

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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6

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
Senate Finance Committee Substitute Adopted 6/17/20
Sixth Edition Engrossed 6/19/20

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 Except as provided in this section and otherwise where expressly repealed or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

28
29 **Current Operations – Highway Fund**

FY 2020-2021

30 Department of Transportation

31 Administration

\$0



1	Division of Highways	
2	Administration	\$0
3	Construction	(8,500,000)
4	Maintenance	\$65,715,093
5	Governor's Highway Safety Program	\$0
6	OSHA Program	\$0
7		
8	State Aid to Municipalities	(17,795,301)
9		
10	Intermodal Divisions	
11	Ferry	\$0
12	Public Transportation, Bicycle, and Pedestrian	(76,192,980)
13	Aviation	(8,682,390)
14	Rail	(12,200,000)
15	Division of Motor Vehicles	(794,048)
16		
17	Compensation, Benefits,	
18	Reserves, Transfers, and Other	(3,542,874)
19		
20	Capital Improvements	(7,707,500)
21		
22	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:

29	Highway Fund Availability	FY 2020-2021
30	Consensus Forecast	\$2,127,600,000
31	Motor Fuels Tax Rate Floor	\$16,200,000
32	Motor Fuels Tax Revenue Distribution	\$189,600,000
33		
34	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.

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

1
2 **Total Highway Trust Fund Appropriations** **\$1,230,900,000**

3
4 **HIGHWAY TRUST FUND AVAILABILITY**

5 **SECTION 2.4.** The Highway Trust Fund availability set out in Section 2.4 of S.L.
6 2019-231 applies to the 2019-2020 fiscal year only. The Highway Trust Fund availability used
7 in developing the 2020-2021 fiscal year budget is shown below:

8
9 **Highway Trust Fund Availability** **FY 2020-2021**
10 Consensus Forecast \$1,419,000,000
11 Motor Fuels Tax Rate Floor \$3,800,000
12 Motor Fuels Tax Revenue Distribution (191,900,000)
13
14 **Total Highway Trust Fund Availability** **\$1,230,900,000**

15
16 **PART III. ADJUSTMENTS TO THE 2020-2021 DOT CERTIFIED BUDGET**

17
18 **USE OF HIGHWAY FUND APPROPRIATIONS**

19 **SECTION 3.1.** Of the funds appropriated in this act to the Department of
20 Transportation from the Highway Fund, the sum of one hundred seven million one hundred fifty-
21 eight thousand one hundred seventy-one dollars (\$107,158,171) for the 2020-2021 fiscal year
22 shall be used as follows:

- 23 (1) General Maintenance Reserve (Fund Code: 0934) – \$84,165,752 in
24 nonrecurring funds. The revised net appropriation is \$517,382,234.
25 (2) Contract Resurfacing (Fund Code: 7824) – \$22,992,419 in nonrecurring
26 funds. The revised net appropriation is \$558,674,899.
27

28 **HIGHWAY FUND REDUCTIONS**

29 **SECTION 3.2.** Of the funds appropriated in this act to the Department of
30 Transportation from the Highway Fund, the sum of one hundred seventy-six million eight
31 hundred fifty-eight thousand one hundred seventy-one dollars (\$176,858,171) for the 2020-2021
32 fiscal year shall be reduced as follows:

- 33 (1) Mobility Modernization Program (Fund Code: 7844) – \$41,443,078 in
34 nonrecurring funds. The revised net appropriation is \$0.
35 (2) Powell Bill Program (Fund Code: 7836) – \$7,375,000 in recurring funds and
36 \$10,420,301 in nonrecurring funds. The revised net appropriation is
37 \$137,079,699.
38 (3) State Secondary System (Fund Code: 7812) – \$8,500,000 in nonrecurring
39 funds. The revised net appropriation is \$3,500,000.
40 (4) Commercial Airport Funds (Fund Code: 7830) – \$3,815,190 in nonrecurring
41 funds. The revised net appropriation for this grant program is \$71,184,810.
42 (5) State Aid to General Aviation Airports (Fund Code: 7830) – \$4,867,200 in
43 nonrecurring funds. The revised net appropriation for this grant program is
44 \$45,832,800.
45 (6) Amtrak Payment Cap (Fund Code: 7829) – \$1,200,000 in nonrecurring funds
46 due to CARES Act cap on Amtrak payments for State-supported routes. The
47 revised net appropriation for contract services in this fund code is \$9,897,200.
48 (7) Freight Rail & Rail Crossing Safety Improvement (FRRCSI) Program (Fund
49 Code: 7829) – \$11,000,000 in nonrecurring funds for the FRRCSI grant
50 program. The revised net appropriation is \$10,800,000.

