

**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**

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 Except as provided in this section and otherwise where expressly repealed or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.

Current Operations – Highway Fund	FY 2020-2021
Department of Transportation	
Administration	\$0
Division of Highways	
Administration	\$0
Construction	(8,500,000)



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

HIGHWAY FUND AVAILABILITY

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

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

CURRENT OPERATIONS/HIGHWAY TRUST FUND

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

Current Operations – Highway Trust Fund	FY 2020-2021
Program Administration	\$0
Bonds	\$0
Turnpike Authority	\$0
State Ports Authority	\$0
FHWA State Match	\$0
Strategic Prioritization Funding Plan for	
Transportation Investments	(425,900,000)
Transfer to Visitor Center	\$0
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 Transit System (CATS) during the 2020-2021 fiscal year will come from unexpended appropriations.

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

	Position Description	Position Number
14		
15	a. Marine Field Maintenance Superintendent	60029775
16	b. Administrative Specialist I	60029763
17	c. Engineer III	60029761
18	d. Engineer III	60029758
19	e. Engineer III	60027691
20	f. Engineering Manager I	60027656
21	g. Engineer I	60027541
22	h. Administrative Officer I	60025145
23	i. Engineer III	60025070
24	j. HR Technician I	60023288
25	k. Executive Assistant I	60023276
26	l. Engineering Manager I	60022808
27	m. Administrative Associate II	60022310
28	n. Agency HR Consultant II	60022309
29	o. Engineering Manager I	60021737
30	p. Administrative Associate II	60021294
31	q. Administrative Specialist I	60021100
32	r. Executive Assistant I	60019741
33	s. Administrative Associate II	60019631
34	t. Administrative Associate II	60019010
35	u. Executive Assistant I	60017554
36	v. Administrative Associate II	60016967
37	w. Administrative Associate II	60016696
38	x. Administrative Specialist I	60016599
39	y. Administrative Specialist I	60016460
40	z. Engineer I	60016454
41	aa. Administrative Associate II	60016453
42	bb. Administrative Associate II	60016068
43	cc. Administrative Specialist II	60015790
44	dd. Aircraft Maintenance Supervisor	60015606
45	ee. Maintenance/Construction Technician II	60015522
46	ff. Auditor I	60015502
47	gg. Maintenance/Construction Supervisor III	60015485
48	hh. Administrative Specialist II	60015480
49	ii. Auditor III	60015440
50	jj. Auditor I	60015437
51	kk. Auditor III	60015433

1	ll.	Auditor III	60015427
2	mm.	Auditor III	60015204
3	nn.	Agency HR Consultant III	60015079
4	oo.	Public Information Manager	60014954

HIGHWAY TRUST FUND REDUCTIONS

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

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

PART IV. DEPARTMENT OF TRANSPORTATION

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

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

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

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

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

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

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

MOTOR FUEL EXCISE TAX FLOOR

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

BUILD NC BOND ADDITIONAL ISSUE

SECTION 4.3.(a) Notwithstanding G.S. 142-97(2)c. and G.S. 142-97(4), for the 2020-2021 fiscal year, the Department of the State Treasurer is authorized to issue Build NC Bonds in the amount of seven hundred million dollars (\$700,000,000), if the issuance plan is in compliance with appropriate credit, control, and disclosure requirements.

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

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

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

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

10 11 **UNEXPENDED BUILD NC BONDS**

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

18 19 **INCREASE MAXIMUM GARVEE DEBT SERVICE/USE GARVEE RESERVE FUNDS**

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

21 "(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other
22 eligible debt-financing instruments to finance federal-aid highway projects
23 using federal funds to pay a portion of principal, interest, and related bond
24 issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National
25 Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall
26 be issued by the State Treasurer on behalf of the Department and shall be
27 issued pursuant to an order adopted by the Council of State under G.S. 159-88.
28 The State Treasurer shall develop and adopt appropriate debt instruments,
29 consistent with the terms of the State and Local Government Revenue Bond
30 Act, Article 5 of Chapter 159 of the General Statutes, for use under this
31 subdivision. Prior to issuance of any "GARVEE" or other eligible debt
32 instrument using federal funds to pay a portion of principal, interest, and
33 related bond issuance costs, the State Treasurer shall determine (i) that the
34 total outstanding principal of the debt does not exceed the total amount of
35 federal transportation funds authorized to the State in the prior federal fiscal
36 year; or (ii) that the maximum annual principal and interest of the debt does
37 not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the expected
38 average annual federal revenue shown for the period in the most recently
39 adopted Transportation Improvement Program. Notes issued under the
40 provisions of this subdivision shall not be deemed to constitute a debt or
41 liability of the State or of any political subdivision thereof, or a pledge of the
42 full faith and credit of the State or of any political subdivision thereof, but
43 shall be payable solely from the funds and revenues pledged therefor. All the
44 notes shall contain on their face a statement to the effect that the State of North
45 Carolina is not obligated to pay the principal or the interest on the notes,
46 except from the federal transportation fund revenues as shall be provided by
47 the documents governing the revenue note issuance, and that neither the faith
48 and credit nor the taxing power of the State of North Carolina or of any of its
49 political subdivisions is pledged to the payment of the principal or interest on
50 the notes. The issuance of notes under this Part does not directly or indirectly
51 or contingently obligate the State or any of its political subdivisions to levy or

