

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 48*
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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, TO
14 ESTABLISH A BLUE RIBBON COMMISSION TO STUDY SOLUTIONS TO
15 NORTH CAROLINA'S URBAN TRANSPORTATION NEEDS, TO REQUIRE
16 FUNDS TRANSFERRED FROM THE HIGHWAY TRUST FUND TO THE
17 GENERAL FUND TO BE REPAYED, TO DELAY IMPLEMENTATION OF
18 AGRICULTURAL VEHICLE ESCORT TRAINING AND CERTIFICATION, TO
19 ALLOW FARMERS TO MOVE EQUIPMENT BETWEEN FARMS WITHOUT A
20 FLAGMAN, AND TO REQUIRE THE DEPARTMENT OF TRANSPORTATION
21 TO IMPLEMENT CURRITUCK SOUND FERRY SERVICE.
22

23 The General Assembly of North Carolina enacts:

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

1 "(a3) The Department may obligate three hundred million dollars (\$300,000,000)
2 in fiscal year 2003-2004 and four hundred million dollars (\$400,000,000) in fiscal year
3 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

4 (1) Six hundred thirty million dollars (\$630,000,000) for highway system
5 preservation, modernization, and maintenance, including projects to
6 enhance safety, reduce congestion, improve traffic flow, reduce
7 accidents, upgrade pavement widths and shoulders, extend pavement
8 life, improve pavement smoothness, and rehabilitate or replace
9 deficient bridges; and for economic development transportation
10 projects recommended by local officials and approved by the Board of
11 Transportation.

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

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

20 "(a4) Project selection pursuant to subsection (a3) of this section shall be based on
21 identified and documented need. Funds expended pursuant to subdivision (1) of
22 subsection (a3) of this section shall be distributed in accordance with the distribution
23 formula in G.S. 136-17.2A. No funds shall be expended pursuant to subsection (a3)(1)
24 of this section on any project that does not meet Department of Transportation standards
25 for road design, materials, construction, and traffic flow."

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

27 "(a5) The Department shall report to the Joint Legislative Transportation Oversight
28 Committee, on or before September 1, 2003, on its intended use of funds pursuant to
29 subsection (a3) of this section. The Department shall report to the Joint Transportation
30 Appropriations Subcommittee, on or before May 1, 2004, on its actual current and
31 intended future use of funds pursuant to subsection (a3) of this section. The Department
32 shall certify to the Joint Legislative Transportation Oversight Committee each year, on
33 or before November 1, that use of the Highway Trust Fund cash balances for the
34 purposes listed in subsection (a3) of this section will not adversely affect the delivery
35 schedule of any Highway Trust Fund projects. If the Department cannot certify that the
36 full amounts authorized in subsection (a3) of this section are available, then the
37 Department may determine the amount that can be used without adversely affecting the
38 delivery schedule and may proportionately apply that amount to the purposes set forth
39 in subsection (a3) of this section."

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

1 **SECTION 5.(a)** Commission Established. – There is established in the
2 General Assembly a Blue Ribbon Commission to study the unique mobility needs of
3 urban areas in North Carolina.

4 **SECTION 5.(b)** Membership. – The Commission shall be composed of 27
5 members as follows:

6 (1) Fifteen members of the public appointed by the Governor, two of
7 whom shall represent the Regional Transportation Alliance, one of
8 whom shall represent the environmental community, two of whom
9 shall represent the Business Coalition for Regional Transportation
10 Strategies, two of whom shall represent the North Carolina Citizens for
11 Business and Industry, two of whom shall represent the transportation
12 industry, and four of whom shall be mayors from among the 10 most
13 populous municipalities in the State.

14 (2) Six members of the House of Representatives appointed by the
15 Speaker of the House of Representatives.

16 (3) Six members of the Senate appointed by the President Pro Tempore of
17 the Senate.

18 **SECTION 5.(c)** Secretary of Transportation. – The Commission shall invite
19 the Secretary of Transportation to attend each meeting of the Commission and
20 encourage his participation in the Commission's deliberations.

21 **SECTION 5.(d)** Duties of Commission. – The Commission shall study the
22 following matters related to North Carolina's urban needs:

23 (1) Innovative financing approaches to mitigate urban congestion.

