation of the Department of Transportation and for other purposes as
 37 enumerated in Section 2.4 of S.L. 2019-231 are adjusted for the fiscal year ending June 30, 2021,
 38 according to the following schedule. Amounts set out in parentheses are reductions from
 39 Highway Fund Appropriations for the 2020-2021 fiscal year.

41	Current Operations – Highway Trust Fund	FY 2020-2021
42	Program Administration	\$0
43	Bonds	\$0
44	Turnpike Authority	\$0
45	State Ports Authority	\$0
46	FHWA State Match	\$0
47	Strategic Prioritization Funding Plan for	
48	Transportation Investments	(425,900,000)
49	Transfer to Visitor Center	\$0
50		
51	Total Highway Trust Fund Appropriations	\$1,230,900,000

HIGHWAY TRUST FUND AVAILABILITY

SECTION 2.4. The Highway Trust Fund availability set out in Section 2.4 of S.L. 2019-231 applies to the 2019-2020 fiscal year only. The Highway Trust Fund availability used in developing the 2020-2021 fiscal year budget is shown below:

Highway Trust Fund Availability	FY 2020-2021
Consensus Forecast	\$1,419,000,000
Motor Fuels Tax Rate Floor	\$3,800,000
Motor Fuels Tax Revenue Distribution	(191,900,000)
Total Highway Trust Fund Availability	\$1,230,900,000

PART III. ADJUSTMENTS TO THE 2020-2021 DOT CERTIFIED BUDGET**USE OF HIGHWAY FUND APPROPRIATIONS**

SECTION 3.1. Of the funds appropriated in this act to the Department of Transportation from the Highway Fund, the sum of one hundred twelve million two hundred twenty-one thousand three dollars (\$112,221,003) for the 2020-2021 fiscal year shall be used as follows:

- (1) General Maintenance Reserve (Fund Code: 0934) – \$84,165,752 in nonrecurring funds. The revised net appropriation is \$517,382,234.
- (2) Contract Resurfacing (Fund Code: 7824) – \$28,055,251 in nonrecurring funds. The revised net appropriation is \$563,737,731.

HIGHWAY FUND REDUCTIONS

SECTION 3.2. Of the funds appropriated in this act to the Department of Transportation from the Highway Fund, the sum of one hundred eighty-one million nine hundred twenty-one thousand three dollars (\$181,921,003) for the 2020-2021 fiscal year shall be reduced as follows:

- (1) Mobility Modernization Program (Fund Code: 7844) – \$41,443,078 in nonrecurring funds. The revised net appropriation is \$0.
- (2) Powell Bill Program (Fund Code: 7836) – \$7,375,000 in recurring funds and \$10,420,301 in nonrecurring funds. The revised net appropriation is \$137,079,699.
- (3) State Secondary System (Fund Code: 7812) – \$8,500,000 in nonrecurring funds. The revised net appropriation is \$3,500,000.
- (4) Commercial Airport Funds (Fund Code: 7830) – \$8,878,022 in nonrecurring funds. The revised net appropriation for this grant program is \$66,121,978.
- (5) State Aid to General Aviation Airports (Fund Code: 7830) – \$4,867,200 in nonrecurring funds. The revised net appropriation for this grant program is \$45,832,800.
- (6) Amtrak Payment Cap (Fund Code: 7829) – \$1,200,000 in nonrecurring funds due to CARES Act cap on Amtrak payments for State-supported routes. The revised net appropriation for contract services in this fund code is \$9,897,200.
- (7) Freight Rail & Rail Crossing Safety Improvement (FRRCSI) Program (Fund Code: 7829) – \$11,000,000 in nonrecurring funds for the FRRCSI grant program. The revised net appropriation is \$10,800,000.
- (8) Public Transportation – Lynx Blue Line Extension (Fund Code: 7831) – \$25,000,000 in nonrecurring funds. Reimbursements to Charlotte Area

- 1 Transit System (CATS) during the 2020-2021 fiscal year will come from
 2 unexpended appropriations.
 3 (9) Public Transportation – State Maintenance Assistance Program (SMAP)
 4 (Fund Code: 7831) – \$32,528,557 in nonrecurring funds. The revised net
 5 appropriation for this program is \$0.
 6 (10) Public Transportation – Rural Operating Assistance Program (ROAP) (Fund
 7 Code: 7831) – \$18,664,423 in nonrecurring funds. The revised net
 8 appropriation for this program is \$0.
 9 (11) DMV Headquarters Lease (Fund Code: 7050) – \$794,048 in nonrecurring
 10 funds based upon the lease agreement schedule. The revised net appropriation
 11 for the lease is \$1,705,952.
 12 (12) Capital Repairs (Fund Code: 7826) – \$7,707,500 in nonrecurring funds. The
 13 revised net appropriation is \$0.
 14 (13) Department Vacant Positions – \$3,542,874 in recurring funds. This reduction
 15 is for the elimination of the following vacant positions:

	Position Description	Position Number
16		
17	a. Marine Field Maintenance Superintendent	60029775
18	b. Administrative Specialist I	60029763
19	c. Engineer III	60029761
20	d. Engineer III	60029758
21	e. Engineer III	60027691
22	f. Engineering Manager I	60027656
23	g. Engineer I	60027541
24	h. Administrative Officer I	60025145
25	i. Engineer III	60025070
26	j. HR Technician I	60023288
27	k. Executive Assistant I	60023276
28	l. Engineering Manager I	60022808
29	m. Administrative Associate II	60022310
30	n. Agency HR Consultant II	60022309
31	o. Engineering Manager I	60021737
32	p. Administrative Associate II	60021294
33	q. Administrative Specialist I	60021100
34	r. Executive Assistant I	60019741
35	s. Administrative Associate II	60019631
36	t. Administrative Associate II	60019010
37	u. Executive Assistant I	60017554
38	v. Administrative Associate II	60016967
39	w. Administrative Associate II	60016696
40	x. Administrative Specialist I	60016599
41	y. Administrative Specialist I	60016460
42	z. Engineer I	60016454
43	aa. Administrative Associate II	60016453
44	bb. Administrative Associate II	60016068
45	cc. Administrative Specialist II	60015790
46	dd. Aircraft Maintenance Supervisor	60015606
47	ee. Maintenance/Construction Technician II	60015522
48	ff. Auditor I	60015502
49	gg. Maintenance/Construction Supervisor III	60015485
50	hh. Administrative Specialist II	60015480
51	ii. Auditor III	60015440

1	jj.	Auditor I	60015437
2	kk.	Auditor III	60015433
3	ll.	Auditor III	60015427
4	mm.	Auditor III	60015204
5	nn.	Agency HR Consultant III	60015079
6	oo.	Public Information Manager	60014954

8 HIGHWAY TRUST FUND REDUCTIONS

9 **SECTION 3.3.** Of the funds appropriated in this act to the Department of
10 Transportation from the Highway Trust Fund, the sum of four hundred twenty-five million nine
11 hundred thousand (\$425,900,000) for the 2020-2021 fiscal year shall be reduced as follows:

- 12 (1) Strategic Transportation Initiative (Fund Code: 9075) – \$425,900,000 in
13 nonrecurring funds. The revised net appropriation is \$1,039,408,940.
14

15 PART IV. DEPARTMENT OF TRANSPORTATION

17 CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

18 **SECTION 4.1.(a)** Subsections (b) and (c) of Section 4.1 of S.L. 2019-231 are
19 repealed.