- 1 (8) Public Transportation – Lynx Blue Line Extension (Fund Code: 7831) –
 2 \$25,000,000 in nonrecurring funds. Reimbursements to Charlotte Area
 3 Transit System (CATS) during the 2020-2021 fiscal year will come from
 4 unexpended appropriations.
- 5 (9) Public Transportation – State Maintenance Assistance Program (SMAP)
 6 (Fund Code: 7831) – \$32,528,557 in nonrecurring funds. The revised net
 7 appropriation for this program is \$0.
- 8 (10) Public Transportation – Rural Operating Assistance Program (ROAP) (Fund
 9 Code: 7831) – \$18,664,423 in nonrecurring funds. The revised net
 10 appropriation for this program is \$0.
- 11 (11) DMV Headquarters Lease (Fund Code: 7050) – \$794,048 in nonrecurring
 12 funds based upon the lease agreement schedule. The revised net appropriation
 13 for the lease is \$1,705,952.
- 14 (12) Capital Repairs (Fund Code: 7826) – \$7,707,500 in nonrecurring funds. The
 15 revised net appropriation is \$0.
- 16 (13) Department Vacant Positions – \$3,542,874 in recurring funds. This reduction
 17 is for the elimination of the following vacant positions:

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

1	hh.	Administrative Specialist II	60015480
2	ii.	Auditor III	60015440
3	jj.	Auditor I	60015437
4	kk.	Auditor III	60015433
5	ll.	Auditor III	60015427
6	mm.	Auditor III	60015204
7	nn.	Agency HR Consultant III	60015079
8	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 amount that the motor fuel tax rate would have been for the period beginning on January 1, 2021, and ending on December 31, 2021, but for the calculation under this section.

BUILD NC BOND ADDITIONAL ISSUE

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

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

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

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

13 **SECTION 4.3.(e)** Section 1.1 of S.L. 2019-251 is repealed.
14

15 **UNEXPENDED BUILD NC BONDS**

16 **SECTION 4.4.** To the extent authorized by law and any applicable contract, the
17 Department of Transportation shall use any unexpended net proceeds from the Build NC Series
18 2019A Bonds on currently existing projects. The Department of State Treasurer and the
19 Department of Transportation shall take all steps necessary to implement this section. For
20 purposes of this section, the term "currently existing project" means a project that is, as of June
21 1, 2020, in the process of design or construction.
22

23 **INCREASE MAXIMUM GARVEE DEBT SERVICE/USE GARVEE RESERVE FUNDS**

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

25 "(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other
26 eligible debt-financing instruments to finance federal-aid highway projects
27 using federal funds to pay a portion of principal, interest, and related bond
28 issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National
29 Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall
30 be issued by the State Treasurer on behalf of the Department and shall be
31 issued pursuant to an order adopted by the Council of State under G.S. 159-88.
32 The State Treasurer shall develop and adopt appropriate debt instruments,
33 consistent with the terms of the State and Local Government Revenue Bond
34 Act, Article 5 of Chapter 159 of the General Statutes, for use under this
35 subdivision. Prior to issuance of any "GARVEE" or other eligible debt
36 instrument using federal funds to pay a portion of principal, interest, and
37 related bond issuance costs, the State Treasurer shall determine (i) that the
38 total outstanding principal of the debt does not exceed the total amount of
39 federal transportation funds authorized to the State in the prior federal fiscal
40 year; or (ii) that the maximum annual principal and interest of the debt does
41 not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the expected
42 average annual federal revenue shown for the period in the most recently
43 adopted Transportation Improvement Program. Notes issued under the
44 provisions of this subdivision shall not be deemed to constitute a debt or
45 liability of the State or of any political subdivision thereof, or a pledge of the
46 full faith and credit of the State or of any political subdivision thereof, but
47 shall be payable solely from the funds and revenues pledged therefor. All the
48 notes shall contain on their face a statement to the effect that the State of North
49 Carolina is not obligated to pay the principal or the interest on the notes,
50 except from the federal transportation fund revenues as shall be provided by
51 the documents governing the revenue note issuance, and that neither the faith

1 and credit nor the taxing power of the State of North Carolina or of any of its
2 political subdivisions is pledged to the payment of the principal or interest on
3 the notes. The issuance of notes under this Part does not directly or indirectly
4 or contingently obligate the State or any of its political subdivisions to levy or
5 to pledge any form of taxation whatever or to make any appropriation for their
6 payment."