24 (2) Local revenue options which would give urban areas more control
25 over their regional mobility future.

26 (3) Any other urban transportation issues if approved by the cochairs or
27 recommended by the Secretary of Transportation and approved by the
28 cochairs.

29 **SECTION 5.(e)** Vacancies. – Any vacancy on the Commission shall be
30 filled by the appointing authority.

31 **SECTION 5.(f)** Cochairs. – Cochairs of the Commission shall be designated
32 by the Speaker of the House of Representatives and the President Pro Tempore of the
33 Senate from among their respective appointees. The Commission shall meet upon the
34 call of the chairs. A quorum of the Commission shall be 11 members.

35 **SECTION 5.(g)** Expenses of Members. – Members of the Commission shall
36 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,
37 138-5, or 138-6, as appropriate.

38 **SECTION 5.(h)** Staff. – Adequate staff shall be provided to the Commission
39 by the Legislative Services Office.

40 **SECTION 5.(i)** Consultants. – The Commission may hire consultants to
41 assist with the study. Before expending any funds for a consultant, the Commission
42 shall report to the Joint Legislative Commission on Governmental Operations on the
43 consultant selected, the work products to be provided by the consultant, and the cost of
44 the contract, including an itemization of the cost components.

1 **SECTION 5.(j)** Cooperation. – The Commission may call upon any
2 department, agency, institution, or officer of the State or any political subdivision
3 thereof for facilities, data, or other assistance.

4 **SECTION 5.(k)** Meetings During Legislative Session. – The Commission
5 may meet during a regular or extra session of the General Assembly, subject to approval
6 of the Speaker of the House of Representatives and the President Pro Tempore of the
7 Senate.

8 **SECTION 5.(l)** Meeting Location. – The Commission shall meet at various
9 locations around the State in order to promote greater public participation in its
10 deliberations. The Legislative Services Commission shall grant adequate meeting space
11 to the Commission in the State Legislative Building or the Legislative Office Building.

12 **SECTION 5.(m)** Report. – The Commission shall make an interim report of
13 its findings and recommendations to the 2004 Regular Session of the 2003 General
14 Assembly and shall make a final report of its findings and recommendations to the 2005
15 General Assembly. The Committee shall submit copies of the reports to the Governor
16 and the Secretary of Transportation. Upon the filing of its final report, the Commission
17 shall terminate.

18 **SECTION 5.(n)** Funding. – The Commission may apply for, receive, and
19 accept grants of non-State funds or other contributions as appropriate to assist in the
20 performance of its duties.

21 **SECTION 5.(o)** Appropriation. – Of the funds appropriated to the General
22 Assembly, the Legislative Services Commission shall allocate sufficient funds for the
23 expenses of the Commission.

24 **SECTION 5.(p)** This section is effective when it becomes law.

25 **SECTION 6.** Section 2.2(j) of S.L. 2003-284 reads as rewritten:

26 **"SECTION 2.2.(j)** When the Highway Trust Fund was created in 1989, the revenue
27 from the sales tax on motor vehicles was transferred from the General Fund to the
28 Highway Trust Fund. To offset this loss of revenue from the General Fund, the
29 Highway Trust Fund was required to transfer one hundred seventy million dollars
30 (\$170,000,000) to the General Fund each year, an amount equal to the revenue in 1989
31 from the sales tax on motor vehicles. This transfer did not, however, make the General
32 Fund whole after the transfer of the sales tax revenue because no provision has been
33 made to adjust the amount for the increased volume of transactions and increased
34 vehicle prices. The additional funds transferred from the Highway Trust Fund to the
35 General Fund by this act is an effort to recover a portion of the sales tax revenues that
36 would have gone to the General Fund over the last 14 years.