20 **SECTION 4.1.(b)** The General Assembly authorizes and certifies anticipated
21 revenues for the Highway Fund as follows:

22	For Fiscal Year 2021-2022	\$2,472.1 million
23	For Fiscal Year 2022-2023	\$2,452.8 million
24	For Fiscal Year 2023-2024	\$2,509.9 million
25	For Fiscal Year 2024-2025	\$2,587.8 million

26 **SECTION 4.1.(c)** The General Assembly authorizes and certifies anticipated
27 revenues for the Highway Trust Fund as follows:

28	For Fiscal Year 2021-2022	\$1,390.6 million
29	For Fiscal Year 2022-2023	\$1,574.6 million
30	For Fiscal Year 2023-2024	\$1,621.9 million
31	For Fiscal Year 2024-2025	\$1,661.7 million

32 **SECTION 4.1.(d)** Beginning the 2021-2022 fiscal year, the Department of
33 Transportation, in collaboration with the Office of State Budget and Management, shall develop
34 a five-year revenue forecast. The five-year revenue forecast developed under this subsection shall
35 be used (i) to develop the five-year cash flow estimates included in the biennial budgets, (ii) to
36 develop the Strategic Transportation Improvement Program, and (iii) by the Department of the
37 State Treasurer to compute transportation debt capacity.
38

39 MOTOR FUEL EXCISE TAX FLOOR

40 **SECTION 4.2.** Notwithstanding the rate calculated pursuant to G.S. 105-449.80(a),
41 for the period that begins on January 1, 2021, and ends on December 31, 2021, the motor fuel
42 excise tax rate shall be the greater of thirty-six and one-tenth cents (36.1¢) per gallon or the rate
43 calculated pursuant to G.S. 105-449.80(a). For the period beginning January 1, 2022, the motor
44 fuel tax rate shall be calculated pursuant to the formula set out in G.S. 105-449.80(a) using as the
45 amount for the preceding calendar year the amount that the motor fuel tax rate would have been
46 for the period beginning on January 1, 2021, and ending on December 31, 2021, but for the
47 calculation under this section.
48

49 BUILD NC BOND ADDITIONAL ISSUE

50 **SECTION 4.3.(a)** Notwithstanding G.S. 142-97(2)c. and G.S. 142-97(4), for the
51 2020-2021 fiscal year, the Department of the State Treasurer is authorized to issue Build NC

1 Bonds in the amount of seven hundred million dollars (\$700,000,000), if the issuance plan is in
2 compliance with appropriate credit, control, and disclosure requirements.

3 **SECTION 4.3.(b)** Notwithstanding the project tier distribution requirements in
4 subdivision (2a) of G.S. 142-82 and Section 2 of S.L. 2018-16, the Department of Transportation
5 shall use the net proceeds of Build NC Bonds issued pursuant to subsection (a) of this section on
6 currently existing projects.

7 **SECTION 4.3.(c)** For purposes of this section, the term "currently existing project"
8 means a project that is, as of June 1, 2020, in the process of design or construction.

9 **SECTION 4.3.(d)** Nothing in this section shall be construed as modifying the Build
10 NC Bonds limit set forth in G.S. 142-97(3).

11 **SECTION 4.3.(e)** Section 1.1 of S.L. 2019-251 is repealed.
12

13 UNEXPENDED BUILD NC BONDS

14 **SECTION 4.4.** To the extent authorized by law and any applicable contract, the
15 Department of Transportation shall use any unexpended net proceeds from the Build NC Series
16 2019A Bonds on currently existing projects. The Department of State Treasurer and the
17 Department of Transportation shall take all steps necessary to implement this section. For
18 purposes of this section, the term "currently existing project" means a project that is, as of June
19 1, 2020, in the process of design or construction.
20

21 INCREASE MAXIMUM GARVEE DEBT SERVICE/USE GARVEE RESERVE FUNDS

22 **SECTION 4.5.(a)** G.S. 136-18(12b) reads as rewritten:

23 "(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other
24 eligible debt-financing instruments to finance federal-aid highway projects
25 using federal funds to pay a portion of principal, interest, and related bond
26 issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National
27 Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall
28 be issued by the State Treasurer on behalf of the Department and shall be
29 issued pursuant to an order adopted by the Council of State under G.S. 159-88.
30 The State Treasurer shall develop and adopt appropriate debt instruments,
31 consistent with the terms of the State and Local Government Revenue Bond
32 Act, Article 5 of Chapter 159 of the General Statutes, for use under this
33 subdivision. Prior to issuance of any "GARVEE" or other eligible debt
34 instrument using federal funds to pay a portion of principal, interest, and
35 related bond issuance costs, the State Treasurer shall determine (i) that the
36 total outstanding principal of the debt does not exceed the total amount of
37 federal transportation funds authorized to the State in the prior federal fiscal
38 year; or (ii) that the maximum annual principal and interest of the debt does
39 not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the expected
40 average annual federal revenue shown for the period in the most recently
41 adopted Transportation Improvement Program. Notes issued under the
42 provisions of this subdivision shall not be deemed to constitute a debt or
43 liability of the State or of any political subdivision thereof, or a pledge of the
44 full faith and credit of the State or of any political subdivision thereof, but
45 shall be payable solely from the funds and revenues pledged therefor. All the
46 notes shall contain on their face a statement to the effect that the State of North
47 Carolina is not obligated to pay the principal or the interest on the notes,
48 except from the federal transportation fund revenues as shall be provided by
49 the documents governing the revenue note issuance, and that neither the faith
50 and credit nor the taxing power of the State of North Carolina or of any of its
51 political subdivisions is pledged to the payment of the principal or interest on

1 the notes. The issuance of notes under this Part does not directly or indirectly
2 or contingently obligate the State or any of its political subdivisions to levy or
3 to pledge any form of taxation whatever or to make any appropriation for their
4 payment."

5 **SECTION 4.5.(b)** The Department of Transportation shall maintain a
6 GARVEE/Federal Repayment Reserve in the amount equivalent to the next debt service payment
7 owed on all GARVEE bonds. To the extent authorized by law and any applicable contract, the
8 Department shall use the remaining amount of unexpended GARVEE/Federal Repayment
9 Reserve funds to pay for currently existing projects. For purposes of this section, the term
10 "currently existing project" means a project that is, as of June 1, 2020, in the process of design
11 or construction.
12

13 **MODIFY FUEL TAX DISTRIBUTION**

14 **SECTION 4.6.(a)** Effective July 1, 2020, and applicable to excise tax revenue
15 collected by the Department on or after that date, G.S. 105-449.125(b) reads as rewritten:

16 "(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining
17 excise tax revenue collected under this Article, including any revenue that is allocated but not
18 distributed under subsection (a) of this section, as follows:

- 19 (1) ~~Seventy-one percent (71%)~~ Eighty-one percent (81%) to the Highway Fund.
20 (2) ~~Twenty-nine percent (29%)~~ Nineteen percent (19%) to the Highway Trust
21 Fund."

22 **SECTION 4.6.(b)** Effective July 1, 2021, and applicable to excise tax revenue
23 collected by the Department on or after that date, G.S. 105-449.125(b), as amended by subsection
24 (a) of this section, reads as rewritten:

25 "(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining
26 excise tax revenue collected under this Article, including any revenue that is allocated but not
27 distributed under subsection (a) of this section, as follows:

- 28 (1) ~~Eighty-one percent (81%)~~ Eighty percent (80%) to the Highway Fund.
29 (2) ~~Nineteen percent (19%)~~ Twenty percent (20%) to the Highway Trust Fund."

30 **SECTION 4.6.(c)** Effective July 1, 2022, and applicable to excise tax revenue
31 collected by the Department on or after that date, G.S. 105-449.125(b), as amended by subsection
32 (b) of this section, reads as rewritten:

33 "(b) Distribution of Remaining Revenue. – The Secretary shall allocate the remaining
34 excise tax revenue collected under this Article, including any revenue that is allocated but not
35 distributed under subsection (a) of this section, as follows:

- 36 (1) ~~Eighty percent (80%)~~ Seventy-five percent (75%) to the Highway Fund.
37 (2) ~~Twenty percent (20%)~~ Twenty-five percent (25%) to the Highway Trust
38 Fund."
39

40 **TRANSPORTATION EMERGENCY RESERVE/EXTRA SESSION**

41 **SECTION 4.7.(a)** G.S. 136-44.2E(c), as enacted by S.L. 2019-251, reads as
42 rewritten:

43 "(c) Access to Funds. – The Department may only use funds in the Emergency Reserve
44 after the President of the United States issues a declaration under the Stafford Act (42 U.S.C. §§
45 5121 – 5207) that a major disaster exists in the State. The Secretary of Transportation shall ensure
46 all funds in the Emergency Reserve are accessed and used pursuant to this section. The Secretary
47 shall also ensure the funds in the Emergency Reserve are used in a manner that does not
48 jeopardize federal reimbursements for disaster-related expenses."