7 **SECTION 4.5.(b)** Pursuant to the terms and provisions of (i) the memorandum of
8 agreement (MOA) between Department of Transportation and Federal Highway Administration
9 and (ii) the Master Trust Indenture (MTI) between the State and the Master Trustee named in the
10 MTI which secures all outstanding GARVEE Bonds, the Department shall continue to obligate
11 federal funds in accordance with the terms and provisions of the MTI and for the purposes set
12 forth in the MTI. To the extent not prohibited by either the terms of the MOA or the MTI, the
13 Department shall use other legally available federal funds to fund and maintain a
14 GARVEE/Federal Repayment Reserve Fund in an amount equal to the immediately ensuing
15 payment of only interest, or both principal and interest, on all outstanding GARVEE Bonds. The
16 Department shall only use federal funds for payment of debt service on GARVEE Bonds. The
17 State funds currently held in GARVEE/Federal Repayment Reserve shall be used for currently
18 existing projects. For purposes of this section, the term "currently existing project" means a
19 project that is as of June 1, 2020, in the process of design or construction.
20

21 **MODIFY FUEL TAX DISTRIBUTION**

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

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

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

30 **SECTION 4.6.(b)** Effective July 1, 2021, 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 (a) 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 one percent (81%)~~ Eighty percent (80%) to the Highway Fund.
37 (2) ~~Nineteen percent (19%)~~ Twenty percent (20%) to the Highway Trust Fund."

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

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

- 44 (1) ~~Eighty percent (80%)~~ Seventy-five percent (75%) to the Highway Fund.
45 (2) ~~Twenty percent (20%)~~ Twenty-five percent (25%) to the Highway Trust
46 Fund."
47

48 **TRANSPORTATION EMERGENCY RESERVE/EXTRA SESSION**

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

1 "(c) Access to Funds. – The Department may only use funds in the Emergency
2 Reserve after the President of the United States issues a declaration under the Stafford Act (42
3 U.S.C. §§ 5121 – 5207) that a major disaster exists in the State. The Secretary of Transportation
4 shall ensure all funds in the Emergency Reserve are accessed and used pursuant to this
5 ~~section~~section, and in a manner that ensures to the extent practicable that the funds are eligible
6 for federal reimbursement or cost sharing with the federal funds."

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

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

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

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

18 (3) Savings Reserve."

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

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

30 31 **CLARIFY BUDGET REDUCTION FOR UNANTICIPATED EXPENDITURES**

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

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

42 43 **EXTEND DEADLINE/FEDERAL GUIDANCE ON USE OF COVID-19 FUNDS**

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

45 "(4) \$300,000,000 to OSBM to allocate to the General Maintenance Reserve in the
46 Highway Fund for the Department of Transportation; provided that OSBM
47 shall not transfer these allocated funds to the Department for use until the
48 guidelines in "Coronavirus Relief Fund Guidance for State, Territorial, Local,
49 and Tribal Governments," dated April 22, 2020, are revised by the United
50 States Department of the Treasury to authorize the use of funds from the
51 Coronavirus Relief Fund for the purpose of replacing lost revenue due to the

COVID-19 emergency, or a subsequent act of Congress authorizes the use of funds from the Coronavirus Relief Fund for the purpose of replacing lost revenue due to the COVID-19 emergency. 30 days prior to the transfer of funds pursuant to this subsection, OSBM shall submit a report to the Joint Legislative Commission on Governmental Operations. On or before April 1, 2021, the Department shall submit a report on the status of utilizing these funds and a revenue update to the Joint Legislative Transportation Oversight Committee (JLTOC) and the Fiscal Research Division. The Governor may not use the funds described in this subdivision to make budget adjustments under G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c). 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~~
 - e. ~~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