1 to pledge any form of taxation whatever or to make any appropriation for their
2 payment."

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

10 11 **MODIFY FUEL TAX DISTRIBUTION**

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

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

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

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

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

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

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

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

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

38 **TRANSPORTATION EMERGENCY RESERVE/EXTRA SESSION**

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

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

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

49 "(f) Notification of Governor; Reimbursement. – The Secretary shall notify the
50 Governor within 24 hours of determining that anticipated emergency expenses by the
51 Department under this section will exceed the funds in the Emergency Reserve. Upon

1 notification, the Governor shall immediately proceed under G.S. 166A-19.20(e). Federal
2 reimbursements for funds expended in relation to a major disaster, declared in accord with
3 subsection (c) of this section, shall be used to reimburse expenditures from the following
4 accounts in order of priority:

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

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

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

20 **CLARIFY BUDGET REDUCTION FOR UNANTICIPATED EXPENDITURES**

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

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

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

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

34 "(4) \$300,000,000 to OSBM to allocate to the General Maintenance Reserve in the
35 Highway Fund for the Department of Transportation; provided that OSBM
36 shall not transfer these allocated funds to the Department for use until the
37 guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local,
38 and Tribal Governments," dated April 22, 2020, are revised by the United
39 States Department of the Treasury to authorize the use of funds from the
40 Coronavirus Relief Fund for the purpose of replacing lost revenue due to the
41 COVID-19 emergency, or a subsequent act of Congress authorizes the use of
42 funds from the Coronavirus Relief Fund for the purpose of replacing lost
43 revenue due to the COVID-19 emergency. 30 days prior to the transfer of
44 funds pursuant to this subsection, OSBM shall submit a report to the Joint
45 Legislative Commission on Governmental Operations. On or before April 1,
46 2021, the Department shall submit a report on the status of utilizing these
47 funds and a revenue update to the Joint Legislative Transportation Oversight
48 Committee (JLTOC) and the Fiscal Research Division. The Governor may not
49 use the funds described in this subdivision to make budget adjustments under
50 G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c).
51 Notwithstanding Section 3.2 of this act, if, ~~by June 15, 2020,~~ by September 1,

2020, the guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," dated April 22, 2020, are not revised by the United States Department of the Treasury to authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, or a subsequent act of Congress does not authorize the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency, the State Controller shall transfer the funds described in this subdivision to the Reserve and the funds shall remain unspent until appropriated by an act of the General Assembly."

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

CASH WATCH/BALANCE SHEET REPORT

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

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

- (1) ~~Beginning Combined Cash Balance Total~~Total Cash and Bond Proceeds
 - a. ~~Highway Fund Total~~
 - b. ~~Highway Trust Fund Total~~
- (2) ~~Less Disbursements~~Add Receipts
 - a. ~~Payroll~~
 - b. ~~Debt Service~~
 - c. ~~STI Construction Costs~~
 - d. ~~General Operating Costs~~
 - e. ~~Map Act Claims/Settlements~~
 - f. ~~State Aid Payments~~
 - g. ~~Disaster Related Costs~~
 - h. ~~Other~~
- (3) ~~Ending Combined Cash Balance Total~~Less Disbursements
 - a. ~~Highway Fund Total~~Payroll
 - b. ~~Highway Trust Fund Total~~Debt Service
 - c. ~~STI Construction Costs~~
 - d. ~~General Operating Costs~~
 - e. ~~Map Act Claims/Settlements~~
 - f. ~~State Aid Payments~~
 - g. ~~Disaster-Related Costs~~
 - h. ~~Other~~
- (4) Reserved Cash
 - a. ~~Statutory Cash Balance~~GARVEE/Federal Repayment Reserve
 - b. ~~GARVEE/Federal Repayment Reserve~~Transportation Emergency Reserve
 - c. ~~Transportation Emergency Reserve~~Trustee Accounts – Build NC proceeds
 - d. ~~Other Reserves~~Trustee Accounts – GARVEE
 - e. ~~Trustee Accounts – Build NC proceeds~~Trustee Accounts – Other Bonds