49 **SECTION 4.7.(b)** G.S. 136-44.2E, as enacted by S.L. 2019-251, is amended by
50 adding a new subsection to read:

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

8 (1) Emergency Reserve, subject to the limitation in subsection (d) of this section.

9 (2) Reserve for General Maintenance in the Highway Fund.

10 (3) Savings Reserve."

11 **SECTION 4.7.(c)** G.S. 166A-19.20 is amended by adding a new subsection to read:

12 "(e) Extra Session; Emergency Transportation Expenditures. – The General Assembly
13 considers a determination by the Secretary of Transportation under G.S. 136-44.2E(f) that
14 anticipated emergency expenses will exceed the funds in the Transportation Emergency Reserve
15 within the meaning of the term "extraordinary occasions," and therefore the Governor is
16 authorized to convene the General Assembly in Extra Session under Section 5(7) of Article III
17 of the North Carolina Constitution. The General Assembly strongly urges the Governor to
18 convene the General Assembly in Extra Session within 14 days of notice by the Secretary under
19 G.S. 136-44.2E(f) for the purpose of appropriating funds from the Savings Reserve to the
20 Emergency Reserve to address the transportation needs of the State necessitated by a major
21 disaster."

23 **CLARIFY BUDGET REDUCTION FOR UNANTICIPATED EXPENDITURES**

24 **SECTION 4.8.** Subsection (d1) of G.S. 143C-6-11, as enacted by S.L. 2019-251,
25 reads as rewritten:

26 "(d1) Unanticipated Expenditures; Adjustment of Budget. – In any fiscal year, when all
27 funds allocated for snow and ice removal, and emergencies are depleted, the Department ~~may,~~
28 shall, in coordination with the Office of State Budget and Management (OSBM), reduce by the
29 same percentage the budget for every departmental division, grant-in-aid, and category of
30 expenditures, excluding salaries, to pay for any unanticipated expenditures from snow and ice
31 removal, and emergencies. Within 30 days of an adjustment made pursuant to this subsection,
32 the Department shall submit a report to the Joint Legislative Transportation Oversight
33 Committee, and the Fiscal Research Division."

35 **EXTEND DEADLINE/FEDERAL GUIDANCE ON USE OF COVID-19 FUNDS**

36 **SECTION 4.9.(a)** Subdivision (4) of Section 3.3 of S.L. 2020-4 reads as rewritten:

37 (4) \$300,000,000 to OSBM to allocate to the General Maintenance Reserve in the
38 Highway Fund for the Department of Transportation; provided that OSBM
39 shall not transfer these allocated funds to the Department for use until the
40 guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local,
41 and Tribal Governments," dated April 22, 2020, are revised by the United
42 States Department of the Treasury to authorize the use of funds from the
43 Coronavirus Relief Fund for the purpose of replacing lost revenue due to the
44 COVID-19 emergency, or a subsequent act of Congress authorizes the use of
45 funds from the Coronavirus Relief Fund for the purpose of replacing lost
46 revenue due to the COVID-19 emergency. 30 days prior to the transfer of
47 funds pursuant to this subsection, OSBM shall submit a report to the Joint
48 Legislative Commission on Governmental Operations. On or before April 1,
49 2021, the Department shall submit a report on the status of utilizing these
50 funds and a revenue update to the Joint Legislative Transportation Oversight
51 Committee (JLTOC) and the Fiscal Research Division. The Governor may not

1 use the funds described in this subdivision to make budget adjustments under
 2 G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c).
 3 Notwithstanding Section 3.2 of this act, if, ~~by June 15, 2020,~~ by September 1,
 4 2020, the guidelines in "Coronavirus Relief Fund Guidance for State,
 5 Territorial, Local, and Tribal Governments," dated April 22, 2020, are not
 6 revised by the United States Department of the Treasury to authorize the use
 7 of funds from the Coronavirus Relief Fund for the purpose of replacing lost
 8 revenue due to the COVID-19 emergency, or a subsequent act of Congress
 9 does not authorize the use of funds from the Coronavirus Relief Fund for the
 10 purpose of replacing lost revenue due to the COVID-19 emergency, the State
 11 Controller shall transfer the funds described in this subdivision to the Reserve
 12 and the funds shall remain unspent until appropriated by an act of the General
 13 Assembly."

14 **SECTION 4.9.(b)** This section becomes effective June 15, 2020.

15
 16 **CASH WATCH/BALANCE SHEET REPORT**

17 **SECTION 4.10.(a)** Subsection (n) of G.S. 143C-6-11, as enacted by S.L. 2019-251,
 18 reads as rewritten:

19 "(n) Cash Watch Weekly Report. – The Department of Transportation shall publish for
 20 public review a weekly report of the Department's cash position, which shall be entitled "NCDOT
 21 Cash Watch Numbers." The report shall be issued as a press release to all interested parties,
 22 posted on the Department's Web site, and submitted to the Joint Legislative Transportation
 23 Oversight Committee and the Fiscal Research Division. In addition to any cash flow category the
 24 Department determines is beneficial to include, the report shall contain the following:

- 25 (1) ~~Beginning Combined Cash Balance Total~~ Total Cash and Bond Proceeds
 - 26 a. ~~Highway Fund Total~~
 - 27 b. ~~Highway Trust Fund Total~~
- 28 (2) ~~Less Disbursements~~ Add Receipts
 - 29 a. ~~Payroll~~
 - 30 b. ~~Debt Service~~
 - 31 c. ~~STI Construction Costs~~
 - 32 d. ~~General Operating Costs~~
 - 33 e. ~~Map Act Claims/Settlements~~
 - 34 f. ~~State Aid Payments~~
 - 35 g. ~~Disaster Related Costs~~
 - 36 h. ~~Other~~
- 37 (3) ~~Ending Combined Cash Balance Total~~ Less Disbursements
 - 38 a. ~~Highway Fund Total~~ Payroll
 - 39 b. ~~Highway Trust Fund Total~~ Debt Service
 - 40 c. ~~STI Construction Costs~~
 - 41 d. ~~General Operating Costs~~
 - 42 e. ~~Map Act Claims/Settlements~~
 - 43 f. ~~State Aid Payments~~
 - 44 g. ~~Disaster-Related Costs~~
 - 45 h. ~~Other~~
- 46 (4) Reserved Cash
 - 47 a. ~~Statutory Cash Balance~~ GARVEE/Federal Repayment Reserve
 - 48 b. ~~GARVEE/Federal Repayment Reserve~~ Transportation Emergency
 49 Reserve
 - 50 c. ~~Transportation Emergency Reserve~~ Trustee Accounts – Build NC
 51 proceeds

- 1 d. ~~Other Reserves~~ Trustee Accounts – GARVEE
- 2 e. ~~Trustee Accounts – Build NC proceeds~~ Trustee Accounts – Other
- 3 Bonds
- 4 f. ~~Trustee Accounts – GARVEE~~
- 5 g. ~~Trustee Accounts – Other Bonds~~
- 6 (5) Unreserved Cash Balance Total
- 7 a. Highway Fund Total
- 8 b. Highway Trust Fund Total
- 9 c. Statutory Cash Requirement"

10 **SECTION 4.10.(b)** Subsection (o) of G.S. 143C-6-11, as enacted by S.L. 2019-251,
11 reads as rewritten:

12 "(o) Balance Sheet Report. – By the ~~third~~ fifteenth day of each month, the Department of
13 Transportation shall submit a balance sheet report of all assets, debits, liabilities, and fund
14 balances with an explanation of significant changes from the prior month to the Joint Legislative
15 Transportation Oversight Committee and the Fiscal Research Division."
16

17 **POWELL BILL FUNDS**

18 **SECTION 4.11.(a)** Section 5.4 of S.L. 2019-250 is repealed.