- 1 g. Disaster-Related Costs
- 2 h. Other
- 3 (4) Reserved Cash
- 4 a. ~~Statutory Cash Balance~~GARVEE/Federal Repayment Reserve
- 5 b. ~~GARVEE/Federal Repayment Reserve~~Transportation Emergency
- 6 Reserve
- 7 c. ~~Transportation Emergency Reserve~~Trustee Accounts – Build NC
- 8 proceeds
- 9 d. ~~Other Reserves~~Trustee Accounts – GARVEE
- 10 e. ~~Trustee Accounts – Build NC proceeds~~Trustee Accounts – Other
- 11 Bonds
- 12 f. ~~Trustee Accounts – GARVEE~~
- 13 g. ~~Trustee Accounts – Other Bonds~~
- 14 (5) Unreserved Cash Balance Total
- 15 a. Highway Fund Total
- 16 b. Highway Trust Fund Total
- 17 c. Statutory Cash Requirement"

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

20 "(o) Balance Sheet Report. – By the ~~third~~fifteenth day of each month, the Department of
 21 Transportation shall submit a balance sheet report of all assets, debits, liabilities, and fund
 22 balances with an explanation of significant changes from the prior month to the Joint Legislative
 23 Transportation Oversight Committee and the Fiscal Research Division."
 24

25 **POWELL BILL FUNDS**

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

27 **SECTION 4.11.(b)** For the 2020-2021 fiscal year, municipalities with a population
 28 of 400,000 or more shall only receive two-thirds of the 2019-2020 fiscal year allocation of Powell
 29 Bill Program funds, as reported in the Department's "2019 North Carolina State Street Aid
 30 Allocations to Municipalities" dated January 2020. The remaining Powell Bill Program funds
 31 shall be allocated to municipalities with a population of less than 400,000 in accordance with the
 32 requirements of G.S. 136-41.1(a).
 33

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

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

36 "(a) Uses of Funds. – Except as otherwise provided in this subsection, the funds allocated
 37 to cities and towns under the provisions of G.S. 136-41.1 and G.S. 136-41.2 shall be expended
 38 by said cities and towns primarily for the resurfacing of streets within the corporate limits of the
 39 municipality but may also be used for the purposes of maintaining, repairing, constructing,
 40 reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb
 41 and gutter, and other necessary appurtenances within the corporate limits of the municipality or
 42 for meeting the municipality's proportionate share of assessments levied for such purposes, or for
 43 the planning, construction and maintenance of bikeways, greenways, or sidewalks. Cities and
 44 towns shall strongly prefer the use of seeds and plants the U.S. Department of Agriculture has
 45 classified as native to North Carolina when the use of funds under this subsection includes
 46 landscaping. The funds allocated to cities and towns under the provisions of G.S. 136-41.1 and
 47 G.S. 136-41.2 shall not be expended for the construction of a sidewalk into which is built a
 48 mailbox, utility pole, fire hydrant, or other similar obstruction that would impede the clear
 49 passage of pedestrians on the sidewalk."
 50

51 **CAPITAL, REPAIRS, AND RENOVATIONS**

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

3
4 **DMV/FUNDS FOR HEADQUARTERS INFORMATION TECHNOLOGY EXPENSES**

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

9
10 **AIRPORT FUNDS**

11 **SECTION 4.14.(a)** Notwithstanding subsection (c) of G.S. 63-74, for the 2020-2021
12 fiscal year, the Commercial Airport Funds in subdivision (4) of Section 3.2 of this act shall be
13 allocated as follows:

14	(1)	Albert J. Ellis	\$1,812,481
15	(2)	Asheville Regional	\$3,541,082
16	(3)	Charlotte/Douglas International	\$29,133,306
17	(4)	Concord-Padgett Regional	\$2,240,445
18	(5)	Fayetteville Regional/Grannis Field	\$2,685,707
19	(6)	Piedmont Triad International	\$8,805,486
20	(7)	Raleigh-Durham International	\$17,903,471
21	(8)	Wilmington International	\$5,062,832

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

28
29 **RAIL DIVISION EQUIPMENT MANAGEMENT PLAN**

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

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

50 **SECTION 4.15.(b)** No later than December 31, 2020, the Rail Division shall offer
51 for sale as surplus property idle equipment that will not be rehabilitated for future use or

1 transferred to the Department of Natural and Cultural Resources. Notwithstanding Article 3A of
2 Chapter 143 of the General Statutes and any other provision to the contrary, the net proceeds of
3 the sale of property pursuant to this section shall be credited to the Rail Equipment Overhaul
4 Fund (Fund Code: 7845).

