

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 48*
Committee Substitute Favorable 4/23/03

Short Title: Moving Ahead Transportation Initiative.

(Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD
2 TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE
3 HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL
4 TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS
5 ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE
6 EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION
7 FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO
8 CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL
9 NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT,
10 TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT
11 PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF
12 THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE
13 PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, AND
14 TO EXPEDITE THE ISSUANCE OF PERMITS BY THE DEPARTMENT OF
15 ENVIRONMENT AND NATURAL RESOURCES.

16
17 The General Assembly of North Carolina enacts:

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

19 "(a3) The Department may obligate three hundred million dollars (\$300,000,000)
20 in fiscal year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year
21 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

22 (1) Six hundred thirty million dollars (\$630,000,000) for highway system
23 preservation, modernization, and maintenance, including projects to
24 enhance safety, reduce congestion, improve traffic flow, reduce
25 accidents, upgrade pavement widths and shoulders, extend pavement
26 life, improve pavement smoothness, and rehabilitate or replace
27 deficient bridges; and for economic development transportation
28 projects recommended by local officials and approved by the Board of
29 Transportation.

1 (2) Seventy million dollars (\$70,000,000) for regional public transit
2 systems, rural and urban public transportation system facilities,
3 regional transportation and air quality initiatives, rail system track
4 improvements and equipment, and other ferry, bicycle, and pedestrian
5 improvements. For any project or program listed in this subdivision for
6 which the Department receives federal funds, use of funds pursuant to
7 this subdivision shall be limited to matching those funds."

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

9 "(a4) Projects selection pursuant to subsection (a3) of this section shall be based on
10 identified and documented need. Funds expended pursuant to subdivision (1) of
11 subsection (a3) of this section shall be distributed in accordance with the distribution
12 formula in G.S. 136-17.2A."

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

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

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

31 **SECTION 5.** Chapter 136 of the General Statutes is amended by adding a
32 new section to read:

33 "§ 136-44.7B. Permit issuance by Department of Environment and Natural
34 Resources for transportation construction projects.

35 (a) Once the Department of Environment and Natural Resources or any agency
36 within the Department of Environment and Natural Resources has received a complete
37 application for a permit that is required for a transportation construction project to be
38 undertaken by or on behalf of the Department of Transportation, the Department of
39 Environment and Natural Resources shall expedite the review of the application and
40 shall issue or deny the permit within 90 days of receipt of the submission. All permits
41 not denied within that time limit shall be deemed approved. The Secretary of
42 Environment and Natural Resources and the Secretary of Transportation shall jointly
43 decide any question as to whether an application for a permit is complete. If the

1 Secretary of Environment and Natural Resources and the Secretary of Transportation
2 are unable to jointly decide any question, the Governor shall decide the question.

3 (b) Once the Department of Environment and Natural Resources or any agency
4 within the Department of Environment and Natural Resources has issued a permit that is
5 required for a transportation construction project to be undertaken by or on behalf of the
6 Department of Transportation, that permit shall remain in effect until the project is
7 completed. The permit shall not expire and shall not be modified or cancelled for any
8 reason, including a subsequent change in federal law or regulations or in State law or
9 rules, unless at least one of the following occurs:

10 (1) The modification or cancellation is requested by the Department of
11 Transportation.

12 (2) The modification or cancellation is clearly required by a change in
13 federal law or regulations and a failure to modify or cancel the permit
14 by the Department of Environment and Natural Resources would result
15 in a loss of federal program delegation or a significant reduction in the
16 availability of federal funds to the Department of Environment and
17 Natural Resources or to the Department of Transportation.

18 (3) The modification or cancellation is clearly required by a change in
19 State law as a result of an act of the General Assembly that includes a
20 statement that the General Assembly specifically intends the change in
21 State law to apply to ongoing transportation construction projects.

22 (4) The modification or cancellation is ordered by a court of competent
23 jurisdiction.

24 (5) The nature or scope of the transportation construction project is
25 significantly expanded or otherwise altered."

26 **SECTION 6.** This act becomes effective July 1, 2003.