19 **SECTION 4.11.(b)** For the 2020-2021 fiscal year, municipalities with a population
20 of 400,000 or more shall only receive two-thirds of the 2019-2020 fiscal year allocation of Powell
21 Bill Program funds, as reported in the Department's "2019 North Carolina State Street Aid
22 Allocations to Municipalities" dated January 2020. The remaining Powell Bill Program funds
23 shall be allocated to municipalities with a population of less than 400,000 in accordance with the
24 requirements of G.S. 136-41.1(a).
25

26 **POWELL BILL PREFERENCE FOR PLANTS NATIVE TO NORTH CAROLINA**

27 **SECTION 4.11A.** G.S. 136-41.3(a) reads as rewritten:

28 "(a) Uses of Funds. – Except as otherwise provided in this subsection, the funds allocated
29 to cities and towns under the provisions of G.S. 136-41.1 and G.S. 136-41.2 shall be expended
30 by said cities and towns primarily for the resurfacing of streets within the corporate limits of the
31 municipality but may also be used for the purposes of maintaining, repairing, constructing,
32 reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb
33 and gutter, and other necessary appurtenances within the corporate limits of the municipality or
34 for meeting the municipality's proportionate share of assessments levied for such purposes, or for
35 the planning, construction and maintenance of bikeways, greenways, or sidewalks. Cities and
36 towns shall strongly prefer the use of seeds and plants the U.S. Department of Agriculture has
37 classified as native to North Carolina when the use of funds under this subsection includes
38 landscaping. The funds allocated to cities and towns under the provisions of G.S. 136-41.1 and
39 G.S. 136-41.2 shall not be expended for the construction of a sidewalk into which is built a
40 mailbox, utility pole, fire hydrant, or other similar obstruction that would impede the clear
41 passage of pedestrians on the sidewalk."
42

43 **CAPITAL, REPAIRS, AND RENOVATIONS**

44 **SECTION 4.12.** The 2020-2021 fiscal year allocation of funds for capital, repairs,
45 and renovations in Section 4.2 of S.L. 2019-231 is repealed.
46

47 **DMV/FUNDS FOR HEADQUARTERS INFORMATION TECHNOLOGY EXPENSES**

48 **SECTION 4.13.** Of the funds appropriated in this act to the Department of
49 Transportation, excluding funds appropriated to the Division of Motor Vehicles, up to one
50 million five hundred thousand dollars (\$1,500,000) shall be used for information technology
51 expenses related to the Division of Motor Vehicle's headquarters relocation.

AIRPORT FUNDS

SECTION 4.14.(a) Notwithstanding subsection (c) of G.S. 63-74, for the 2020-2021 fiscal year, the Commercial Airport Funds in subdivision (3) of Section 3.2 of this act shall be allocated as follows:

(1)	Albert J. Ellis	\$1,812,481
(2)	Asheville Regional	\$3,541,082
(3)	Charlotte/Douglas International	\$29,133,306
(4)	Concord-Padgett Regional	\$2,240,445
(5)	Fayetteville Regional/Grannis Field	\$2,685,707
(6)	Piedmont Triad International	\$8,805,486
(7)	Raleigh-Durham International	\$17,903,471

SECTION 4.14.(b) Notwithstanding the provisions of subsection (b) of Section 4.7 of S.L. 2019-231 and subsection (d) of G.S. 63-74, for the 2019-2021 fiscal biennium, the Department of Transportation shall disburse funds to a compliant airport on a quarterly schedule agreed to by the Department and the airport receiving funds, and an airport shall not have to return the funds to the Department unless the funds are in the possession or control of the airport and not expended or encumbered by August 31, 2021.

RAIL DIVISION EQUIPMENT MANAGEMENT PLAN

SECTION 4.15.(a) By November 1, 2020, the Department of Transportation, Rail Division, shall submit to the Joint Legislative Transportation Oversight Committee (JLTOC), the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division a fleet management plan for Rail Division equipment. The plan shall include the current inventory of rolling stock, a program for fleet acquisition, tracking, safety, maintenance, repair, disposal, and any anticipated changes in service to State-supported passenger rail programs over the next 10 years, along with the following information:

- (1) Division inventory of rolling stock: name or identifier, description, specifications, usage status of active or idle, age, date obtained, cost and source of funds to obtain, location, estimated remaining service life, annual cost, and future intended use.
- (2) Ten year acquisition plan for rolling stock: description, estimated cost, estimated future maintenance costs, intended funding sources, intended use or purpose, anticipated acquisition timeline, and if item is expansion (new service) or replacement for current inventory.
- (3) Intended use of federal grants awarded by September 1, 2020, on fleet management: description of grant, date awarded, decision to accept or reject award, intended use of federal funds, required State match amount, and source of State matching funds.

SECTION 4.15.(b) No later than December 31, 2020, the Rail Division shall offer for sale as surplus property idle equipment that will not be rehabilitated for future use or transferred to the Department of Natural and Cultural Resources. Notwithstanding Article 3A of Chapter 143 of the General Statutes and any other provision to the contrary, the net proceeds of the sale of property pursuant to this section shall be credited to the Rail Equipment Overhaul Fund (Fund Code: 7845).

SECTION 4.15.(c) No later than June 30, 2021, the Rail Division shall (i) relocate the caboose currently located on the P&N Corridor in the City of Gastonia and marked RNCX 400500 to the North Carolina Transportation Museum and (ii) transfer to the Department of Natural and Cultural Resources any ownership interest in the caboose and the Atlantic Coast Line #501 locomotive currently located at the North Carolina Transportation Museum.

HATTERAS/OCRACOKE FERRY LEASE

SECTION 4.16. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, G.S. 136-28.1, and any other provision of law to the contrary, and pending completion of a successful route verification, the Department of Transportation, Ferry Division, shall lease a passenger ferry vessel for operation between Hatteras and Ocracoke. The term of the lease shall end no later than September 10, 2020. Of the contingency funds appropriated in this act to the Department, the sum of up to one million one hundred forty-six thousand one hundred seventy-nine dollars (\$1,146,179) shall be used by the Division to lease and operate the ferry.

QUARTERLY DISTRIBUTION OF FUNDS TO PORTS AUTHORITY

SECTION 4.17. For the 2019-2021 fiscal biennium, the Department of Transportation shall distribute funds allocated to the NC Ports Authority on a quarterly basis.

PART V. GOVERNANCE**BOARD OF TRANSPORTATION RESTRUCTURE**

SECTION 5.1.(a) G.S. 143B-350 reads as rewritten:

"§ 143B-350. Board of Transportation – organization; powers and duties, etc.

(a) Board of Transportation. – There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole. The diversity and size of the State require that regional differences be considered by Board members as they develop transportation policy and projects for the benefit of the citizens of the State. The Board shall carry out its duties consistent with the fiduciary responsibility to ensure the solvency of the State Highway Fund and Highway Trust Fund.

(b) Membership of the Board. –

(1) Number, appointment. – The Board of Transportation shall have ~~19~~20 voting members. Voting members shall be appointed as provided in subdivisions (2) and (3) of this subsection for terms of office beginning July 31 of the year of initial appointment, and every four years thereafter. Fourteen of the members shall be division members appointed by the Governor. Five shall be at-large members appointed by the Governor. At least three division members of the Board shall be registered voters of a political party other than the political party of the Governor. Six members shall be at-large members, with three members appointed by the President Pro Tempore of the Senate and three members appointed by the Speaker of the House of Representatives. The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board. No more than two members of the Board may reside in the same highway division. One person elected by the Executive Committee of the Local Government Commission shall serve as an ex officio nonvoting member of the Board.