5 **SECTION 4.15.(c)** No later than June 30, 2021, the Rail Division shall (i) relocate
6 the caboose currently located on the P&N Corridor in the City of Gastonia and marked RNCX
7 400500 to the North Carolina Transportation Museum and (ii) transfer to the Department of
8 Natural and Cultural Resources any ownership interest in the caboose and the Atlantic Coast Line
9 #501 locomotive currently located at the North Carolina Transportation Museum.

10 11 **HATTERAS/OCRACOKE FERRY LEASE**

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

20 21 **QUARTERLY DISTRIBUTION OF FUNDS TO PORTS AUTHORITY**

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

24 25 **PART V. GOVERNANCE**

26 27 **BOARD OF TRANSPORTATION RESTRUCTURE**

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

29 **"§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

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

36 (b) Membership of the Board. –

37 (1) Number, appointment. – The Board of Transportation shall have ~~19~~²⁰ voting
38 members. Voting members shall be appointed as provided in subdivisions (2)
39 and (3) of this subsection for terms of office beginning July 31 of the year of
40 initial appointment, and every four years thereafter. Fourteen of the members
41 shall be division members appointed by the Governor. ~~Five shall be at-large~~
42 ~~members appointed by the Governor. At least three members of the Board~~
43 ~~shall be registered voters of a political party other than the political party of~~
44 ~~the Governor. Six members shall be at-large members appointed by the~~
45 General Assembly, three upon recommendation of the President Pro Tempore
46 of the Senate and three upon recommendation of the Speaker of the House of
47 Representatives. The Secretary of Transportation shall serve as an ex officio
48 nonvoting member of the Board. No more than two members of the Board
49 may reside in the same highway division.

50 (2) Division members. – One member shall be appointed from and be a resident
51 of each of the 14 highway divisions. ~~The Governor, in selecting division~~

1 members, shall consider for appointment persons suggested by the
2 Transportation Advisory Committees located within each division. Division
3 members shall direct their primary effort to developing transportation policy
4 and addressing transportation problems in the region they represent. Division
5 members shall regularly consult with and consider the views of local
6 government units and Transportation Advisory Committees in the region they
7 represent. The Governor shall appoint one member from each of the fourteen
8 divisions as follows:

- 9 a. Division 1, beginning in 2020.
10 b. Division 2, beginning in 2022.
11 c. Division 3, beginning in 2020.
12 d. Division 4, beginning in 2022.
13 e. Division 5, beginning in 2022.
14 f. Division 6, beginning in 2020.
15 g. Division 7, beginning in 2022.
16 h. Division 8, beginning in 2022.
17 i. Division 9, beginning in 2020.
18 j. Division 10, beginning in 2022.
19 k. Division 11, beginning in 2022.
20 l. Division 12, beginning in 2020.
21 m. Division 13, beginning in 2022.
22 n. Division 14, beginning in 2020.

- 23 (3) ~~At-large members. – Five members shall be appointed by the Governor from~~
24 ~~the State at large. At large members appointed pursuant to this subdivision~~
25 ~~shall develop transportation policy and address transportation problems with~~
26 ~~a statewide perspective. At large members appointed under this subdivision~~
27 ~~shall possess the following qualifications:~~

- 28 a. ~~One at large member shall be a person with expertise in environmental~~
29 ~~issues affecting the State;~~
30 b. ~~One at large member shall be a person familiar with the State ports~~
31 ~~and aviation issues;~~
32 c. ~~One at large member shall be a person residing in a rural area of the~~
33 ~~State with broad knowledge of and experience in transportation issues~~
34 ~~affecting rural areas;~~
35 d. ~~One at large member shall be a person residing in an urban area with~~
36 ~~broad knowledge of and expertise in mass transit;~~
37 e. ~~One at large member shall be a person with broad knowledge of and~~
38 ~~expertise in government related finance and accounting.~~

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

- 40 a. Two members appointed by the General Assembly upon
41 recommendation of the President Pro Tempore of the Senate,
42 beginning in 2020.
43 b. One member appointed by the General Assembly upon
44 recommendation of the President Pro Tempore of the Senate,
45 beginning in 2022.
46 c. Two members appointed by the General Assembly upon
47 recommendation of the Speaker of the House of Representatives,
48 beginning in 2020.
49 d. One member appointed by the General Assembly upon
50 recommendation of the Speaker of the House of Representatives,
51 beginning in 2022.