- 1 f. ~~Trustee Accounts—GARVEE~~
- 2 g. ~~Trustee Accounts—Other Bonds~~
- 3 (5) Unreserved Cash Balance Total
- 4 a. Highway Fund Total
- 5 b. Highway Trust Fund Total
- 6 c. Statutory Cash Requirement"

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

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

14 **POWELL BILL FUNDS**

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

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

23 **CAPITAL, REPAIRS, AND RENOVATIONS**

24 **SECTION 4.12.** The 2020-2021 fiscal year allocation of funds for capital, repairs,
25 and renovations in Section 4.2 of S.L. 2019-231 is repealed.
26

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

28 **SECTION 4.13.** Of the funds appropriated in this act to the Department of
29 Transportation, excluding funds appropriated to the Division of Motor Vehicles, up to one
30 million five hundred thousand dollars (\$1,500,000) shall be used for information technology
31 expenses related to the Division of Motor Vehicle's headquarters relocation.
32

33 **AIRPORT FUNDS**

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

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

44 **SECTION 4.14.(b)** Notwithstanding the provisions of subsection (b) of Section 4.7
45 of S.L. 2019-231 and subsection (d) of G.S. 63-74, for the 2019-2021 fiscal biennium, the
46 Department of Transportation shall disburse funds to a compliant airport on a quarterly schedule
47 agreed to by the Department and the airport receiving funds, and an airport shall not have to
48 return the funds to the Department unless the funds are in the possession or control of the airport
49 and not expended or encumbered by August 31, 2021.
50

51 **RAIL DIVISION EQUIPMENT MANAGEMENT PLAN**

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

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

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

27 **SECTION 4.15.(c)** No later than June 30, 2021, the Rail Division shall (i) relocate
28 the caboose currently located on the P&N Corridor in the City of Gastonia and marked RNCX
29 400500 to the North Carolina Transportation Museum and (ii) transfer to the Department of
30 Natural and Cultural Resources any ownership interest in the caboose and the Atlantic Coast Line
31 #501 locomotive currently located at the North Carolina Transportation Museum.
32

33 **HATTERAS/OCRACOCKE FERRY LEASE**

34 **SECTION 4.16.** Notwithstanding the provisions of Article 8 of Chapter 143 of the
35 General Statutes, G.S. 136-28.1, and any other provision of law to the contrary, and pending
36 completion of a successful route verification, the Department of Transportation, Ferry Division,
37 shall lease a passenger ferry vessel for operation between Hatteras and Ocracoke. The term of
38 the lease shall end no later than September 10, 2020. Of the contingency funds appropriated in
39 this act to the Department, the sum of up to one million one hundred forty-six thousand one
40 hundred seventy-nine dollars (\$1,146,179) shall be used by the Division to lease and operate the
41 ferry.
42

43 **QUARTERLY DISTRIBUTION OF FUNDS TO PORTS AUTHORITY**

44 **SECTION 4.17.** For the 2019-2021 fiscal biennium, the Department of
45 Transportation shall distribute funds allocated to the NC Ports Authority on a quarterly basis.
46

47 **PART V. GOVERNANCE**

49 **BOARD OF TRANSPORTATION RESTRUCTURE**

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

51 **"§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

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

7 (b) Membership of the Board. –

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

23 (2) Division members. – One member shall be appointed from and be a resident
24 of each of the 14 highway divisions. ~~The Governor, in selecting division~~
25 ~~members, shall consider for appointment persons suggested by the~~
26 ~~Transportation Advisory Committees located within each division. Division~~
27 ~~members shall direct their primary effort to developing transportation policy~~
28 ~~and addressing transportation problems in the region they represent. Division~~
29 ~~members shall regularly consult with and consider the views of local~~
30 ~~government units and Transportation Advisory Committees in the region they~~
31 ~~represent. The Governor shall appoint one member from each of the fourteen~~
32 ~~divisions as follows:~~

33 a. Division 1, beginning in 2020.