(2) Division members. – One member shall be appointed from and be a resident of each of the 14 highway divisions. ~~The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the region they represent. Division members shall regularly consult with and consider the views of local government units and Transportation Advisory Committees in the region they~~

- 1 represent. The Governor shall appoint one member from each of the fourteen
2 divisions as follows:
- 3 a. Division 1, beginning in 2020.
 - 4 b. Division 2, beginning in 2022.
 - 5 c. Division 3, beginning in 2020.
 - 6 d. Division 4, beginning in 2022.
 - 7 e. Division 5, beginning in 2022.
 - 8 f. Division 6, beginning in 2020.
 - 9 g. Division 7, beginning in 2022.
 - 10 h. Division 8, beginning in 2022.
 - 11 i. Division 9, beginning in 2020.
 - 12 j. Division 10, beginning in 2022.
 - 13 k. Division 11, beginning in 2022.
 - 14 l. Division 12, beginning in 2020.
 - 15 m. Division 13, beginning in 2022.
 - 16 n. Division 14, beginning in 2020.
- 17 (3) ~~At-large members. – Five members shall be appointed by the Governor from~~
18 ~~the State at large. At large members appointed pursuant to this subdivision~~
19 ~~shall develop transportation policy and address transportation problems with~~
20 ~~a statewide perspective. At large members appointed under this subdivision~~
21 ~~shall possess the following qualifications:~~
- 22 a. ~~One at large member shall be a person with expertise in environmental~~
23 ~~issues affecting the State;~~
 - 24 b. ~~One at large member shall be a person familiar with the State ports~~
25 ~~and aviation issues;~~
 - 26 e. ~~One at large member shall be a person residing in a rural area of the~~
27 ~~State with broad knowledge of and experience in transportation issues~~
28 ~~affecting rural areas;~~
 - 29 d. ~~One at large member shall be a person residing in an urban area with~~
30 ~~broad knowledge of and expertise in mass transit;~~
 - 31 e. ~~One at large member shall be a person with broad knowledge of and~~
32 ~~expertise in government related finance and accounting.~~
- 33 Six at-large members shall be appointed as follows:
- 34 a. Two members appointed by the President Pro Tempore of the Senate,
35 beginning in 2020.
 - 36 b. One member appointed by the President Pro Tempore of the Senate,
37 beginning in 2022.
 - 38 c. Two members appointed by the Speaker of the House of
39 Representatives, beginning in 2020.
 - 40 d. One member appointed by the Speaker of the House of
41 Representatives, beginning in 2022.
- 42 (4) Local Government Commission member. – The Executive Committee of the
43 Local Government Commission shall elect a person with broad knowledge of
44 and expertise in government-related finance and accounting to be an ex
45 officio, nonvoting member of the Board. This member shall serve on the
46 Board of Transportation Audit Committee.
- 47 (5) Criteria. – All Board members shall have professional backgrounds related to
48 transportation, budgeting, accounting, or financing to properly and effectively
49 oversee the financial actions and accountability of the Department of
50 Transportation for its operations and the projects it manages.

1 (c) Staggered Terms. – The terms of all Board members serving on the Board prior to
2 ~~January 15, 2001, shall expire on January 14, 2001.~~ July 31, 2020, shall expire on July 30, 2020.
3 A new board of ~~19-20~~ voting members shall be appointed with terms beginning on ~~January 15,~~
4 ~~2001. The Board shall serve the following terms: division members representing divisions 1, 3,~~
5 ~~5, 7, 9, 11, and 13 and the three at large members filling the positions designated in~~
6 ~~sub-subdivisions (b)(3)a., b., and e. of this section shall serve four year terms beginning on~~
7 ~~January 15, 2001, and four year terms thereafter; and division members representing divisions 2,~~
8 ~~4, 6, 8, 10, 12, and 14 and the two at large members filling the positions designated in~~
9 ~~sub-subdivisions (b)(3)c. and d. of this section shall serve two year terms beginning January 15,~~
10 ~~2001, and four year terms thereafter.~~ July 31, 2020.

11 (d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve until their
12 successors are appointed. The ~~Governor appointing authority~~ may appoint a member to serve out
13 the unexpired term of any Board member. The ~~Governor appointing authority~~ may remove any
14 member of the Board appointed by that appointing authority for any cause the ~~Governor~~
15 appointing authority finds sufficient. The ~~Governor appointing authority~~ shall remove any
16 member of the Board upon conviction of a felony, conviction of any offense involving a violation
17 of the Board member's official duties, or for a violation of the provisions of subsections (i), (j),
18 and (k) of this section or any other code of ethics applicable to members of the Board as
19 as determined by the ~~Governor appointing authority~~ or the ~~Governor's appointing authority's~~
20 designee.

21 (e) Organization and Meetings of the Board. – Within ~~60-30~~ days after ~~January 15, 2001,~~
22 ~~and thereafter within 60 days following the beginning of the regular term of the Governor, July~~
23 ~~31, 2020,~~ the Governor ~~or his designee~~ shall call the Board into session. The Board shall select a
24 chair and vice-chair from among its membership for two-year terms. The Board may select a
25 chair or vice-chair for one additional two-year term. The Board of Transportation shall meet ~~once~~
26 ~~in each 60 days at least once a month~~ at such regular meeting times as the Board may by rule
27 provide and at any place in the State as the Board may provide. The Board may hold special
28 meetings at any time at the call of the ~~chairman~~ chair or any three members. The Board shall
29 have the power to adopt and enforce rules and regulations for the government of its business and
30 proceedings. The Board shall keep minutes of its meetings, which shall at all times be open to
31 public inspection. The majority of the Board shall constitute a quorum for the transaction of
32 business. Board members shall receive per diem and necessary travel and subsistence expenses
33 in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

34 (f) Duties and Powers of the Board. – The primary duty of the Board of Transportation
35 shall be to serve as fiduciaries of the State Highway Fund and Highway Trust Fund and ensure
36 the solvency of those funds when carrying out the Board's duties and powers. The Board of
37 Transportation has the following duties and powers:

38 (1) To formulate policies and ~~priorities for all modes of transportation under the~~
39 ~~Department of Transportation.~~ priorities, accountability and performance
40 metrics for all modes, divisions, and central office of the Department of
41 Transportation, including personnel within those divisions, and to hold those
42 modes, divisions, and personnel accountable to those metrics.

43 (1a) To review and take action on each Spend Plan developed by the Department
44 of Transportation as required by G.S. 143C-6-11.1. An approved Spend Plan
45 must be fiscally responsible while accomplishing transportation goals across
46 the State.

47 (1b) To ensure that the Department of Transportation is operating within the
48 approved Spend Plan.

49 (1c) To review and approve the Department's use of bonds, including for federally
50 funded projects.