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~~ 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~~ 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 Governor shall
24 select a chair from among the Board's membership for a two-year term. The Board shall select a
25 ~~chair and vice-chair~~ from among its membership for ~~a two-year terms-term.~~ The Governor may
26 select a chair for one additional two-year term. The Board may select a ~~chair or vice-chair~~ for
27 one additional two-year term. The Board of Transportation shall meet ~~once in each 60 days at~~
28 ~~least once a month~~ at such regular meeting times as the Board may by rule provide and at any
29 place in the State as the Board may provide. The Board may hold special meetings at any time at
30 the call of the ~~chairman chair~~ or any three members. The Board shall have the power to adopt
31 and enforce rules and regulations for the government of its business and proceedings. The Board
32 shall keep minutes of its meetings, which shall at all times be open to public inspection. The
33 majority of the Board shall constitute a quorum for the transaction of business. Board members
34 shall receive per diem and necessary travel and subsistence expenses in accordance with
35 G.S. 138-5 and G.S. 138-6, as appropriate.

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

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

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

49 (1b) To ensure that the Department of Transportation is operating within the
50 approved Spend Plan.

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

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

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

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

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

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

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

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

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

46 (k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics
47 applicable to members of the Board, including the Secretary. Any code of ethics adopted by the
48 Board shall be supplemental to the provisions of Chapter 138A of the General Statutes. A code
49 of ethics adopted pursuant to this subsection shall include a prohibition against a member taking
50 action as a Board member when a conflict of interest, or the appearance of a conflict of interest,
51 exists. The ethics policy adopted pursuant to this subsection shall specify that a conflict of interest

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

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

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

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

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

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

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

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

- 50 a. Division 2.
51 b. Division 4.

- 1 c. Division 5.
- 2 d. Division 7.
- 3 e. Division 8.
- 4 f. Division 10.
- 5 g. Division 11.
- 6 h. Division 13.

7 (2) At-large members. – The General Assembly shall appoint two at-large
8 members, one upon recommendation of the President Pro Tempore of the
9 Senate and one upon recommendation of the Speaker of the House of
10 Representatives.

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

13 **SECTION 5.1.(c)** When the General Assembly is not in session, any initial
14 appointments to the Board and appointments to fill vacancies for members appointed by the
15 General Assembly upon recommendation of the President Pro Tempore of the Senate or Speaker
16 of the House of Representatives on or after the effective date of this section shall be made in
17 accordance with G.S. 120-122; provided the Governor may not reject the recommendation of the
18 officer recommending the appointment, and the candidate is deemed approved on the date the
19 recommendation is submitted to the Governor.

20 **SECTION 5.1.(d)** This section becomes effective July 31, 2020.

21 **CASH FLOOR CONTRACTING LIMITATION CLARIFICATION**

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

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

36 **SECTION 5.2.(b)** Notwithstanding the limitation on contract commitments in
37 G.S. 143C-6-11(f), when the Department's cash balance is below the 7.5% required by that
38 subsection, upon approval of the Secretary of Transportation, the Department may enter into
39 transportation project contract commitments that are necessary to restore transportation
40 infrastructure damaged as a result of a natural disaster or other emergency. Within 72 hours of
41 entering into a contract under this subsection, the Secretary shall report to the Board of
42 Transportation, the Transportation Oversight Manager at the Office of State Budget and
43 Management, and the Joint Legislative Transportation Oversight Committee, detailing the need
44 for the contract and the associated costs.

45 **SECTION 5.3.(c)** Subsection (b) of this section expires on January 1, 2021.