34 b. Division 2, beginning in 2022.

35 c. Division 3, beginning in 2020.

36 d. Division 4, beginning in 2022.

37 e. Division 5, beginning in 2022.

38 f. Division 6, beginning in 2020.

39 g. Division 7, beginning in 2022.

40 h. Division 8, beginning in 2022.

41 i. Division 9, beginning in 2020.

42 j. Division 10, beginning in 2022.

43 k. Division 11, beginning in 2022.

44 l. Division 12, beginning in 2020.

45 m. Division 13, beginning in 2022.

46 n. Division 14, beginning in 2020.

47 (3) At-large members. – ~~Five members shall be appointed by the Governor from~~
48 ~~the State at large. At large members appointed pursuant to this subdivision~~
49 ~~shall develop transportation policy and address transportation problems with~~
50 ~~a statewide perspective. At large members appointed under this subdivision~~
51 ~~shall possess the following qualifications:~~

- 1 a. ~~One at large member shall be a person with expertise in environmental~~
2 ~~issues affecting the State;~~
3 b. ~~One at large member shall be a person familiar with the State ports~~
4 ~~and aviation issues;~~
5 e. ~~One at large member shall be a person residing in a rural area of the~~
6 ~~State with broad knowledge of and experience in transportation issues~~
7 ~~affecting rural areas;~~
8 d. ~~One at large member shall be a person residing in an urban area with~~
9 ~~broad knowledge of and expertise in mass transit;~~
10 e. ~~One at large member shall be a person with broad knowledge of and~~
11 ~~expertise in government related finance and accounting.~~

12 Six at-large members shall be appointed as follows:

- 13 a. Two members appointed by the President Pro Tempore of the Senate,
14 beginning in 2020.
15 b. One member appointed by the President Pro Tempore of the Senate,
16 beginning in 2022.
17 c. Two members appointed by the Speaker of the House of
18 Representatives, beginning in 2020.
19 d. One member appointed by the Speaker of the House of
20 Representatives, beginning in 2022.
21 (4) Local Government Commission member. – The Executive Committee of the
22 Local Government Commission shall elect a person with broad knowledge of
23 and expertise in government-related finance and accounting to be an ex
24 officio, nonvoting member of the Board. This member shall serve on the
25 Board of Transportation Audit Committee.
26 (5) Criteria. – All Board members shall have professional backgrounds related to
27 transportation, budgeting, accounting, or financing to properly and effectively
28 oversee the financial actions and accountability of the Department of
29 Transportation for its operations and the projects it manages.

30 (c) Staggered Terms. – The terms of all Board members serving on the Board prior to
31 January 15, 2001, shall expire on January 14, 2001. July 31, 2020, shall expire on July 30, 2020.
32 A new board of 19-20 voting members shall be appointed with terms beginning on January 15,
33 2001. The Board shall serve the following terms: division members representing divisions 1, 3,
34 5, 7, 9, 11, and 13 and the three at large members filling the positions designated in
35 sub-subdivisions (b)(3)a., b., and e. of this section shall serve four-year terms beginning on
36 January 15, 2001, and four-year terms thereafter; and division members representing divisions 2,
37 4, 6, 8, 10, 12, and 14 and the two at large members filling the positions designated in
38 sub-subdivisions (b)(3)c. and d. of this section shall serve two-year terms beginning January 15,
39 2001, and four-year terms thereafter. July 31, 2020.

40 (d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve until their
41 successors are appointed. The Governor appointing authority may appoint a member to serve out
42 the unexpired term of any Board member. The Governor appointing authority may remove any
43 member of the Board appointed by that appointing authority for any cause the Governor
44 appointing authority finds sufficient. The Governor appointing authority shall remove any
45 member of the Board upon conviction of a felony, conviction of any offense involving a violation
46 of the Board member's official duties, or for a violation of the provisions of subsections (i), (j),
47 and (k) of this section or any other code of ethics applicable to members of the Board as
48 determined by the Governor appointing authority or the Governor's appointing authority's
49 designee.