- 1 (2) To advise the Secretary on matters to ~~achieve the maximum public benefit in~~
2 ~~the performance of the functions assigned to the Department.~~increase the
3 ~~performance, efficiency, and effectiveness of the day-to-day operations of the~~
4 ~~Department of Transportation.~~Department of Transportation.
- 5 (3) To ascertain the transportation needs and the alternative means to provide for
6 these needs through an integrated system of ~~transportation taking into~~
7 ~~consideration the social, economic and environmental impacts of the various~~
8 ~~alternatives.~~transportation.
- 9 (4) To approve a schedule of all major transportation improvement projects and
10 their anticipated cost. This schedule is designated the Transportation
11 Improvement Program. The Board shall publish the schedule in a format that
12 is easily reproducible for distribution and make copies available for
13 distribution in accordance with the process established for public records in
14 Chapter 132 of the General Statutes.
- 15 (4a) To approve a schedule of State highway maintenance projects and their
16 anticipated cost. This schedule is designated the Highway Maintenance
17 Improvement Program and is established in G.S. 136-44.3A. The Board shall
18 publish the schedule on the Department's Web site by April 1 of each year.
19 The document that contains the Highway Maintenance Improvement Program
20 shall include the anticipated funding sources for the improvement projects
21 included in the Highway Maintenance Improvement Program, a list of any
22 changes made from the previous year's Highway Maintenance Improvement
23 Program, and the reasons for the changes.
- 24 ~~(5) To consider and advise the Secretary of Transportation upon any other~~
25 ~~transportation matter that the Secretary may refer to it.~~
- 26 (6) To assist the Secretary of Transportation in the performance of his duties in
27 the development of programs and approve priorities for programs within the
28 Department.
- 29 (7) To allocate all highway construction and maintenance funds appropriated by
30 the General Assembly as well as federal-aid funds which may be available.
- 31 (8) To approve all highway construction programs.
- 32 (9) To approve all highway construction projects and construction plans for the
33 construction of projects.
- 34 (10) To review all statewide maintenance functions.
- 35 (11) To award all highway construction contracts.
- 36 (12) To authorize the acquisition of rights-of-way for highway improvement
37 projects, including the authorization for acquisition of property by eminent
38 domain.
- 39 (12a) To approve partnership agreements with the North Carolina Turnpike
40 Authority, private entities, and authorized political subdivisions to finance, by
41 tolls, contracts, and other financing methods authorized by law, the cost of
42 acquiring, constructing, equipping, maintaining, and operating transportation
43 infrastructure in this State, with priority given to highways, roads, streets, and
44 bridges.
- 45 (13) Repealed by Session Laws 2010-165, s. 13, effective August 2, 2010.
- 46 (f1) Local Government Participation. – The ability of a local government to pay in part or
47 whole for any transportation improvement project shall not be a factor considered by the Board
48 of Transportation in its development and approval of a schedule of major State highway system
49 improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).
- 50 (f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft
51 from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of

1 Transportation shall prepare an estimate of the operational costs and capital costs associated with
2 the addition of the aircraft or ferry and shall report those additional costs to the General Assembly
3 pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental
4 Operations.

5 (g) Delegation of Board Duties. – The Board of Transportation shall delegate to the
6 Secretary of Transportation the authority under subdivisions (1) and (2) of this subsection, and
7 may delegate the authority under subdivision (3) of this subsection:

- 8 (1) To approve all highway construction projects and construction plans for the
9 construction of projects;
- 10 (2) To award all highway construction contracts;
- 11 (3) To promulgate rules, regulations, and ordinances concerning all transportation
12 functions assigned to the Department.

13 The Secretary may, in turn, subdelegate these duties and powers.

14 (g1) Limitation on Board Duties. – The Board of Transportation shall not make decisions
15 on individual contracts, projects, or personnel matters.

16 ~~(h) Consultation of Board Members. – Each member of the Board of Transportation who~~
17 ~~is appointed to represent a transportation engineering division or who resides in a division shall~~
18 ~~be consulted before the Board makes a decision affecting that division.~~

19 ~~(i) Disclosure of Contributions. – Any person serving on the Board of Transportation or~~
20 ~~as Secretary of Transportation on December 1, 1998, shall disclose on that date any contributions~~
21 ~~the person or the person's immediate family made to the political campaign of the appointing~~
22 ~~Governor in the two years preceding December 1, 1998. A person appointed to the Board of~~
23 ~~Transportation and a person appointed as Secretary of Transportation on or after December 1,~~
24 ~~1998, July 31, 2020, shall disclose at the time the appointment of the person is officially made~~
25 ~~public any contributions the person or the person's immediate family made to the political~~
26 ~~campaign of the appointing Governor authority in the two years preceding the date of~~
27 ~~appointment. The term "immediate family", as used in this subsection, means a person's spouse,~~
28 ~~children, parents, brothers, and sisters. Disclosure forms shall be filed with the State Ethics~~
29 ~~Commission as a supplemental filing to the Statement of Economic Interest filed under Article 3~~
30 ~~of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under the~~
31 ~~provisions of Chapter 132 of the General Statutes until such time as the appointment of the person~~
32 ~~filing the statement is officially made public.~~

33 (j) Disclosure of Campaign Fund-Raising. – A person appointed to the Board of
34 Transportation on or after January 1, 2001, and a person appointed as Secretary of Transportation
35 on or after January 1, 2001, shall disclose at the time the appointment of the person is officially
36 made public any contributions the person personally acquired in the two years prior to
37 appointment for: any political campaign for a statewide or legislative elected office in North
38 Carolina; any political party executive committee or political committee acting on behalf of a
39 candidate for statewide or legislative office. Disclosure forms shall be filed with the State Ethics
40 Commission as a supplemental filing to the Statement of Economic Interest filed under Article 3
41 of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under the
42 provisions of Chapter 132 of the General Statutes until such time as the appointment of the person
43 filing the statement is officially made public.

44 (k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics
45 applicable to members of the Board, including the Secretary. Any code of ethics adopted by the
46 Board shall be supplemental to the provisions of Chapter 138A of the General Statutes. A code
47 of ethics adopted pursuant to this subsection shall include a prohibition against a member taking
48 action as a Board member when a conflict of interest, or the appearance of a conflict of interest,
49 exists. The ethics policy adopted pursuant to this subsection shall specify that a conflict of interest
50 exists when the use of the Board member's position, or any official action taken by the Board
51 member, would result in financial benefit, direct or indirect, to the Board member, a member of

1 the Board member's immediate family, or an individual with whom, or business with which, the
2 Board member is associated. The ethics policy adopted pursuant to this subsection shall specify
3 that an appearance of a conflict of interest exists when a reasonable person would conclude from
4 the circumstances that the Board member's ability to protect the public interest, or perform public
5 duties, would be compromised by personal interest, even in the absence of an actual conflict of
6 interest. The performance of usual and customary duties associated with the public position or
7 the advancement of public policy goals or constituent services, without compensation, shall not
8 constitute the use of the Board member's position for financial benefit. The conflict of interest
9 provision of the ethics policy adopted pursuant to this subsection shall not apply to financial or
10 other benefits derived by a Board member that the Board member would enjoy to an extent no
11 greater than that which other citizens of the State would or could enjoy.

12 (l) Additional Requirements for Disclosure Statements. – All disclosure statements
13 required under subsections (i), (j), and (k) of this section must be sworn written statements.

14 (m) Ethics and Board Duties Education. – The Board shall institute by January 1, 1999,
15 and conduct annually an education program on ethics and on the duties and responsibilities of
16 Board members. The training session shall be comprehensive in nature, conducted in conjunction
17 with the State Ethics Commission, and shall include input from the School of Government at the
18 University of North Carolina at Chapel Hill, the Attorney General's Office, the University of
19 North Carolina Highway Safety Research Center, and senior career employees of the various
20 divisions of the Department. This program shall include an initial orientation for new members
21 of the Board and continuing education programs for Board members at least once each year.

22 ~~(n) Review of Appointments by the Joint Legislative Transportation Oversight~~
23 ~~Committee. – The Governor shall submit the names of all proposed Board of Transportation~~
24 ~~appointees, along with the disclosure statements required under subsections (i), (j), and (k) of~~
25 ~~this section, to the Joint Legislative Transportation Oversight Committee prior to Board~~
26 ~~members' taking office. The Committee shall have 30 days to review and submit comments to~~
27 ~~the Governor on the proposed appointees before they take office. The Governor shall consider~~
28 ~~the views expressed by the Committee concerning the appointees to the Board. If the Committee~~
29 ~~does not review or submit comments to the Governor on the proposed Board appointees within~~
30 ~~the 30 days, the Governor may proceed to appoint the proposed members to the Board.~~

31 (o) Additional Ethics Requirements. – Board members shall sign a sworn statement that
32 they will abide by the disclosure, ethics, and education requirements of this section and of
33 Chapter 138A of the General Statutes. Following the convening of each Board of Transportation
34 meeting, and prior to the conduct of business, each Board member shall sign a sworn statement
35 that the member has no financial, professional, or other interest in any project being considered
36 on the meeting agenda. To the extent the Board member has such an interest, the chair and
37 member shall take all appropriate steps to ensure that the interest is properly evaluated and
38 addressed in accordance with law and that the member is not permitted to act on any matter in
39 which the member has a disqualifying conflict of interest.