46 **MONTHLY FINANCIAL STATEMENT REPORT**

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

49 "(p) Monthly Financial Statement Report. – Each month the Department of Transportation
50 shall post on the Department's Web site and submit to the Board of Transportation, the Joint
51

1 Legislative Transportation Oversight Committee, and the Fiscal Research Division a financial
2 statement report that includes the following information:

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

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

33 **SECTION 5.3.(b)** In order for the public to access up-to-date information on
34 projected revenue and Spend Plan status of the Department, the Department shall adjust its
35 performance dashboard available on the Department of Transportation's Web site to include and
36 track information required by G.S. 143C-6-11(p)(6) as enacted by this act. Dashboard
37 enhancements required under this subsection shall be completed by October 1, 2020.
38

39 **DEPARTMENT OF TRANSPORTATION SPEND PLAN**

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

42 **"§ 143C-6-11.1. Department of Transportation Spend Plan.**

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

46 (b) The Department shall present the Spend Plan to the Board of Transportation, the
47 Transportation Oversight Manager at the Office of State Budget and Management, and the State
48 Budget Director for approval.

49 (c) The Board of Transportation, the Transportation Oversight Manager at the Office of
50 State Budget and Management, and the State Budget Director shall either approve the Spend Plan
51 or report any objections to the Spend Plan with specificity and reasons for the objections in

1 writing to the Chairs of the Senate Appropriations Committee on the Department of
2 Transportation, the Chairs of the House of Representatives Appropriations Committee on
3 Transportation, and the Fiscal Research Division if the General Assembly is in session, or to the
4 Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research
5 Division if the General Assembly is not in session. Upon receipt of the Spend Plan, approval or
6 a report must be completed within 30 days.

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

10 **TRANSPORTATION OVERSIGHT MANAGER POSITION**

11 **SECTION 5.5.(a)** The Department of Transportation shall transfer one vacant FTE
12 position and funds to the Office of State Budget and Management to be reclassified into the
13 position of Transportation Oversight Manager. The duties for this position shall include but not
14 be limited to: monitoring and assisting the Department of Transportation in developing the
15 Department budget and Spend Plan, monitoring the Department's finances and spending,
16 collaborating on assessing risks to Department finances, and making revenue and cash
17 projections, and ensuring the Department budget is faithfully executed consistent with the State
18 Budget Act and other statutes governing Department of Transportation finances.

19 **SECTION 5.5.(b)** The Department of Transportation shall give full access to all data
20 and information and full access to, and training on, all systems in order for the Office of State
21 Budget and Management to perform proper oversight.

22 **SECTION 5.5.(c)** The Office of State Budget and Management shall work in
23 consultation with the Department to prepare and submit the reports required by
24 G.S. 143C-6-11(p), as enacted by this act.

25 **HIGHWAY DIVISION FINANCIAL PERSONNEL STRUCTURING**

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

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

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

38 **SECTION 5.6.(d)** The Department shall report to the Joint Legislative
39 Transportation Oversight Committee and the Fiscal Research Division on the development and
40 establishment of, or plan to establish and develop, the uniform financial management personnel
41 structure by October 31, 2020. The report shall also include a description of required positions
42 and responsibilities of the FTEs needed to establish the personnel structure required by this
43 section for each Highway Division and all personnel actions taken to fulfill the requirements of
44 this section, including associated costs. The information shall be provided for each Highway
45 Division.
46
47

48 **ADDITIONAL BOND DISCLOSURE PERSONNEL**

49 **SECTION 5.7.** The Department of Transportation shall transfer one vacant FTE
50 position to the Department of the State Treasurer. The Department of the State Treasurer shall
51 reclassify the vacant position into a Financial Analyst position focused on bond disclosure within

1 the State and Local Government Finance Division to review and monitor the Department of
2 Transportation's bond program and activities which utilize bond proceeds, including monitoring
3 the spending and approval of projects using bond proceeds, reviewing general compliance for
4 repayment and debt service, and assisting the Department of the State Treasurer in fulfilling its
5 duties and responsibilities for bond disclosures and compliance as required by the United States
6 Securities Exchange Commission and other applicable State or federal laws.

7 8 **TRANSPORTATION FORECASTING METHODOLOGY**

9 **SECTION 5.8.(a)** The Department of Transportation, in consultation with the
10 Transportation Oversight Manager at the Office of State Budget and Management, shall create,
11 develop, modify, and implement Department forecasting methodology, best practices, and
12 accuracy standards for the forecasting of spending.