50 (e) Organization and Meetings of the Board. – Within 60-30 days after January 15, 2001,
51 and thereafter within 60 days following the beginning of the regular term of the Governor, July

1 31, 2020, the Governor ~~or his designee~~ shall call the Board into session. The Board shall select a
2 chair and vice-chair from among its membership for two-year terms. The Board may select a
3 chair or vice-chair for one additional two-year term. The Board of Transportation shall meet ~~once~~
4 ~~in each 60 days at least once a month~~ at such regular meeting times as the Board may by rule
5 provide and at any place in the State as the Board may provide. The Board may hold special
6 meetings at any time at the call of the ~~chairman~~-chair or any three members. The Board shall
7 have the power to adopt and enforce rules and regulations for the government of its business and
8 proceedings. The Board shall keep minutes of its meetings, which shall at all times be open to
9 public inspection. The majority of the Board shall constitute a quorum for the transaction of
10 business. Board members shall receive per diem and necessary travel and subsistence expenses
11 in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

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

- 16 (1) To formulate policies and ~~priorities for all modes of transportation under the~~
17 ~~Department of Transportation~~-priorities, accountability and performance
18 metrics for all modes, divisions, and central office of the Department of
19 Transportation, including personnel within those divisions, and to hold those
20 modes, divisions, and personnel accountable to those metrics.
- 21 (1a) To review and take action on each Spend Plan developed by the Department
22 of Transportation as required by G.S. 143C-6-11.1. An approved Spend Plan
23 must be fiscally responsible while accomplishing transportation goals across
24 the State.
- 25 (1b) To ensure that the Department of Transportation is operating within the
26 approved Spend Plan.
- 27 (1c) To review and approve the Department's use of bonds, including for federally
28 funded projects.
- 29 (2) To advise the Secretary on matters to ~~achieve the maximum public benefit in~~
30 ~~the performance of the functions assigned to the Department~~-increase the
31 performance, efficiency, and effectiveness of the day-to-day operations of the
32 Department of Transportation.
- 33 (3) To ascertain the transportation needs and the alternative means to provide for
34 these needs through an integrated system of ~~transportation taking into~~
35 ~~consideration the social, economic and environmental impacts of the various~~
36 ~~alternatives~~-transportation.
- 37 (4) To approve a schedule of all major transportation improvement projects and
38 their anticipated cost. This schedule is designated the Transportation
39 Improvement Program. The Board shall publish the schedule in a format that
40 is easily reproducible for distribution and make copies available for
41 distribution in accordance with the process established for public records in
42 Chapter 132 of the General Statutes.
- 43 (4a) To approve a schedule of State highway maintenance projects and their
44 anticipated cost. This schedule is designated the Highway Maintenance
45 Improvement Program and is established in G.S. 136-44.3A. The Board shall
46 publish the schedule on the Department's Web site by April 1 of each year.
47 The document that contains the Highway Maintenance Improvement Program
48 shall include the anticipated funding sources for the improvement projects
49 included in the Highway Maintenance Improvement Program, a list of any
50 changes made from the previous year's Highway Maintenance Improvement
51 Program, and the reasons for the changes.

- 1 (5) ~~To consider and advise the Secretary of Transportation upon any other~~
2 ~~transportation matter that the Secretary may refer to it.~~
- 3 (6) To assist the Secretary of Transportation in the performance of his duties in
4 the development of programs and approve priorities for programs within the
5 Department.
- 6 (7) To allocate all highway construction and maintenance funds appropriated by
7 the General Assembly as well as federal-aid funds which may be available.
- 8 (8) To approve all highway construction programs.
- 9 (9) To approve all highway construction projects and construction plans for the
10 construction of projects.
- 11 (10) To review all statewide maintenance functions.
- 12 (11) To award all highway construction contracts.
- 13 (12) To authorize the acquisition of rights-of-way for highway improvement
14 projects, including the authorization for acquisition of property by eminent
15 domain.
- 16 (12a) To approve partnership agreements with the North Carolina Turnpike
17 Authority, private entities, and authorized political subdivisions to finance, by
18 tolls, contracts, and other financing methods authorized by law, the cost of
19 acquiring, constructing, equipping, maintaining, and operating transportation
20 infrastructure in this State, with priority given to highways, roads, streets, and
21 bridges.
- 22 (13) Repealed by Session Laws 2010-165, s. 13, effective August 2, 2010.

23 (f1) Local Government Participation. – The ability of a local government to pay in part or
24 whole for any transportation improvement project shall not be a factor considered by the Board
25 of Transportation in its development and approval of a schedule of major State highway system
26 improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

27 (f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft
28 from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of
29 Transportation shall prepare an estimate of the operational costs and capital costs associated with
30 the addition of the aircraft or ferry and shall report those additional costs to the General Assembly
31 pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental
32 Operations.