40 (p) Reports. – Notwithstanding any other provision of law, any report required to be
41 submitted by the Board to the General Assembly or a committee thereof is due by the 15th day
42 of the month that the report is due."

43 **SECTION 5.1.(b)** Notwithstanding the requirements of G.S. 143B-350(b)(1), as
44 amended by this act, the following voting members shall be appointed to the Board of
45 Transportation for a two-year term beginning July 31, 2020:

- 46 (1) Division members. – The Governor shall appoint one member from each of
47 the following eight divisions:
48 a. Division 2.
49 b. Division 4.
50 c. Division 5.
51 d. Division 7.

- e. Division 8.
- f. Division 10.
- g. Division 11.
- h. Division 13.

(2) At-large members. – The President Pro Tempore of the Senate shall appoint one at-large member, and the Speaker of the House of Representatives shall appoint one at-large member.

All members appointed as provided in this subsection shall be subject to all other provisions of G.S. 143B-350, as amended by this act.

SECTION 5.1.(c) This section becomes effective July 31, 2020.

CASH FLOOR CONTRACTING LIMITATION CLARIFICATION

SECTION 5.2. G.S. 143C-6-11(f) reads as rewritten:

"(f) Seven and One Half Percent (7.5%) Cash Balance Required. – The Department of Transportation shall maintain an available cash balance at the end of each month equal to at least seven and one half percent (7.5%) of the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund. In projecting cash balances in future years, the Department shall use the estimated cash flow as specified in the Current Operations Appropriation Act. No further transportation project contract commitment may be entered into that would cause the cash position to fall below this requirement. In the event this cash position is not maintained, no further transportation project contract commitments may be entered into until the cash balance has been regained. Provided the Department may modify or supplement transportation contract commitments for existing transportation projects that (i) result in a savings from the total estimated project cost of the existing commitment, based on a cost-savings analysis, or (ii) relate to the needs of an existing transportation project to continue. Any federal funds on hand shall not be considered as cash for the purposes of this subsection."

MONTHLY FINANCIAL STATEMENT REPORT

SECTION 5.3.(a) G.S. 143C-6-11, as amended by Section 2.1 of S.L. 2019-251, is amended by adding two new subsections to read:

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

- (1) Revenues received by the Highway Fund and Highway Trust Fund for the month, broken down into category, and in relation to the revenue estimate for category used for the current fiscal year budget.
- (2) Expenditures by fund code for the month, and in relation to the current fiscal year certified budget and the Department's Spend Plan.
- (3) Expenditures by Highway Division for the month, and in relation to the current fiscal year allocation of funds for maintenance activities made by the Department pursuant to G.S. 136-44.6.
- (4) Expenditures by Highway Division from the Reserve for General Maintenance in the Highway Fund (GMR) for the month, broken down into category, and in relation to the current budget year allocation of funds for each category.
- (5) Expenditures by Highway Division on capital and Strategic Transportation Investment (STI) projects, and in relation to the current budget year allocation of funds for capital and STI projects.
- (6) Projected revenues and Spend Plan of the Department for the next 18 months, noting any changes.

1 (7) Accounts payable, including the number of contracts, invoices paid, and
2 payments pending. The report shall also include the number of days between
3 an invoice being submitted and being approved and the number of days
4 between approval and payment. The Department shall also report the number
5 of contracts breached and invoices the Department could not pay in full,
6 including the age of those invoices and the status of any negotiated
7 resolutions.

8 (q) Year-End Report. – At the end of each fiscal year, no later than July 15, the
9 Department shall post on the Department's Web site and submit to the Board of Transportation,
10 the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division a
11 year-end summary of information required in the monthly financial statement report under
12 subdivisions (1) through (5) of subsection (p) of this section for the previous fiscal year, including
13 a comparison to the Department's Spend Plan for that period."

14 **SECTION 5.3.(b)** In order for the public to access up-to-date information on
15 projected revenue and Spend Plan status of the Department, the Department shall adjust its
16 performance dashboard available on the Department of Transportation's Web site to include and
17 track information required by G.S. 143C-6-11(p)(6) as enacted by this act. Dashboard
18 enhancements required under this subsection shall be completed by October 1, 2020.

19 **DEPARTMENT OF TRANSPORTATION SPEND PLAN**

20 **SECTION 5.4.** Part 2 of Article 6 of Chapter 143C of the General Statutes is
21 amended by adding a new section to read:

22 **"§ 143C-6-11.1. Department of Transportation Spend Plan.**

23 (a) The Department of Transportation shall develop a comprehensive cash-spending
24 plan, known as the "Spend Plan," to spend money from any source, including federal funds and
25 bond proceeds, for programs, functions, activities or objects, by the Department.

26 (b) The Department shall present the Spend Plan to the Board of Transportation, the
27 Director of Transportation Budget at the Office of State Budget and Management, and the State
28 Budget Director for approval.

29 (c) The Board of Transportation, the Director of Transportation Budget at the Office of
30 State Budget and Management, and the State Budget Director shall either approve the Spend Plan
31 or report any objections to the Spend Plan with specificity and reasons for the objections in
32 writing to the Chairs of the Senate Appropriations Committee on the Department of
33 Transportation, the Chairs of the House of Representatives Appropriations Committee on
34 Transportation, and the Fiscal Research Division if the General Assembly is in session, or to the
35 Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research
36 Division if the General Assembly is not in session. Upon receipt of the Spend Plan, approval or
37 a report must be completed within 30 days.

38 (d) Any modifications to the Spend Plan or expenditures outside of the Spend Plan shall
39 be submitted for approval as provided in subsection (b) of this section prior to implementation."

40 **DIRECTOR OF TRANSPORTATION BUDGET POSITION**

41 **SECTION 5.5.(a)** The Department of Transportation shall transfer one vacant FTE
42 position and funds to the Office of State Budget and Management to be reclassified into the
43 position of Director of Transportation Budget. The Director of Transportation Budget shall report
44 directly to the State Budget Officer, and the duties for this position shall include monitoring and
45 assisting the Department of Transportation in developing the Department budget and Spend Plan,
46 monitoring the Department's finances and spending, assessing risks to Department finances,
47 making revenue projections, and ensuring the Department budget is faithfully executed
48 consistent with the State Budget Act.
49
50

1 **SECTION 5.5.(b)** The Department of Transportation shall give full access to all data
2 and full access to, and training on, all financial systems utilized by the Department necessary for
3 the Director of Transportation Budget to perform the position's responsibilities.

4 **SECTION 5.5.(c)** The Director of Transportation Budget shall work in consultation
5 with the Department to prepare and submit the reports required by G.S. 143C-6-11(p), as enacted
6 by this act.

7 8 **HIGHWAY DIVISION FINANCIAL PERSONNEL STRUCTURING**

9 **SECTION 5.6.(a)** The Department of Transportation shall develop and establish a
10 uniform financial management personnel structure within all Highway Division offices. Each
11 position shall have clear responsibilities for financial management of accounts payable, accounts
12 receivable, contract oversight, and budgets. Each Highway Division office is required to maintain
13 personnel competent in Department cash management practices and Division project
14 management as it relates to project spending.