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

16 17 **ANNUAL PERFORMANCE AUDIT OF DEPARTMENT OF TRANSPORTATION**

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

- 21 (1) Budget adherence by department, division, and highway division.
- 22 (2) Timeliness of federal reimbursement requests and timeliness of the
23 Department's responses to any federal requests for additional information or
24 action.
- 25 (3) Department controls and oversight of divisions and highway divisions as to
26 cash management, project coordination and delivery, and budget adherence.
- 27 (4) Efficacy of communication and coordination within the Department.
- 28 (5) Efficacy of cash management by the Department.
- 29 (6) Other items the State Auditor deems relevant to study, including
30 implementation of the provisions of this act.

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

37 38 **HIGHWAY DIVISION FUND ALLOCATION PLANS**

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

40 **"§ 136-44.6. Uniformly applicable formula for the allocation of funds for primary and 41 secondary road maintenance.**

42 The Department of Transportation, in consultation with its Division Engineers, shall develop
43 biennially a uniformly applicable formula for the allocation of funds ~~from the Reserve for~~
44 ~~General Maintenance~~ in the Highway Fund for maintenance on primary and secondary roads in
45 each Highway Division. The formula shall take into consideration the number of paved and
46 unpaved miles of state-maintained secondary roads in each Highway Division and such other
47 factors as experience may dictate. In developing the allocation formula, the Department of
48 Transportation shall allocate funding to Highway Divisions and create a plan of action to
49 reallocate funds among Highway Divisions based upon expenditures of the first three quarters.
50 Each Division Engineer shall have discretion in using funds allocated under this section to his or
51 her Highway Division for maintenance activities. Allotments shall be made available to Highway

1 Divisions on a quarterly basis, based upon the Spend Plan developed by the Department. The
2 Department shall create a plan for reallocation to maximize use of funds with the fiscal year. This
3 section shall not apply to projects to pave unpaved roads under G.S. 136-44.2D."
4

5 **AUDIT DOT USE OF ADVANCE CONSTRUCTION**

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

- 11 (1) A report showing the Advance Construction Balances by funding source for
12 five years.
- 13 (2) A listing of projects currently utilizing Advance Construction with details
14 such as the initial Advance Construction amount, contract amount, amount of
15 expenditures for which Advance Construction has been converted allowing
16 reimbursement by Federal Highway Administration or other sources and a
17 schedule for Advance Construction that is planned to be converted where
18 future reimbursement is anticipated, and the anticipated conversion and
19 reimbursement schedule.
- 20 (3) A listing of projects where it is anticipated Advance Construction will be used
21 in the future with details such as anticipated Advance Construction amount
22 and conversion and reimbursement schedule.
- 23 (4) A listing of projects currently utilizing GARVEE bond funding with details
24 such as total amount of bonds, amount of principal and interest repaid, and
25 schedule of remaining principal and interest payments.

26 **SECTION 5.11.(b)** The Office of the State Auditor shall conduct a performance
27 audit of the Department's report required by subsection (a) of this section and, no later than March
28 31, 2021, shall submit a report containing the results of the performance audit and
29 recommendations to the House of Representatives Appropriations Committee on Transportation,
30 the Senate Appropriations Committee on the Department of Transportation, and the Fiscal
31 Research Division. The Department of Transportation shall give the State Auditor full access to
32 all employees and data necessary to complete the audit and the report.
33

34 **PART VI. MISCELLANEOUS**

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

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

42 **SECTION 6.2.** The budget enacted by the General Assembly for the Department of
43 Transportation shall also be interpreted in accordance with the special provisions in this act and
44 other appropriate legislation. In the event that there is a conflict between the line-item budget
45 certified by the Director of the Budget for the Department of Transportation and the budget
46 enacted by the General Assembly for the Department of Transportation, the budget enacted by
47 the General Assembly shall prevail.

48 **SECTION 6.3.** If House Bill 1136, House Bill 1218, or Senate Bill 818 of the 2019
49 Regular Session become law, the Office of State Budget and Management shall, no later than
50 August 15, 2020, adjust the Department of Transportation, General Maintenance Reserve, for the
51 2020-2021 fiscal year to account for any change in employee benefit costs.

1 **SECTION 6.4.** If Section 2.5 of Senate Bill 750 of the 2019 Regular Session
2 becomes law, Section 4.16 of this act is repealed.

3

4 **PART VII. EFFECTIVE DATE**

5 **SECTION 7.1.** Except as otherwise provided, this act becomes effective July 1,
6 2020.