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

- 36 (1) To approve all highway construction projects and construction plans for the
37 construction of projects;
- 38 (2) To award all highway construction contracts;
- 39 (3) To promulgate rules, regulations, and ordinances concerning all transportation
40 functions assigned to the Department.

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

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

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

47 ~~(i) Disclosure of Contributions. – Any person serving on the Board of Transportation or~~
48 ~~as Secretary of Transportation on December 1, 1998, shall disclose on that date any contributions~~
49 ~~the person or the person's immediate family made to the political campaign of the appointing~~
50 ~~Governor in the two years preceding December 1, 1998. A person appointed to the Board of~~
51 ~~Transportation and a person appointed as Secretary of Transportation on or after December 1,~~

1 ~~1998, July 31, 2020,~~ shall disclose at the time the appointment of the person is officially made
2 public any contributions the person or the person's immediate family made to the political
3 campaign of the appointing ~~Governor~~ authority in the two years preceding the date of
4 appointment. The term "immediate family", as used in this subsection, means a person's spouse,
5 children, parents, brothers, and sisters. Disclosure forms shall be filed with the State Ethics
6 Commission as a supplemental filing to the Statement of Economic Interest filed under Article 3
7 of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under the
8 provisions of Chapter 132 of the General Statutes until such time as the appointment of the person
9 filing the statement is officially made public.

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

21 (k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics
22 applicable to members of the Board, including the Secretary. Any code of ethics adopted by the
23 Board shall be supplemental to the provisions of Chapter 138A of the General Statutes. A code
24 of ethics adopted pursuant to this subsection shall include a prohibition against a member taking
25 action as a Board member when a conflict of interest, or the appearance of a conflict of interest,
26 exists. The ethics policy adopted pursuant to this subsection shall specify that a conflict of interest
27 exists when the use of the Board member's position, or any official action taken by the Board
28 member, would result in financial benefit, direct or indirect, to the Board member, a member of
29 the Board member's immediate family, or an individual with whom, or business with which, the
30 Board member is associated. The ethics policy adopted pursuant to this subsection shall specify
31 that an appearance of a conflict of interest exists when a reasonable person would conclude from
32 the circumstances that the Board member's ability to protect the public interest, or perform public
33 duties, would be compromised by personal interest, even in the absence of an actual conflict of
34 interest. The performance of usual and customary duties associated with the public position or
35 the advancement of public policy goals or constituent services, without compensation, shall not
36 constitute the use of the Board member's position for financial benefit. The conflict of interest
37 provision of the ethics policy adopted pursuant to this subsection shall not apply to financial or
38 other benefits derived by a Board member that the Board member would enjoy to an extent no
39 greater than that which other citizens of the State would or could enjoy.

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

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

50 ~~(n) Review of Appointments by the Joint Legislative Transportation Oversight~~
51 ~~Committee. The Governor shall submit the names of all proposed Board of Transportation~~

1 appointees, along with the disclosure statements required under subsections (i), (j), and (k) of
2 this section, to the Joint Legislative Transportation Oversight Committee prior to Board
3 members' taking office. The Committee shall have 30 days to review and submit comments to
4 the Governor on the proposed appointees before they take office. The Governor shall consider
5 the views expressed by the Committee concerning the appointees to the Board. If the Committee
6 does not review or submit comments to the Governor on the proposed Board appointees within
7 the 30 days, the Governor may proceed to appoint the proposed members to the Board.

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

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

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

23 (1) Division members. – The Governor shall appoint one member from each of
24 the following eight divisions:

- 25 a. Division 2.
- 26 b. Division 4.
- 27 c. Division 5.
- 28 d. Division 7.
- 29 e. Division 8.
- 30 f. Division 10.
- 31 g. Division 11.
- 32 h. Division 13.

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

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

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

39 **CASH FLOOR CONTRACTING LIMITATION CLARIFICATION**

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

41 "(f) Seven and One Half Percent (7.5%) Cash Balance Required. – The Department of
42 Transportation shall maintain an available cash balance at the end of each month equal to at least
43 seven and one half percent (7.5%) of the total appropriations for the current fiscal year from the
44 Highway Fund and the Highway Trust Fund. In projecting cash balances in future years, the
45 Department shall use the estimated cash flow as specified in the Current Operations
46 Appropriation Act. No further transportation project contract commitment may be entered into
47 that would cause the cash position to fall below this requirement. In the event this cash position
48 is not maintained, no further transportation project contract commitments may be entered into
49 until the cash balance has been regained. Provided the Department may modify or supplement
50 transportation contract commitments for existing transportation projects that (i) result in a
51