15 **SECTION 5.6.(b)** The Department of Transportation shall develop and establish
16 uniform report formats and policies and procedures that calculate spending and track cash
17 management in a consistent manner among Highway Divisions. The Department shall provide
18 training on all forms, systems, and policies developed by the Department pursuant to this section.

19 **SECTION 5.6.(c)** The Department is authorized to reclassify positions as required
20 to establish the uniform financial management personnel structure required by this section.

21 **SECTION 5.6.(d)** The Department shall report to the Joint Legislative
22 Transportation Oversight Committee and the Fiscal Research Division on the development and
23 establishment of, or plan to establish and develop, the uniform financial management personnel
24 structure by October 31, 2020. The report shall also include a description of required positions
25 and responsibilities of the FTEs needed to establish the personnel structure required by this
26 section for each Highway Division and all personnel actions taken to fulfill the requirements of
27 this section, including associated costs. The information shall be provided for each Highway
28 Division.

29 30 **ADDITIONAL BOND DISCLOSURE PERSONNEL**

31 **SECTION 5.7.** The Department of Transportation shall transfer one vacant FTE
32 position to the Department of the State Treasurer. The Department of the State Treasurer shall
33 reclassify the vacant position into a Financial Analyst position focused on bond disclosure within
34 the State and Local Government Finance Division to review and monitor the Department of
35 Transportation's bond program and activities which utilize bond proceeds, including monitoring
36 the spending and approval of projects using bond proceeds, reviewing general compliance for
37 repayment and debt service, and assisting the Department of the State Treasurer in fulfilling its
38 duties and responsibilities for bond disclosures and compliance as required by the United States
39 Securities Exchange Commission and other applicable State or federal laws.

40 41 **TRANSPORTATION FORECASTING METHODOLOGY**

42 **SECTION 5.8.(a)** The Department of Transportation, in consultation with the
43 Director of Transportation Budget at the Office of State Budget and Management, shall create,
44 develop, modify, and implement Department forecasting methodology, best practices, and
45 accuracy standards for the forecasting of spending.

46 **SECTION 5.8.(b)** By December 31, 2020, the Department of Transportation shall
47 report to the Board of Transportation, the Joint Legislative Transportation Oversight Committee,
48 and the Fiscal Research Division of the General Assembly on implementation of this section.

49 50 **ANNUAL PERFORMANCE AUDIT OF DEPARTMENT OF TRANSPORTATION**

1 **SECTION 5.9.(a)** Beginning the 2019-2020 fiscal year, the Office of the State
2 Auditor shall conduct a performance audit of the Department of Transportation every year. The
3 performance audit shall include an examination of the following:

- 4 (1) Budget adherence by department, division, and highway division.
- 5 (2) Timeliness of federal reimbursement requests and timeliness of the
6 Department's responses to any federal requests for additional information or
7 action.
- 8 (3) Department controls and oversight of divisions and highway divisions as to
9 cash management, project coordination and delivery, and budget adherence.
- 10 (4) Efficacy of communication and coordination within the Department.
- 11 (5) Efficacy of cash management by the Department.
- 12 (6) Other items the State Auditor deems relevant to study, including
13 implementation of the provisions of this act.

14 **SECTION 5.9.(b)** The State Auditor shall submit a report of the performance audit
15 to the Joint Legislative Commission on Governmental Operations, Joint Legislative
16 Transportation Oversight Committee, and the Fiscal Research Division. The Department of
17 Transportation shall give the State Auditor full access to all employees and data necessary to
18 complete the audit and the report. The State Auditor shall submit the annual report required by
19 this subsection by the fifteenth day of January beginning in 2021.

20 21 **HIGHWAY DIVISION FUND ALLOCATION PLANS**

22 **SECTION 5.10.** G.S. 136-44.6 reads as rewritten:

23 "**§ 136-44.6. Uniformly applicable formula for the allocation of funds for primary and**
24 **secondary road maintenance.**

25 The Department of Transportation, in consultation with its Division Engineers, shall develop
26 biennially a uniformly applicable formula for the allocation of funds ~~from the Reserve for~~
27 ~~General Maintenance~~ in the Highway Fund for maintenance on primary and secondary roads in
28 each Highway Division. The formula shall take into consideration the number of paved and
29 unpaved miles of state-maintained secondary roads in each Highway Division and such other
30 factors as experience may dictate. In developing the allocation formula, the Department of
31 Transportation shall allocate funding to Highway Divisions and create a plan of action to
32 reallocate funds among Highway Divisions based upon expenditures of the first three quarters.
33 Each Division Engineer shall have discretion in using funds allocated under this section to his or
34 her Highway Division for maintenance activities. Allotments shall be made available to Highway
35 Divisions on a quarterly basis, based upon the Spend Plan developed by the Department. The
36 Department shall create a plan for reallocation to maximize use of funds with the fiscal year. This
37 section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."

38 39 **AUDIT DOT USE OF ADVANCE CONSTRUCTION**

40 **SECTION 5.11.(a)** No later than 90 days from the effective date of this act the
41 Department of Transportation shall submit a detailed report to the Joint Legislative
42 Transportation Oversight Committee, the Fiscal Research Division, and the Office of the State
43 Auditor on its use of federal Advance Construction authorizations, including the benefits and
44 risks associated with the practice. The report shall also include:

- 45 (1) A report showing the Advance Construction Balances by funding source for
46 five years.
- 47 (2) A listing of projects currently utilizing Advance Construction with details
48 such as the initial Advance Construction amount, contract amount, amount of
49 expenditures for which Advance Construction has been converted allowing
50 reimbursement by Federal Highway Administration or other sources and a
51 schedule for Advance Construction that is planned to be converted where

1 future reimbursement is anticipated, and the anticipated conversion and
2 reimbursement schedule.

3 (3) A listing of projects where it is anticipated Advance Construction will be used
4 in the future with details such as anticipated Advance Construction amount
5 and conversion and reimbursement schedule.

6 (4) A listing of projects currently utilizing GARVEE bond funding with details
7 such as total amount of bonds, amount of principal and interest repaid, and
8 schedule of remaining principal and interest payments.

9 **SECTION 5.11.(b)** The Office of the State Auditor shall conduct a performance
10 audit of the Department's report required by subsection (a) of this section and, no later than March
11 31, 2021, shall submit a report containing the results of the performance audit and
12 recommendations to the House of Representatives Appropriations Committee on Transportation,
13 the Senate Appropriations Committee on the Department of Transportation, and the Fiscal
14 Research Division. The Department of Transportation shall give the State Auditor full access to
15 all employees and data necessary to complete the audit and the report.

16 17 **PART VI. MISCELLANEOUS**

18 **SECTION 6.1.** The budget enacted by the General Assembly is for the maintenance
19 of the Department of Transportation for the 2020-2021 fiscal year as provided in G.S. 143C-3-5.
20 This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

21 The Director of the Budget certified the amount appropriated to the Department of
22 Transportation for the 2019-2021 fiscal biennium in the DOT Certified Budget. The adjustments
23 made by the General Assembly to the DOT Certified Budget for the 2020-2021 fiscal year are
24 set out in this act.

25 **SECTION 6.2.** The budget enacted by the General Assembly for the Department of
26 Transportation shall also be interpreted in accordance with the special provisions in this act and
27 other appropriate legislation. In the event that there is a conflict between the line-item budget
28 certified by the Director of the Budget for the Department of Transportation and the budget
29 enacted by the General Assembly for the Department of Transportation, the budget enacted by
30 the General Assembly shall prevail.

31 **SECTION 6.3.** If House Bill 1136, House Bill 1218, or Senate Bill 818 of the 2019
32 Regular Session become law, the Office of State Budget and Management shall, no later than
33 August 15, 2020, adjust the Department of Transportation, General Maintenance Reserve, for the
34 2020-2021 fiscal year to account for any change in employee benefit costs.

35 36 **PART VII. EFFECTIVE DATE**

37 **SECTION 7.1.** Except as otherwise provided, this act becomes effective July 1,
38 2020.