37 In addition to the transfer authorized under G.S. 105-187.9(b)(2), and
38 notwithstanding Section 26.14 of S.L. 2002-126 and G.S. 105-187.9(b)(1), the sum to
39 be transferred to the General Fund for fiscal year 2003-2004 is two hundred fifty million
40 dollars (\$250,000,000) and for fiscal year 2004-2005 is two hundred forty million
41 dollars (\$240,000,000). Any funds transferred from the Highway Trust Fund to the
42 General Fund in addition to the transfer authorized by G.S. 105-187.9(b) shall be fully
43 repaid to the Highway Trust Fund in five years beginning in the 2004-2005 fiscal year,
44 using the sum of the digits formula, according to the following repayment schedule: FY

1 2004-2005 – 7%, FY 2005-2006 – 13%, FY 2006-2007 – 20%, FY 2007-2008 – 27%,
2 and FY 2008-2009 – 33%. The repayment shall include interest at the net rate of return
3 generated by the State Treasurer's Short Term Investment Fund."

4 **SECTION 7.** G.S. 20-119 (f) reads as rewritten:

5 "(f) The Department of Transportation shall issue rules to establish an escort
6 driver training and certification program for escort vehicles accompanying
7 oversize/overweight loads. Any driver operating a vehicle escorting an
8 oversize/overweight load shall meet any training requirements and obtain certification
9 under the rules issued pursuant to this subsection. These rules may provide for
10 reciprocity with other states having similar escort certification programs. Certification
11 credentials for the driver of an escort vehicle shall be carried in the vehicle and be
12 readily available for inspection by law enforcement personnel. The escort and training
13 certification requirements of this subsection shall not apply to the transportation of
14 agricultural machinery until October 1, 2004."

15 **SECTION 8.** G.S. 20-116 (j) reads as rewritten:

16 "(j) Self-propelled grain combines ~~or~~ other farm equipment self-propelled,
17 pulled or otherwise, not exceeding 18 feet in width may be operated on any highway,
18 except a highway or section of highway that is a part of the National System of
19 Interstate and Defense Highways: Provided that all such combines or equipment which
20 exceed 10 feet in width may be so operated only under the following conditions:

- 21 (1) Said equipment may only be so operated during daylight hours; and
- 22 (2) Said equipment must display a red flag on front and rear, said flags
23 shall not be smaller than three feet wide and four feet long and be
24 attached to a stick, pole, staff, etc., not less than four feet long and
25 shall be so attached to said equipment as to be visible from both
26 directions at all times while being operated on the public highway for
27 not less than 300 feet; and
- 28 (3) Equipment ~~covered~~ covered by this section, which by necessity must
29 travel more than 10 miles or where by nature of the terrain or obstacles
30 the flags referred to in subdivision (2) are not visible from both
31 directions for 300 feet at any point along the proposed route, must be
32 preceded at a distance of 300 feet and followed at a distance of 300
33 feet by a flagman in a vehicle having mounted thereon an appropriate
34 warning light or flag. No flagman in a vehicle shall be required
35 pursuant to this subdivision if the equipment is being moved under its
36 own power or on a trailer from any field to another field, or from the
37 normal place of storage of the vehicle to any field.
- 38 (4) Every such piece of equipment so operated shall operate to the right of
39 the center line when meeting traffic coming from the opposite
40 direction and at all other times when possible and practical.
- 41 (5) Violation of this section shall not constitute negligence per se.
- 42 (6) When said equipment is causing a delay in traffic, the operator of said
43 equipment shall move the equipment off the paved portion of the

1 highway at the nearest practical location until the vehicles following
2 said equipment have passed."

3 **SECTION 9.** Section 29.20 of S.L. 2003-284 reads as rewritten:

4 **"CURRITUCK-COROLLA FERRY SERVICE FUNDS**

5 **SECTION 29.20.** ~~From funds available to the Department of Transportation~~
6 ~~in this act, the Department may use up to eight hundred thirty four thousand dollars~~
7 ~~(\$834,000) to establish a new ferry service, on or before May 1, 2004, from the~~
8 ~~Currituck terminal of the Currituck Knotts Island ferry to Corolla. The Department of~~
9 ~~Transportation shall establish a new ferry service from the Currituck terminal of the~~
10 Currituck-Knotts Island ferry to Corolla on or before May 1, 2004. From funds
11 available to the Department in this act, the Department may use up to eight hundred
12 thirty-four thousand dollars (\$834,000) to establish the ferry service required by this
13 section. The Department of Transportation shall not charge a toll or any other fee to
14 any person for use of the ferry service required and established by this section."

15 **SECTION 10.** Except as otherwise provided, this act becomes effective July
16 1, 2003.