1 savings from the total estimated project cost of the existing commitment, based on a cost-savings
2 analysis, or (ii) relate to the needs of an existing transportation project to continue. Any federal
3 funds on hand shall not be considered as cash for the purposes of this subsection."
4

5 **MONTHLY FINANCIAL STATEMENT REPORT**

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

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

- 12 (1) Revenues received by the Highway Fund and Highway Trust Fund for the
13 month, broken down into category, and in relation to the revenue estimate for
14 category used for the current fiscal year budget.
- 15 (2) Expenditures by fund code for the month, and in relation to the current fiscal
16 year certified budget and the Department's Spend Plan.
- 17 (3) Expenditures by Highway Division for the month, and in relation to the
18 current fiscal year allocation of funds for maintenance activities made by the
19 Department pursuant to G.S. 136-44.6.
- 20 (4) Expenditures by Highway Division from the Reserve for General
21 Maintenance in the Highway Fund (GMR) for the month, broken down into
22 category, and in relation to the current budget year allocation of funds for each
23 category.
- 24 (5) Expenditures by Highway Division on capital and Strategic Transportation
25 Investment (STI) projects, and in relation to the current budget year allocation
26 of funds for capital and STI projects.
- 27 (6) Projected revenues and Spend Plan of the Department for the next 18 months,
28 noting any changes.
- 29 (7) Accounts payable, including the number of contracts, invoices paid, and
30 payments pending. The report shall also include the number of days between
31 an invoice being submitted and being approved and the number of days
32 between approval and payment. The Department shall also report the number
33 of contracts breached and invoices the Department could not pay in full,
34 including the age of those invoices and the status of any negotiated
35 resolutions.

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

42 **SECTION 5.3.(b)** In order for the public to access up-to-date information on
43 projected revenue and Spend Plan status of the Department, the Department shall adjust its
44 performance dashboard available on the Department of Transportation's Web site to include and
45 track information required by G.S. 143C-6-11(p)(6) as enacted by this act. Dashboard
46 enhancements required under this subsection shall be completed by October 1, 2020.
47

48 **DEPARTMENT OF TRANSPORTATION SPEND PLAN**

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

51 **§ 143C-6-11.1. Department of Transportation Spend Plan.**

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

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

7 (c) The Board of Transportation, the Director of Transportation Budget at the Office of
8 State Budget and Management, and the State Budget Director shall either approve the Spend Plan
9 or report any objections to the Spend Plan with specificity and reasons for the objections in
10 writing to the Chairs of the Senate Appropriations Committee on the Department of
11 Transportation, the Chairs of the House of Representatives Appropriations Committee on
12 Transportation, and the Fiscal Research Division if the General Assembly is in session, or to the
13 Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research
14 Division if the General Assembly is not in session. Upon receipt of the Spend Plan, approval or
15 a report must be completed within 30 days.

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

18 **DIRECTOR OF TRANSPORTATION BUDGET POSITION**

19 **SECTION 5.5.(a)** The Department of Transportation shall transfer one vacant FTE
20 position and funds to the Office of State Budget and Management to be reclassified into the
21 position of Director of Transportation Budget. The Director of Transportation Budget shall report
22 directly to the State Budget Officer, and the duties for this position shall include monitoring and
23 assisting the Department of Transportation in developing the Department budget and Spend Plan,
24 monitoring the Department's finances and spending, assessing risks to Department finances,
25 making revenue projections, and ensuring the Department budget is faithfully executed
26 consistent with the State Budget Act.

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

30 **SECTION 5.5.(c)** The Director of Transportation Budget shall work in consultation
31 with the Department to prepare and submit the reports required by G.S. 143C-6-11(p), as enacted
32 by this act.
33

34 **HIGHWAY DIVISION FINANCIAL PERSONNEL STRUCTURING**

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

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

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

47 **SECTION 5.6.(d)** The Department shall report to the Joint Legislative
48 Transportation Oversight Committee and the Fiscal Research Division on the development and
49 establishment of, or plan to establish and develop, the uniform financial management personnel
50 structure by October 31, 2020. The report shall also include a description of required positions
51

1 and responsibilities of the FTEs needed to establish the personnel structure required by this
2 section for each Highway Division and all personnel actions taken to fulfill the requirements of
3 this section, including associated costs. The information shall be provided for each Highway
4 Division.

5 6 **ADDITIONAL BOND DISCLOSURE PERSONNEL**

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

16 17 **TRANSPORTATION FORECASTING METHODOLOGY**

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

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

25 26 **ANNUAL PERFORMANCE AUDIT OF DEPARTMENT OF TRANSPORTATION**

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

- 30 (1) Budget adherence by department, division, and highway division.
- 31 (2) Timeliness of federal reimbursement requests and timeliness of the
32 Department's responses to any federal requests for additional information or
33 action.
- 34 (3) Department controls and oversight of divisions and highway divisions as to
35 cash management, project coordination and delivery, and budget adherence.
- 36 (4) Efficacy of communication and coordination within the Department.
- 37 (5) Efficacy of cash management by the Department.
- 38 (6) Other items the State Auditor deems relevant to study, including
39 implementation of the provisions of this act.

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

46 47 **HIGHWAY DIVISION FUND ALLOCATION PLANS**

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

49 **"§ 136-44.6. Uniformly applicable formula for the allocation of funds for primary and**
50 **secondary road maintenance.**

1 The Department of Transportation, in consultation with its Division Engineers, shall develop
2 biennially a uniformly applicable formula for the allocation of funds ~~from the Reserve for~~
3 ~~General Maintenance~~ in the Highway Fund for maintenance on primary and secondary roads in
4 each Highway Division. The formula shall take into consideration the number of paved and
5 unpaved miles of state-maintained secondary roads in each Highway Division and such other
6 factors as experience may dictate. In developing the allocation formula, the Department of
7 Transportation shall allocate funding to Highway Divisions and create a plan of action to
8 reallocate funds among Highway Divisions based upon expenditures of the first three quarters.
9 Each Division Engineer shall have discretion in using funds allocated under this section to his or
10 her Highway Division for maintenance activities. Allotments shall be made available to Highway
11 Divisions on a quarterly basis, based upon the Spend Plan developed by the Department. The
12 Department shall create a plan for reallocation to maximize use of funds with the fiscal year. This
13 section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."
14

15 **AUDIT DOT USE OF ADVANCE CONSTRUCTION**

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

- 21 (1) A report showing the Advance Construction Balances by funding source for
22 five years.
- 23 (2) A listing of projects currently utilizing Advance Construction with details
24 such as the initial Advance Construction amount, contract amount, amount of
25 expenditures for which Advance Construction has been converted allowing
26 reimbursement by Federal Highway Administration or other sources and a
27 schedule for Advance Construction that is planned to be converted where
28 future reimbursement is anticipated, and the anticipated conversion and
29 reimbursement schedule.
- 30 (3) A listing of projects where it is anticipated Advance Construction will be used
31 in the future with details such as anticipated Advance Construction amount
32 and conversion and reimbursement schedule.
- 33 (4) A listing of projects currently utilizing GARVEE bond funding with details
34 such as total amount of bonds, amount of principal and interest repaid, and
35 schedule of remaining principal and interest payments.

36 **SECTION 5.11.(b)** The Office of the State Auditor shall conduct a performance
37 audit of the Department's report required by subsection (a) of this section and, no later than March
38 31, 2021, shall submit a report containing the results of the performance audit and
39 recommendations to the House of Representatives Appropriations Committee on Transportation,
40 the Senate Appropriations Committee on the Department of Transportation, and the Fiscal
41 Research Division. The Department of Transportation shall give the State Auditor full access to
42 all employees and data necessary to complete the audit and the report.
43

44 **PART VI. MISCELLANEOUS**

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

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

1 **SECTION 6.2.** The budget enacted by the General Assembly for the Department of
2 Transportation shall also be interpreted in accordance with the special provisions in this act and
3 other appropriate legislation. In the event that there is a conflict between the line-item budget
4 certified by the Director of the Budget for the Department of Transportation and the budget
5 enacted by the General Assembly for the Department of Transportation, the budget enacted by
6 the General Assembly shall prevail.

7 **SECTION 6.3.** If House Bill 1136, House Bill 1218, or Senate Bill 818 of the 2019
8 Regular Session become law, the Office of State Budget and Management shall, no later than
9 August 15, 2020, adjust the Department of Transportation, General Maintenance Reserve, for the
10 2020-2021 fiscal year to account for any change in employee benefit costs.

11
12 **PART VII. EFFECTIVE DATE**

13 **SECTION 7.1.** Except as otherwise provided, this act becomes effective July 1,
14 2020.